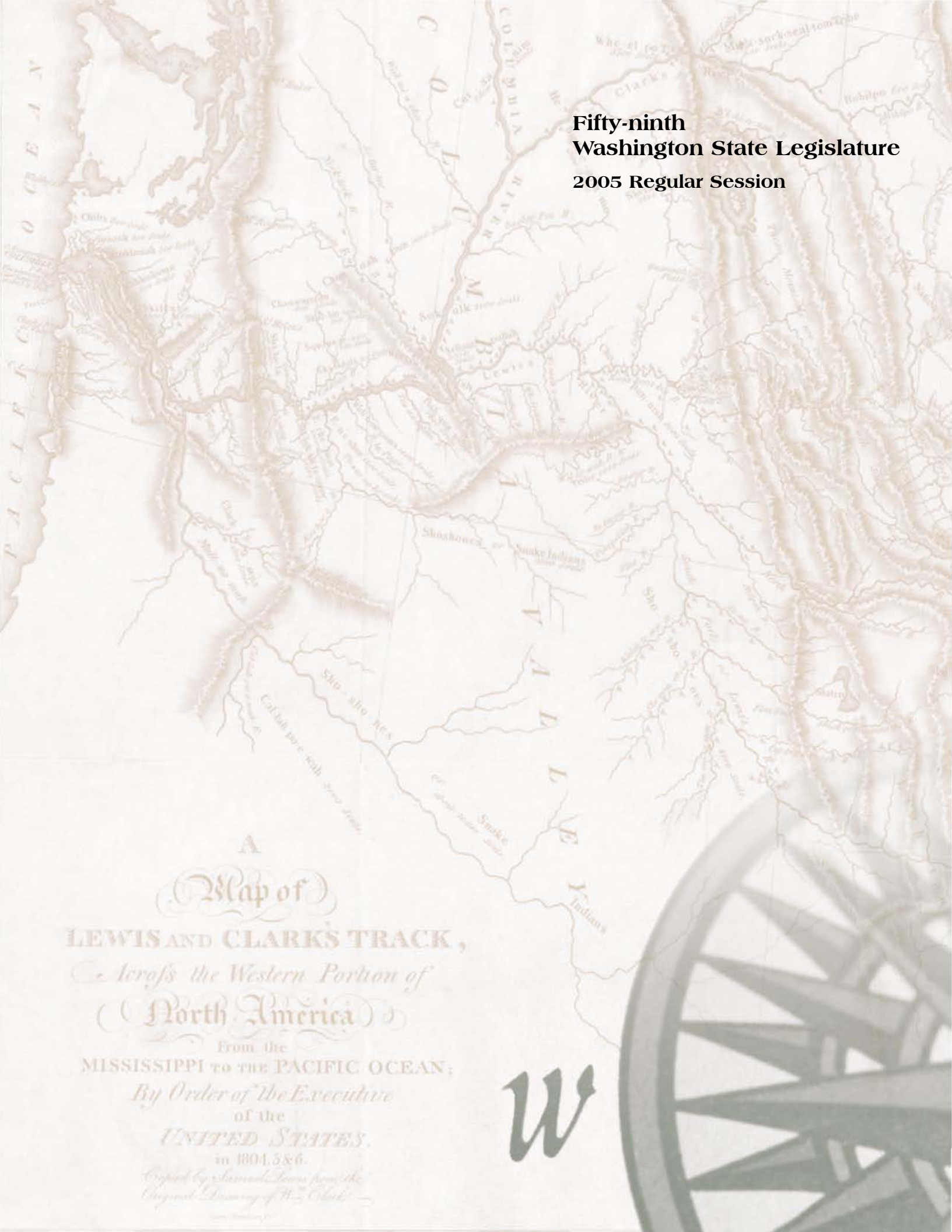


**Fifty-ninth
Washington State Legislature
2005 Regular Session**



A
Map of
LEWIS AND CLARK'S TRACK,
Across the Western Portion of
(North America)
From the
MISSISSIPPI to the PACIFIC OCEAN;
By Order of the Executive
of the
UNITED STATES.
in 1804, 5 & 6.

*Copied by Samuel Lewis from the
Original Drawing of W. Clark*

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Statistical Summary

2005 Regular Session of the 59th Legislature

Bills Before Legislature	Introduced	Passed Legislature	Vetoed	Partially Vetoed	Enacted
<i>2005 Regular Session (January 10 - April 24)</i>					
House	1,329	305	3	21	302
Senate	1,131	218	4	11	214
TOTALS	2,460	523	7	32	516

Initiatives, Joint Memorials, Joint Resolutions and Concurrent Resolutions Before Legislature	Introduced	Filed with the Secretary of State
<i>2005 Regular Session (January 10 - April 24)</i>		
House	46	3
Senate	54	6
TOTALS	100	9
Initiatives	2	2

Gubernatorial Appointments	Referred	Confirmed
<i>2005 Regular Session (January 10 - April 24)</i>	334	120



Section I Legislation Passed

Numerical List

Initiatives

House Bill Reports and Veto Messages

House Resolutions

Senate Bill Reports and Veto Messages

Senate Memorials and Resolutions

Sunset Legislation

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I 297
C 1 L 05

Hazardous waste regulations.

By People of the State of Washington.

Background: The Hanford Reservation comprises approximately 586 square miles in Eastern Washington, north of Richland. The United States originally created the Hanford Reservation in the 1940's as part of the Manhattan Project to produce plutonium for the production of nuclear weapons. Portions of the Hanford Reservation are contaminated with materials meeting state and federal definitions of hazardous substances, hazardous waste, radioactive substances, and mixtures of substances falling into more than one category.

The United States Department of Energy (USDOE) currently operates the Hanford Reservation. The site's current mission is focused primarily on cleanup. A 1989 Tri-Party Agreement among the Department of Ecology (Ecology), the Environmental Protection Agency, and the USDOE addresses the setting of milestones and requirements for cleanup at Hanford.

The Ecology administers laws that address hazardous waste management and cleanup. The Hazardous Waste Management Act governs the transportation, treatment, storage, handling, and disposal of hazardous wastes. It implements the requirements of a parallel federal law, the Resource Conservation and Recovery Act. When hazardous wastes are mixed with radioactive wastes, this law applies only to the hazardous wastes in this "mixed waste." Under the law, the Ecology may allow a hazardous waste facility to operate under an "interim permit" after the facility has submitted an application for a "final facility permit." Another state law, the Model Toxics Control Act, provides for the cleanup of sites contaminated with hazardous substances and determines financial responsibility for cleanup costs.

The state Department of Health (DOH) is the state radiation control agency. It administers regulatory and licensing laws concerning radioactive materials, including radioactive waste. Most of the DOH's regulation of radioactive materials is done by agreement with the federal Nuclear Regulatory Commission. DOH rules address the licensing and operation of land disposal facilities, other types of radioactive materials licenses, radiation protection standards, and cleanup standards for radioactive contamination.

In addition to the mixed wastes generated at Hanford, the USDOE historically has disposed of low-level radioactive waste from other United States laboratory and weapons production sites at Hanford. Recently, the USDOE completed an environmental impact statement and issued a record of decision proposing to bring up to 20,000 cubic meters of mixed low-level waste from other sites to Hanford for disposal.

Also located on the Hanford Nuclear Reservation is a commercial low-level radioactive waste disposal site. This site is located on leased property within the Hanford Reservation, but has a separate purpose that is not related to the USDOE. Low-level radioactive wastes are accepted, including medical wastes, from 11 states that are part of an Interstate Compact on Low-Level Radioactive Waste Management or have entered an agreement with the Compact states. Under the compact, which has been approved by the United States Congress, Washington prohibits the import of low-level radioactive waste from any other states for disposal at this site.

Initiative 297, known as the Cleanup Priority Act, was approved by the voters on November 2, 2004.

Summary: The Initiative prohibits additional mixed radioactive and hazardous waste from being brought to sites, such as the Hanford Nuclear Reservation, until the existing on-site waste conforms to all state and federal environment laws. New requirements are established for sites and facilities that handle mixed radioactive and hazardous waste. Grant funding is provided to help the public and local governments evaluate permit, closure, and cleanup decisions, and to review funding priorities.

Increased Regulation of Mixed Wastes. The Ecology must regulate mixed waste to the fullest extent possible, where not preempted by federal law. The owner or operator of a facility that handles mixed wastes must obtain a "final facility permit" from Ecology before any additional mixed wastes, not generated at the facility, may be brought to the facility. The facility's activities must be in compliance with all relevant state and federal environmental laws prior to receiving a final facility permit.

Ecology may not grant or modify a treatment, storage, or disposal permit if a release of a hazardous substance has occurred at a facility and the release, or the cumulative impact of all releases, may exceed surface or ground water standards, or cleanup or other standards protective of human health or the environment. An exception may be allowed when necessary to accomplish the remediation or closing of existing facilities.

Releases of Radioactive Substances. The cleanup standards applying to releases of radioactive substances or radionuclides must be equal to the standards for other substances posing similar health risks. In calculating cleanup standards, corrective action levels, or maximum allowable projected releases from landfills and facilities that have mixed wastes, Ecology must consider the effects of all of the waste's known or suspected human carcinogens. Ecology must ensure that the cumulative risk from all of these carcinogens does not exceed acceptable standards, or a maximum of one additional cancer per 100,000 individuals exposed, whichever is more protective.

Disposal, Investigation, and Cleanup of Waste in Unlined Trenches and Closure of Mixed Waste Tank

Systems. Within 60 days of the effective date of the initiative, Ecology must order any site owner or operator with mixed waste in unlined trenches to: (1) cease disposal in the trenches or facilities within 30 days; (2) prepare an inventory of the actual characterization of all hazardous substances potentially disposed of in the trenches; (3) investigate releases or potential releases of any hazardous substances in the trenches; (4) prepare a plan for waste retrieval, treatment, closure, and monitoring for the trenches; and (5) within two years, install and maintain a ground water and soil column monitoring system. Public notice, hearings, and comment on the scope of these investigations and actions are required.

Applications to expand existing facilities or create new facilities are not allowed at any site with unlined trenches containing mixed wastes where: (1) the wastes have not been fully characterized; (2) a release of a hazardous or radioactive substance or mixed waste has occurred; or (3) there is a significant potential for a release of hazardous substances.

Ecology's decisions relating to the closure of tank systems must consider the cumulative and potential impacts of all tank residuals and leaks. Before Ecology allows closure of a site with mixed wastes, the owner or operator must take all potentially effective and practicable actions to characterize and remediate releases, and potential releases, of mixed wastes.

Disclosure of Costs and Budgets. The owners or operators of a mixed waste facility who have had releases of hazardous substances must disclose their projected total and annual costs necessary to meet the legal requirements associated with their facilities. State or federal agencies that own or operate mixed waste facilities must also disclose budgets or budget requests for the current year and next three years. Annual disclosures by federal agencies must include a comparison of the cost estimates of all required activities versus the amount of funds requested and the amount appropriated. Ecology must hold public hearings on the disclosures.

Exemptions. The initiative provisions do not apply to the U.S. Navy's storage or disposal of permitted nuclear reactor components of submarines or vessels. The provisions also do not apply where they would interfere with the obligations of the state under the Northwest Interstate Compact on Low-Level Radioactive Waste Management (the "Compact"). However, relevant provisions that do not interfere with state obligations would apply to any facility operated pursuant to the Compact if any hazardous or mixed waste was disposed or released at that facility.

Public Involvement. Ecology must ensure that facility permits issued for any site or facility where there has been a release of mixed waste must include funding for "a broadly representative advisory board." The initiative limits the membership of the advisory board to representatives chosen by the following groups: (1) potentially

affected tribes; (2) regional and statewide citizen groups with an established record of concern with human health or environmental impacts related to releases of waste at the facility; (3) local groups concerned with health and resource impacts; (4) local governments; and (5) if certain conditions are met, the state of Oregon.

Ecology must request the board to advise it on procedural and substantive matters requiring informed public comment. Ecology must formally consider and respond to any comments from the advisory board prior to issuing any decision on a remedial, corrective, or closure action. Ecology must assess fees for its own oversight and permitting functions and include assessments to cover local government and public participation grants.

Enforcement and Appeals. A cause of action is created, allowing citizens to file lawsuits to compel owners or operators of mixed waste facilities to comply with relevant laws and administrative orders. Citizen lawsuits are also authorized to compel Ecology to perform any nondiscretionary duties. Attorney fees and costs may be awarded to prevailing plaintiffs.

Any person whose interests, in natural resources or in their health, may be adversely affected by an order, action, or inaction of Ecology is granted legal standing to file an appeal with the Pollution Control Hearings Board. Violations of the provisions of the initiative are subject to enforcement by Ecology or the Attorney General, including the imposition of civil or criminal penalties.

Effective: December 2, 2004

I 872
C 2 L 05

Elections and primaries.

By People of the State of Washington.

Background: The primary election of September 14, 2004, was a partisan primary, the first such primary held in Washington since 1934. In this partisan primary, voters chose a ballot from one of the three major political parties, Republican, Democratic, or Libertarian. Each ballot contained only candidates seeking nomination as the standard-bearers for their respective party. No record was kept of the voter's choice of ballot.

Independent and minor party candidates did not participate in the 2004 primary. They appeared on the general election ballot, upon qualification, by means of a petition process.

Voters not wishing to participate in the partisan primary could vote a ballot that contained only ballot measures and nonpartisan races. Nonpartisan races were for judicial, municipal, and special purpose districts' officers.

From 1934 to 2004, the "blanket primary" was the method used for primary elections. In this system, voters chose among all candidates running for each office, irre-

spective of the political party affiliation of each candidate. Republican, Democratic, Libertarian, and minor party candidates all appeared on each voter's ballot.

The three major political parties won a law suit in 2004 when a federal court decided that allowing a voter to cast votes for candidates from different political parties in different races, and requiring the political parties to accept the winner of the primary as the party's standard-bearer in the general election were unconstitutional. As the result of this legal action, the Legislature and the Washington State Grange both pursued alternatives to the partisan primary that was held in 2004, by means of legislation and by Initiative 872, respectively.

Summary: Initiative 872 provides that the same primary election ballot and the same choices are available to all voters in the same jurisdiction without regard to the voter's political party preference or affiliation. Voting for any candidate for each partisan race is allowed, without regard for the candidate's political party preference or affiliation. Each candidate's political affiliation, or minor party or independent status, is indicated on the ballot. Only two candidates for each partisan office appear on the general election ballot. The potential exists for the "top two" vote-getters in the primary to be of the same political affiliation, resulting in the candidates for any given partisan office in the general election to be of the same political affiliation.

Effective: December 2, 2004

HB 1000
C 273 L 05

Allowing fax and electronic mail notice of special meetings.

By Representatives Clibborn, Pettigrew, Shabro, Nixon, B. Sullivan, Moeller, Jarrett, Hunter, Hudgins, Upthegrove, Tom, Morrell, P. Sullivan, Wallace and Kilmer.

House Committee on State Government Operations & Accountability
Senate Committee on Government Operations & Elections

Background: Under the Open Public Meetings Act, all meetings of the governing body of a public agency must be open and public, and the agency is required to give the public advance notice of all regular meetings. Under some circumstances a special meeting may be convened. In that instance, a notice must be delivered personally or by mail to each member of the governing body and to the appropriate media at least 24 hours in advance of the meeting.

Summary: Fax and electronic mail are added to the list of means available for a public agency to notify each member of its governing body and the media of a special

meeting. A subscriber may select his or her preferred method of communication.

Votes on Final Passage:

House	95	0
Senate	46	0

Effective: July 24, 2005

HB 1002
C 320 L 05

Restricting the use of compression brakes.

By Representatives Fromhold, Moeller, Murray, Hunter and Jarrett.

House Committee on Transportation
Senate Committee on Transportation

Background: An engine compression brake device (compression brake) is an engine component that operates by opening the exhaust valve at the top of the compression stroke when the engine is in braking mode. The opening of the exhaust valve results in the discharge of compressed air, which creates a characteristic sound. Installing compression brakes in a vehicle provides supplemental braking capacity, allowing for greater control over the vehicle's speed and increased life for the vehicle service brakes.

Washington law does not regulate the use of compression brakes. However, certain local jurisdictions have ordinances that regulate their use.

Federal law regulates the noise levels generated by new trucks at the time they are delivered to the customer.

Summary: A motor vehicle with a declared gross weight greater than 10,000 pounds operating on public roads is subject to new requirements if the vehicle is equipped with compression brakes. These brakes are defined as a device that uses the engine and transmission to impede the forward motion of the motor vehicle by compression of the engine.

The driver of a vehicle equipped with compression brakes may not use the device unless the vehicle also contains an operational muffler and exhaust system. This system must maintain the noise level at 83 decibels or less for vehicles manufactured after January 1, 1979, and 80 decibels or less for vehicles manufactured after January 1, 1988.

If a vehicle does not contain a muffler and exhaust system that meets these standards, the driver may still use compression brakes if the driver reasonably believes that an emergency exists that requires the use of the device to:

- protect against an immediate threat to the physical safety of the driver or others;
- protect against an immediate threat to property; or
- reduce the speed of the vehicle on a downhill grade.

A person violating these requirements is subject to a \$250 monetary penalty for the first violation, a \$500 monetary penalty for the second violation, and a \$750 monetary penalty for each subsequent violation.

Local jurisdictions are allowed to adopt more restrictive ordinances regarding the use of compression brakes.

The Washington State Patrol must adopt rules for law enforcement agencies to enforce these requirements.

Votes on Final Passage:

House	88	10	
Senate	41	6	(Senate amended)
House	87	9	(House concurred)

Effective: July 24, 2005

HB 1003

PARTIAL VETO

C 213 L 05

Allowing off-road vehicles on nonhighway roads.

By Representatives Hinkle, B. Sullivan, Curtis, Campbell, Blake, Dunn and Condotta.

House Committee on Natural Resources, Ecology & Parks

Senate Committee on Natural Resources, Ocean & Recreation

Background: Except for specific circumstances, it is unlawful for a person to operate a vehicle on a public highway without first having a current vehicle license. Exceptions to the vehicle licensing requirement are authorized for motorized foot scooters, electric-assisted bicycles, certain farm vehicles, and certain trailers. In addition, vehicles operating on a highway must comply with vehicle lighting and equipment requirements.

The U.S. Forest Service Manual, Pacific Northwest Region, effective April 10, 2003, accepts the use of off-highway vehicles on forest service roads when the use is in accordance with state laws and regulations and consistent with the regional forest plan. In response to questions regarding state regulation on forest service roads, Attorney General Opinion 1972 No. 3 in part maintained that forest service roads fell within the definition of a highway. As a result, there is some uncertainty regarding the equipment requirements for off-road vehicles on some nonhighway roads.

A person operating a nonhighway vehicle upon the shoulder of a nonhighway road or upon the median of a divided highway is subject to a traffic infraction. Violations are subject to a penalty of not less than \$25, and the operator is liable for any property damage. In addition, property owners may recover up to three times the amount of damage from the responsible party.

Summary: An ORV may be operated on nonhighway roads when authorized by the responsible governing

body including state, federal, or local authorities. An ORV is exempt from vehicle licensing, equipment and lighting requirements when operating on nonhighway roads.

It is a traffic infraction for any person to operate an ORV on a nonhighway road without wearing a helmet. The requirement to wear a helmet does not apply to a person operating an ORV on their own land. In addition, the helmet requirement does not apply to an ORV operator operating on agricultural lands owned or leased by the ORV operator or the operator's employer. Persons under 13 years of age are restricted from operating an ORV on a nonhighway road unless they are under the direct supervision of a person 18 years of age or older with a valid drivers license.

It is a traffic infraction to operate an ORV on a private nonhighway road without permission from the road owner. Nothing in this act authorizes trespass on private property.

A task force on off-road vehicle noise management is established. The task force consists of four members of the House of Representatives and four members of the Senate. Additional participants may be invited by the legislative members including representatives of county commissions, port districts, the Department of Natural Resources, the Department of Ecology, the Interagency Committee for Outdoor Recreation, the Parks and Recreation Commission, ORV manufacturers, the U.S. Forest Service, recreational users, and interested citizens.

The task force must focus on the enforceability of current ORV decibel levels, the appropriateness of ORV usage requirements, the applicability of local noise ordinances, and the barriers to using public lands to create off-road vehicle riding opportunities. Recommendations of the group, in the form of draft legislation, are due to the Legislature by December 1, 2005.

Votes on Final Passage:

House	90	6	
Senate	44	1	(Senate amended)
House	98	0	(House concurred)

Effective: July 1, 2005

Partial Veto Summary: Removes the task force established to review the appropriateness and enforceability of current decibel requirements for ORVs and the availability of using public lands for ORV use.

VETO MESSAGE ON HB 1003

April 28, 2005

To the Honorable Speaker and Members,

The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning, without my approval as to Section 8, Engrossed House Bill No. 1003 entitled:

“AN ACT Relating to the operation of off-road vehicles on roadways.”

Sections 1 through 7 and 9 of Engrossed House Bill 1003 provide for increased flexibility and improved safety requirements

when operating an off-road vehicle. Specifically, no person under the age of thirteen (13) years may operate an off-road vehicle unless directly supervised by a person over the age of eighteen (18). Any person operating an off-road vehicle must wear an approved helmet unless the vehicle is equipped with seat belts, roll bars or an enclosed passenger compartment. Engrossed House Bill 1003 provides further flexibility for off-road vehicle users by permitting, in certain circumstances, the operation of the vehicle on non-highway roads to facilitate greater access to off-road vehicle specific trails.

Section 8 of Engrossed House Bill 1003 creates a task force for the purpose of studying and making recommendations regarding off-road vehicle noise. I am vetoing Section 8 because the task force created in that section is identical to the task force created in Engrossed Substitute House Bill 5089 (Sec. 1), which I signed April 22, 2005.

For these reasons, I have vetoed Section 8 of Engrossed House Bill 1003.

With the exception of Section 8, Engrossed House Bill 1003 is approved.

Respectfully submitted,



Christine O. Gregoire
Governor

HB 1007
C 16 L 05

Establishing a commemorative works account for the department of general administration.

By Representatives Hunt, Alexander, Sommers, Kenney and Chase; by request of Department of General Administration.

House Committee on Appropriations
Senate Committee on Ways & Means

Background: Twenty-three commemorative works are located on the state capitol grounds that are maintained by the Department of General Administration. State capitol grounds are owned by the state and include the west, east, and north capitol campuses, the Tumwater and Lacey campuses, Sylvester Park, Centennial Park, the Old Capitol Building, and Capitol Lake in Olympia.

Summary: The Commemorative Works Account is created for the ongoing care, maintenance, and repair of commemorative works on the state capitol grounds. Moneys in the account are subject to allotment but an appropriation is not necessary for expenditures. The account retains interest earnings.

Votes on Final Passage:

House	96	0
Senate	48	0

Effective: July 24, 2005

HB 1008
C 214 L 05

Managing the motor pool within the department of general administration.

By Representatives Sommers, Alexander, Hunt, Wallace and Chase; by request of Department of General Administration.

House Committee on Appropriations
Senate Committee on Ways & Means

Background: The Department of General Administration (GA) provides motor vehicle services to state agencies by purchasing vehicles for the sole use of an agency or through the operation of motor pools in Olympia. The Legislature must appropriate amounts used by the GA for its vehicle purchases.

Summary: The GA is authorized to purchase motor vehicles without an appropriation by the Legislature.

Votes on Final Passage:

House	98	0	
Senate	46	0	(Senate amended)
House			(House refused to concur)
Senate			(Senate receded)
Senate	47	0	

Effective: July 24, 2005

ESHB 1012
C 500 L 05

Regulating computer spyware.

By House Committee on Technology, Energy & Communications (originally sponsored by Representatives Morris, Hudgins, Simpson, Nixon, Anderson, Morrell, Linville, B. Sullivan and Ormsby).

House Committee on Technology, Energy & Communications

Senate Committee on Financial Institutions, Housing & Consumer Protection

Senate Committee on Ways & Means

Background: Spyware. The term "spyware" generally describes any software that is placed on a user's computer to monitor, collect, and transmit personally identifiable information without the user's knowledge or consent. It is also sometimes referred to as "adware."

Spyware programs can be difficult to identify and remove and can cause problems ranging from advertisements to computer viruses to identity theft. Frequently, spyware is hidden within a larger software package that the consumer purposely installs (such as a media player or game), but spyware can also be installed by visiting a web site.

Existing law does not regulate computer spyware.
Consumer Protection Act. The Washington Con-

sumer Protection Act (Act) declares that unfair and deceptive practices in trade or commerce that harm the public interest are illegal. The Act gives the Office of the Attorney General the authority to bring lawsuits against businesses and to ask the court for injunctions and restitution for consumers. It also allows individuals to hire their own attorneys to bring consumer protection lawsuits. If the consumer prevails in court, the Act allows the court to award triple damages, up to \$10,000, as well as attorney's fees.

Summary: The unauthorized installation of software programs, collectively known as "spyware," is prohibited. A wide range of malicious online action is prohibited, including the collection of personal information through various means.

Specifically, a number of different types of spyware activities are prohibited. These include:

- collecting personally identifiable information through keystroke logging;
- collecting web browsing histories;
- taking control of a user's computer to send unauthorized emails or viruses;
- creating bogus financial charges;
- orchestrating group attacks on other computers;
- opening aggressive pop-up advertisements;
- modifying security settings; and
- generally interfering with a user's ability to identify or remove the spyware.

These prohibitions do not apply to any monitoring of a subscriber's Internet service by a telecommunications carrier, cable operator, computer hardware or software provider, or a provider of an information service for network or computer security purposes.

The Attorney General, a provider of computer software, or an owner of a web site or trademark may bring a civil action to enjoin further violations and recover either actual damages, or \$100,000 per violation, whichever is greater. A court may increase the damage award up to three times if the defendant has engaged in a pattern and practice of engaging in the prohibited activities. The maximum allowable damage award is \$2 million. The court may also award costs and reasonable attorneys' fees to the prevailing party.

These provisions do not expand, contract, alter or amend any cause of action allowed under the Consumer Protection Act and do not affect in any way the application of the Consumer Protection Act to any future case or fact pattern.

Votes on Final Passage:

House	96	0
Senate	47	0

Effective: July 24, 2005

Revising DNA testing provision.

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Darneille, O'Brien, Cody, Morrell, Chase and Schual-Berke).

House Committee on Criminal Justice & Corrections
Senate Committee on Human Services & Corrections

Background: Postconviction Deoxyribonucleic Acid (DNA) Testing. Until December 31, 2004, any person sentenced to imprisonment for a felony conviction who was denied DNA testing in the past could have requested postconviction DNA testing, if the DNA testing was not admitted at his or her trial because:

- The court ruled that DNA testing did not meet acceptable scientific standards; or
- The DNA testing technology was not sufficiently developed to test the DNA evidence in the case.

Beginning on January 1, 2005, a person must raise the DNA issues at trial or on appeal.

A request for postconviction DNA testing must be submitted to the Office of Public Defense (OPD). The OPD must transmit the request to the county prosecutor's office in the county where the conviction was obtained. The prosecutor screens the request and determines whether:

- the evidence still exists; and
- there is a likelihood that the DNA evidence would demonstrate innocence on a more probable than not basis.

The prosecutor must inform both the requestor and the OPD of the decision on testing. If the prosecutor denies the request, the prosecutor must advise the requestor of his or her rights to appeal.

Appeals of Prosecutorial Denials. Upon the denial of a request for postconviction DNA testing, the decision may be appealed to the Office of the Attorney General (AG). The request must be granted if the AG determines that it is likely that the DNA testing would demonstrate innocence on a more probable than not basis.

DNA Testing. If DNA testing is ordered, it must be conducted by the Washington State Patrol Crime Laboratory.

Biological material secured in connection with a criminal case prior to July 22, 2001, may not be destroyed before January 1, 2005.

Summary: All sunset provisions originally established for convicted persons to request postconviction DNA testing are eliminated.

Any person sentenced to imprisonment for a felony conviction may submit a written motion directly to the court of conviction requesting postconviction DNA testing. A copy of the motion must also be submitted to the OPD.

A motion requesting DNA testing must state the following:

- the court ruled that DNA testing did not meet acceptable scientific standards;
- that the DNA testing technology was not sufficiently developed to test the DNA evidence in the case; or
- the DNA testing currently being requested would be significantly more accurate than prior DNA testing or would provide significant new information.

In addition, the motion must: (1) explain why the DNA evidence is material to the identity of the perpetrator or accomplice involved in the crime or to the sentence enhancement; and (2) comply with all procedural requirements established by court rule.

If the motion submitted to the court meets the appropriate standards and the person sentenced to imprisonment has shown the likelihood that the DNA evidence would demonstrate innocence on a more probable than not basis, the court (instead of the prosecutor) must grant the motion to request DNA testing.

Upon a written request to the court, the court may in its discretion appoint legal counsel solely to prepare and present a motion for postconviction DNA testing for an indigent person serving a term of imprisonment. A motion for appointment of counsel must comply with all procedural requirements established by court rule.

Appeals of Prosecutorial Denials. The appeals process previously handled by the AG is eliminated.

DNA Testing. All DNA testing, if ordered, will continue to be conducted by the Washington State Patrol Crime Laboratory.

Upon the motion of the defense counsel or at the court's own motion, all biological material or evidence samples that have been secured in connection with a criminal case must be preserved in accordance with any court rule adopted for the preservation of evidence. The court must specify the samples to be maintained and the length of time the samples must be preserved.

Votes on Final Passage:

House	96	0	
Senate	47	0	(Senate amended)
House	95	0	(House concurred)

Effective: March 9, 2005

HB 1019
C 248 L 05

Brief Description: Providing a property tax exemption to veterans with severe disabilities.

By Representatives Campbell, Kirby, McCune, Clements, Wood, Hudgins, Simpson, Green, Morrell, Conway, P. Sullivan, Linville, B. Sullivan, McDonald, Lovick, Dunn, Chase and Ormsby.

House Committee on Finance

Background: Some senior citizens and persons retired due to disability are entitled to property tax relief on their principal residences. To qualify, a person must be 61 in the year of application or retired from employment because of a disability, own his or her principal residence, and have a disposable income of less than \$35,000 a year. Persons meeting these criteria are entitled to partial property tax exemptions and a valuation freeze.

Disposable income is defined as the sum of federally defined adjusted gross income plus the following, if not already included: capital gains; deductions for loss; depreciation; pensions and annuities; military pay and benefits; veterans' benefits except attendant-care and medical-aid payments; Social Security and federal railroad retirement benefits; dividends; and interest income. Payments for the care of either spouse received in the home, a nursing home, boarding home or adult family home; payments for medicare insurance premiums; and payments for prescription drugs are deducted in determining disposable income.

Partial exemptions for senior citizens and persons retired due to disability are provided as follows:

- If the income level is \$30,001 to \$35,000, all excess levies are exempted.
- If the income level is \$25,001 to \$30,000, all excess levies and regular levies on the greater of \$50,000 or 35 percent of assessed valuation (\$70,000 maximum) are exempted.
- If the income level is \$25,000 or less, all excess levies and regular levies on the greater of \$60,000 or 60 percent of assessed valuation are exempted.

In addition to the partial exemptions listed above, the valuation of the residence of an eligible senior citizen or disabled person is frozen at the assessed value of the residence on the later of January 1, 1995, or January 1 of the assessment year the person first qualifies for the program.

Summary: Veterans of the U.S. Armed Forces with 100 percent service-connected disability are eligible for the same property tax relief as senior citizens based on their income.

Votes on Final Passage:

House	98	0	
Senate	47	0	(Senate amended)
House	96	0	(House concurred)

Effective: July 24, 2005

HB 1024

C 182 L 05

Changing requirements for issuing salary warrants for judges.

By Representatives Kirby and Campbell; by request of Board For Judicial Administration.

House Committee on Judiciary
Senate Committee on Judiciary

Background: The Administrative Office of the Courts (AOC), among other things, collects statistical data from the courts and makes recommendations to the Chief Justice regarding judges' assignments to improve court efficiency. The Chief Justice may direct any judge to hold court in any county or district where needed.

Before a superior court judge is paid, the judge must provide an affidavit stating that he or she has complied with the Chief Justice's orders regarding assignments in other counties and with the AOC's requests for statistical data.

Summary: The requirement for the affidavit before a superior court judge may be paid is eliminated.

Votes on Final Passage:

House 96 0
Senate 47 0

Effective: July 24, 2005

ESHB 1031

C 369 L 05

Providing long-term funding for problem gambling.

By House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Cody, Simpson, Wood, Green, McIntire, Morrell, Kenney, P. Sullivan and Darneille; by request of Governor Locke).

House Committee on Commerce & Labor
House Committee on Finance
Senate Committee on Labor, Commerce, Research & Development
Senate Committee on Ways & Means

Background: Most types of gambling activities in Washington are limited and regulated under the authority granted to the Washington State Gambling Commission (Gambling Commission). Certain gambling activities are authorized for nonprofit and charitable activities. For-profit businesses may conduct certain games as a commercial stimulant. Horse racing is regulated under the authority of the Washington State Horse Racing Commission (Horse Racing Commission).

Washington also has a State Lottery, which sponsors various lottery games ranging from "scratch" tickets, in which players discover if they are an instant winner, to "draw" games in which players wait for the random

drawing of numbers to determine if they have won. In 2002, legislation was enacted to allow Washington to join the multi-state "shared game" lottery.

Uses of Lottery Revenues. Proceeds from the sale of all State Lottery products are deposited in the State Lottery Account. Until 1996, these proceeds, after payment of prizes and expenses, were deposited in the State General Fund. Beginning in 1996, a portion of State Lottery proceeds has been dedicated to assist with paying the principal and interest on bonds used to construct various sports stadiums. When the voters approved Initiative 728 in 2000, the State Lottery proceeds were redirected from the State General Fund to various education funds. In 2004, the net revenues from lottery games allocated for education were directed to the Education Construction Fund.

Problem Gambling Studies. Various studies funded by the Washington State Lottery Commission (Lottery Commission) have identified problem gambling issues. For example, a 1999 study commissioned and funded by the Lottery Commission found that 5.1 percent of Washington adults had experienced gambling problems or compulsive gambling at some point in their lives, with 2.3 percent reporting such problems in the year immediately preceding the survey. A similar Lottery Commission study, also completed in 1999, indicated that 7.5 percent of adolescents were at risk of developing gambling problems and 0.9 percent were problem gamblers.

Funding for Problem Gambling Treatment, Problem Gambling Public Awareness, and Hotline. The legislation authorizing Washington to participate in the shared game lottery also established a program in the Department of Social and Health Services (DSHS) for the treatment of pathological gambling. The program was to serve people needing treatment but unable to afford it. Treatment under the program was limited to funds available to the DSHS.

For fiscal year 2003 only, the Legislature provided \$500,000 in revenue from the shared game lottery for this pathological gambling treatment program. The program operated for eight months, from November 2002 through June 2003, subsidizing treatment for 203 problem gamblers and 23 family members of problem gamblers, and providing training on treatment of problem gambling for 25 mental health professionals. The funding for the program was not extended.

The Washington State Gambling Commission, the Lottery Commission, and the Horse Racing Commission are jointly responsible for developing informational signs and maintaining a toll-free hotline telephone number for problem and compulsive gamblers. The signs advertising the hotline telephone number are posted in establishments that conduct gambling activities. The three agencies are also authorized to contract with qualified entities to provide public awareness, training, and other services related to problem gambling. Since 1991,

the Lottery Commission and the Gambling Commission have spent an estimated \$3 million on problem gambling education and awareness services.

In 2002, the Gambling Commission also contributed \$150,000 to the Council on Problem Gambling to fund treatment. Since that time, however, the Gambling Commission has been advised that the statute authorizes expenditures only for public awareness and the hotline telephone. For these activities, the Gambling Commission contributed \$150,000 for fiscal year 2004-2005. In November 2004, the Gambling Commission adopted a rule imposing a problem gambling fee on its licensees. This new fee takes effect June 30, 2005, but expires if the Legislature appropriates funds for the problem gambling program.

The Council on Problem Gambling has also received contributions from various tribal governments, including about \$60,000 in 2001 and nearly \$164,000 in 2002. Private gambling interests have also contributed about \$64,000 in fiscal year 2003 to the Council.

Business and Occupation Taxes. The business and occupation (B&O) tax is Washington's major business tax. The tax is imposed on the gross receipts of business activities conducted within the state. Revenues are deposited in the State General Fund. A business may have more than one B&O tax rate, depending on the types of activities conducted. Examples of some of the B&O tax rates that apply to Washington businesses include: retailing, 0.471 percent; manufacturing and wholesaling, 0.484 percent; and services, 1.5 percent. Those covered businesses not otherwise subject to a specified tax rate pay the B&O tax at the rate of 1.5 percent.

The B&O tax does not permit deductions for the costs of doing business, such as payments for raw materials and wages of employees. There are, however, exemptions for specific types of business activities, including an exemption for the business of conducting horse race meets.

Summary: The Problem and Pathological Gambling Treatment Program. The Problem and Pathological Gambling Treatment Program (Program) within the Department of Social and Health Services (DSHS) is revised. The Program is expanded to cover:

- the prevention, as well as the treatment, of problem and pathological gambling;
- the training of professionals in identifying and treating problem and pathological gambling; and
- the treatment of family members of problem or pathological gamblers who are unable to afford treatment and are targeted by the DSHS as most amenable to treatment.

The DSHS must establish an advisory committee to assist in designing, managing, and evaluating the Program's effectiveness. Committee members must include, at least, persons knowledgeable in the field of problem

and pathological gambling and persons representing tribal gambling, privately owned non-tribal gambling, and the Washington State Lottery.

The DSHS may contract for services to be provided under the Program.

Funding for the Problem and Pathological Gambling Treatment Program. *Gifts and Grants.* The DSHS may solicit and accept gifts of money or property, grants, or funds from other private or public sources, including tribal governments.

Washington State Lottery Transfers. Beginning in fiscal year 2006, the Lottery Commission must transfer certain amounts from the shared game lottery revenue to the Problem Gambling Account. In fiscal year 2006, the amount transferred must equal 0.1 percent of net receipts, defined as the revenue received from lottery and shared game lottery ticket sales minus the payments to winners. In subsequent fiscal years, the amount transferred must equal 0.13 percent of these net receipts.

Business and Occupation Taxes. A new B&O tax is imposed on persons engaging in the business of operating contests of chance (such as social card games, bingo, raffles, punchboard games, and pull-tabs, but not state lottery games or amusement games), or conducting horse race meets. In fiscal year 2006, the amount of the tax is 0.1 percent of a business's gross income derived from contests of chance or, in the case of a horse racing business, of the gross income derived from parimutuel wagering. In subsequent fiscal years, the amount of tax is 0.13 percent of that gross income. This new tax does not apply to businesses operating contests of chance that have gross gambling income under \$50,000 per year.

While this new B&O tax is in effect, the Gambling Commission is prohibited from increasing license fees to fund a program for problem and pathological gambling. If the Gambling Commission imposes such a fee before this act takes effect, the fee has no effect after the act's effective date. However, during any periods when the new B&O tax is not in effect, the Gambling Commission, Horse Racing Commission, and the State Lottery may contract for services to assist in providing treatment for problem and pathological gambling, and the Gambling Commission may increase license fees to fund the authorized services.

The Problem Gambling Account. The Problem Gambling Account (Account) is created in the state treasury. Money in the Account may be spent only after appropriation and only for the purposes of the Problem and Pathological Gambling Treatment Program. Money transferred from the State Lottery Account and collected from the new B&O tax must be deposited in the Account.

Other Provisions. Pathological gambling and problem gambling are defined.

Various technical changes are made, including deletion of expired requirements relating to transfers of funds

for the previous problem gambling treatment program and to reports to the Legislature.

Votes on Final Passage:

House	57	39	
Senate	36	12	(Senate amended)
House	63	32	(House concurred)

Effective: July 1, 2005

HB 1032

C 92 L 05

Adopting the interstate insurance product regulation compact.

By Representatives Kirby, Roach, Simpson and Schual-Berke; by request of Insurance Commissioner.

House Committee on Financial Institutions & Insurance
Senate Committee on Financial Institutions, Housing & Consumer Protection

Background: Authority of the Insurance Commissioner. The Office of the Insurance Commissioner (OIC) has regulatory authority over insurance issues. Life insurance, annuities, disability income insurance, and long-term care are among the products overseen by the OIC. Rates and forms for these products must be filed with and approved by the OIC before the product can be sold in the state.

Interstate Compacts. Interstate compacts are voluntary legal agreements between one or more states designed to address common problems. There are more than 200 different types of compacts in the United States and every state belongs to at least 14. Traditionally, most compacts addressed natural resource issues. Recently, the compact has been used to address other matters, including corrections, safety, and tax issues. To join a compact, states must adopt the same language or language with the same legal meaning.

Creation and history of this compact. The Interstate Insurance Product Regulation Compact ("Compact") was created when the first two states joined in 2004. It will not become effective until either 26 states join or states representing over 40% of the national premium volume for life insurance, annuity, disability income, and long-term care insurance products join the Compact. Nine states (Colorado, Hawaii, Iowa, Maine, New Hampshire, Rhode Island, Utah, Virginia, and West Virginia) have adopted the Compact to date. These states have a combined 8.06% of the national premium.

Summary: Purpose of the Compact. The Compact will create uniform product standards and establish a single point of filing for designated insurance products.

Creation of the Compact. The Interstate Insurance Product Regulation Compact (Compact) was created when the first two states joined in 2004. It will not become effective until either 26 states join or states rep-

resenting over 40 percent of the national premium volume for life insurance, annuity, disability income, and long-term care insurance products join the Compact.

Insurance Lines Covered by the Compact. The Compact addresses four types of insurance products:

- individual and group annuity;
- life insurance;
- disability income; and
- long-term care insurance products.

The Compact and the Commission. The Compact is a legal arrangement that creates the Interstate Insurance Product Regulation Commission (Commission). The Commission will:

- develop standards for products;
- receive, review, and approve products; and
- adopt rules.

The standards, rules, and decisions of the Commission have the force of law.

Representation on the Commission. Each compacting state receives one representative to the Commission. The Insurance Commissioner is designated as the representative from Washington.

Management Committee. The Management Committee will run the day-to-day affairs of the Commission. The Committee will consist of 14 or fewer members composed as follows:

- Six members - one member each from the six largest premium volume states;
- Four members - one member each from the four medium premium volume states. The members will be selected on a rotating basis; and
- Four members - one member each from four of the small premium volume states. A member will be selected from each of the four zone regions of the National Association of Insurance Commissioners.

Development of Product Standards. The Management Committee may develop uniform standards for products. Two-thirds of the Management Committee must approve the standards before it can be submitted to the Commission. Two-thirds of the Commission must approve the standard before it can be adopted.

Opt-out of Product Standards. States may opt-out of uniform product standards in either of two ways. First, the Legislature may opt out of any product standard at any time for any reason. Second, the state may also opt-out by rule-making of the OIC. To opt-out by rule, the OIC must make specific findings of fact and conclusions of law in determining that the standard does not provide reasonable protections to the citizens of the state.

Product Review. The Commission must establish appropriate filing and review processes. Insurers may file products with the Commission. A product approved by the Commission is approved in all compacting states. An insurer still may file products with the OIC subject to the laws of Washington.

Disapproved Filings and Withdrawal or Modifica-

tion of Approval. An insurer whose filing was disapproved by the Commission has thirty days to appeal the determination to a review panel appointed by the Commission. The Commission may also withdraw or modify its approval of a product after proper notice and hearing, subject to the appeal process. The Commission must adopt procedures for appointing panels and providing for notice and hearing.

Financing of the Commission. The Commission is financed by filing fees paid by insurers. The Compact also authorizes the Commission to accept any and all appropriate donations and grants.

Withdrawal from the Compact. The state may withdraw from the Compact by repealing the compacting law. The Commission's approval of products and advertisements continues to be effective unless formally rescinded by the OIC in the same manner as it withdraws approval of products or advertisements previously approved under state law.

Public Access to Information. The Commission must adopt rules regarding public access to product filing information.

The Commission must consider the interests of the public and the protection of personal information and trade secrets that may be contained in a filing.

Enforcement of Contracts Under the Compact. The OIC will oversee market regulation in Washington in accordance with current state law, including trade practices. The Commission has exclusive jurisdiction over product standards, rules adopted by the Commission, and any other requirements related to content, approval, and certification of products. If there is a dispute over a product or advertisement approved by the Commission, the insurer must be provided notice and opportunity for a hearing before the Commission.

Votes on Final Passage:

House	96	0
Senate	46	0

Effective: July 24, 2005

HB 1034
C 432 L 05

Conducting the administrative supervision of financially distressed insurers.

By Representatives Kirby, Roach and Simpson; by request of Insurance Commissioner.

House Committee on Financial Institutions & Insurance
Senate Committee on Financial Institutions, Housing & Consumer Protection

Background: The Insurance Commissioner (Commissioner) oversees the regulation of insurance in Washington. An important regulatory responsibility of the Commissioner is monitoring the solvency of insurance

companies and health carriers. The monitoring is achieved by the use of risk assessment formulas and various financial reporting requirements. If certain criteria are met, the Commissioner may apply for a court order for rehabilitation or liquidation of a domestic insurer (an insurer formed under the laws of Washington).

For the purpose of mergers, rehabilitation, or liquidation of an insurer, "insurer" includes life insurers, disability, property insurers, casualty insurers, vehicle insurers, title insurers, surety bonding companies, insurers or companies offering charitable gift annuities.

Summary: The Commissioner is authorized to place an insurer under administrative supervision. An insurer under administrative supervision is subject to greater scrutiny. The insurer may be required to receive prior approval from the Commissioner or the appointed administrative supervisor before taking certain actions.

When an insurer may be put under administrative supervision. The Commissioner may place an insurer under administrative supervision if the Commissioner makes a finding that:

- the continuance of the insurer's business is financially hazardous to the public or to its insureds consistent with the insurance law or rules adopted by the Commissioner;
- the insurer has or appears to have exceeded its powers granted under the insurer's certificate of authority and the insurance law or rules adopted by the Commissioner;
- the insurer has failed to comply with the applicable provisions of the insurance law or rules adopted by the Commissioner and the continuance of the insurer's business is or will be financially hazardous to the public or to its insureds;
- the business of the insurer is being conducted fraudulently; or
- the insurer consents.

When an insurer has exceeded its powers. An insurer has "exceeded its powers" if it:

- refuses to permit examination of its books, papers, accounts, records, or affairs;
- unlawfully removes books, papers, accounts, or records necessary for an examination;
- fails to promptly comply with the applicable financial reporting statutes or rules;
- neglects or refuses to make up prohibited deficiencies in capital, capital stock, or surplus;
- transacts insurance or writes business after revocation or suspension of licensure; or
- unlawfully or in violation of an order (1) totally reinsures its entire outstanding business; (2) merges or consolidates substantially its entire property or business; or (3) engages in any unauthorized transaction.

Impact of administrative supervision. The Commissioner must adopt standards and procedures to maintain orderly continuation of the operations of an insurer under

administrative supervision. The Commissioner may prevent an insurer from doing any of the following things without the prior approval of the Commissioner or the appointed supervisor:

- sell or encumber any of its assets;
- withdraw bank accounts;
- lend funds or invest funds;
- transfer property;
- incur debt, obligation, or liability;
- merge or consolidate with another company;
- approve new premiums or renew any policies;
- enter into any new reinsurance contract or treaty;
- terminate, surrender, convert, or lapse a policy except for nonpayment of premiums;
- release, pay, or refund amounts received, accrued or reserved on any insurance policy;
- make a material change in management; or
- increase salaries and benefits of officers or directors.

Insurer's right to administrative hearing. Any action or failure to act by the Commissioner is subject to review under the insurance law and the Administrative Procedures Act (APA). An insurer may contest an action of an administrative supervisor. If denied after reconsideration, the insurer can request a proceeding under the insurance law.

Other provisions. Administrative supervisors are added to the persons receiving immunity.

Exemptions from public disclosure and disclosure in civil actions are created for actions related to the administrative supervision of an insurer. The Commissioner may open proceedings or make information public if the Commissioner deems it to be in the best interest of the insurer, its insureds or creditors, or the general public. The Commissioner's decision to disclose any confidential materials is subject to applicable law.

The Commissioner is not prevented from beginning liquidation or rehabilitation proceedings in addition to administrative supervision.

The Commissioner may adopt rules to implement this act.

Votes on Final Passage:

House	96	0	
Senate	42	0	(Senate amended)
House	95	0	(House concurred)

Effective: July 24, 2005

ESHB 1044
C 370 L 05

Changing pension funding methodology.

By House Committee on Appropriations (originally sponsored by Representative Sommers; by request of Office of Financial Management).

House Committee on Appropriations

Background: The Office of the State Actuary is responsible for recommending appropriate member and employer contribution rates for the Public Employees', Teachers', School Employees', and Washington State Patrol Retirement Systems to the Pension Funding Council (PFC), which adopts the rates for each fiscal biennium. Included as part of the rates recommended by the State Actuary to the PFC for the 2005-07 biennium were pre-funding for the gain-sharing benefit in the Plans 1 and 3 and contributions towards paying off the unfunded liabilities in the Plans 1.

Gain-sharing was created by the 1998 Legislature as a mechanism to increase member benefits in PERS 1, PERS 3, TRS 1, TRS 3, and SERS 3. These increases occur whenever there are extraordinary investment gains, which are defined as compound average of investment returns on pension fund assets that exceeds 10 percent over a period of four fiscal years. Once each biennium, the State Actuary determines whether gain-sharing benefits will be made. Any distributions occur in January of even-numbered years. In Plan 1, half of all extraordinary gains are used to enhance the Uniform Cost-of-Living Adjustment (Uniform COLA) that is given to eligible retirees each year. In Plan 3, half of the extraordinary gains are paid directly into eligible members' and retirees' defined contribution accounts. There have been two gain-sharing distributions since 1998, which resulted in combined benefit improvements costing roughly \$1.1 billion. When the gain-sharing benefit was created by the 1998 Legislature, language was included in the law to reserve the right of the Legislature to amend or repeal the gain-sharing benefits.

The cost of future gain-sharing has never been reflected in the basic contribution rates for the affected systems and was not included in the 2002 actuarial valuation, as the funding methodology and materiality of the gain-sharing provisions were under review. The recent 2003 Actuarial Valuation Report (prepared in December 2004) identified gain-sharing as a material liability and included this liability in calculating the basic contribution rates recommended by the State Actuary to the PFC.

While the state retirement plans that are currently open to new members (the Plans 2 and 3) are currently fully funded, unfunded accrued actuarial liabilities (UAALs) exist in both PERS 1 and TRS 1. This means that the value of the plan liabilities, in the form of members' earned benefits to date, exceed the value of the plan assets. As of the most recent actuarial valuation, the UAAL for PERS 1 is \$2.6 billion and the UAAL for TRS 1 is \$1.4 billion. The statutory funding policy for paying off the UAAL in the Plans 1 is codified as a goal within the actuarial funding chapter. Per statute, the funding process for the state retirement systems is intended to fully amortize the total Plan 1 costs by not later than June 30, 2024. The payments towards the UAAL are included in employer rates and are not shared

by members. Under Chapter 11 of the Laws of 2003 (EHB 2254) the Legislature suspended the employer contributions towards the PERS 1 and TRS 1 unfunded liabilities for the duration of the 2003-05 biennium.

The State Actuary's recommended employer 2005-07 contribution rates under current law are 5.73 percent for PERS, 6.74 percent for TRS, and 7.56 percent for SERS. The recommended Plan 2 member rates for the same period are 3.38 percent for PERS 2, 2.48 percent for TRS 2, and 3.51 percent for SERS 2. Member rates in PERS 1 and TRS 1 are fixed at 6 percent. Member contributions in PERS 3, TRS 3, and SERS 3 are made into members' individual defined contribution accounts and do not affect pension system funding.

Summary: Recognition of the cost of future gain-sharing benefits in retirement system contribution rates is delayed until after the 2005-2007 fiscal biennium. The Select Committee on Pension Policy will study the options available to the Legislature for addressing future gain-sharing liability, including: repealing, delaying, or suspending the gain-sharing provisions, making gain-sharing discretionary, or replacing gain-sharing with other benefits.

Contributions toward the UAAL in PERS 1 and TRS 1 are suspended for the 2005-2007 fiscal biennium. Annual contribution rates for PERS, TRS, and SERS employers and Plan 2 members are specified for each year of the 2005-2007 fiscal biennium, as part of a four-year phase-in of contribution rate increases projected for the 2005-2009 period. The employer contribution rates for FY 2006 are 2.25 percent for PERS, 2.75 percent for SERS, and 2.73 percent for TRS, and the Plan 2 member contribution rates for FY 2006 are 2.25 percent for PERS, 2.75 percent for SERS, and 2.48 percent for TRS. For FY 2007 the employer contribution rates are 3.50 percent for PERS, 3.75 percent for SERS, and 3.25 percent for TRS, and the Plan 2 member contribution rates are 3.50 percent for PERS, 3.75 percent for SERS, and 3 percent for TRS. The Pension Funding Council is required, upon completion of the 2005 Actuarial Valuation, to adopt contribution rates that complete the four-year phase-in schedule, adjusted for any material changes in benefits, assumptions, methods or experience.

Votes on Final Passage:

House 55 42
Senate 25 23

Effective: July 24, 2005
July 1, 2005 (Sections 1, 3 and 6)
July 1, 2006 (Sections 2 and 4)

HB 1048

C 52 L 05

Modifying the date for submitting local government property tax estimates to counties.

By Representatives Linville, Jarrett, McIntire, Ericksen, Rodne and Clibborn.

House Committee on Local Government
Senate Committee on Government Operations & Elections

Background: Not later than November 15 of each year, public officials and local governmental entities within a county are required to submit to the county legislative authority estimated property tax revenues and/or property tax-related budgets for the coming year. For the City of Seattle, this deadline is extended until November 30. The purpose of these statutory deadlines for the submission of this property tax-related information is to provide the county legislative authority with the data needed for levying district property taxes.

Summary: The deadline for public officials and local governmental entities to submit property tax-related revenue and budget information to the county legislative authority is extended from November 15 to November 30 of each year.

Votes on Final Passage:

House 98 0
Senate 49 0

Effective: July 24, 2005

HB 1049

C 8 L 05

Authorizing projects recommended by the public works board.

By Representatives Green, DeBolt, Upthegrove, Kilmer, Kessler, McCoy, Sells, Blake, Schual-Berke, Kenney, P. Sullivan, Jarrett, Kagi, Simpson, Wood, Lantz, Hudgins, Morrell, Hunt and Ormsby; by request of Public Works Board.

House Committee on Capital Budget
Senate Committee on Ways & Means

Background: The Public Works Assistance Account, commonly known as the Public Works Trust Fund, was created by the Legislature in 1985 to provide a source of loan funds to assist local governments and special purpose districts with infrastructure projects. The Public Works Board (Board), within the Department of Community, Trade and Economic Development (CTED), is authorized to make low-interest or interest-free loans from the account to finance the repair, replacement, or improvement of the following public works systems: bridges, roads, water and sewage systems; and solid

waste and recycling facilities. All local governments except port districts and school districts are eligible to receive loans.

The Public Works Assistance Account receives dedicated revenue from: utility and sales taxes on water, sewer service, and garbage collection; a portion of the real estate excise tax; and loan repayments. Appropriations from the account are made in the Capital Budget, but the project list is submitted annually in separate legislation.

Each year the Board is required to submit a list of public works projects to the Legislature for approval. The Legislature may remove projects from the list, but it may not add any projects or change the order of project priorities. Legislative approval is not required for pre-construction activities, planning loans, or emergency loans.

The CTED received an appropriation of approximately \$261 million from the Public Works Assistance Account in the 2003-05 Capital Budget for the 2004 and 2005 loan cycles. In 2004 the Legislature approved \$236 million of this appropriation to be dedicated to financing the 2004 construction loan list. The Board planned to use the balance of the appropriation, approximately \$25 million, to finance pre-construction, planning, and emergency loan requests.

The Board is recommending that the Legislature appropriate an additional \$155 million from the Public Works Assistance Account to finance projects listed on the 2005 construction loan list. The 2005 Supplemental Capital Budget includes funding at the Board's requested level.

Summary: As recommended by the Board, 64 public works project loans totaling \$155 million are authorized for the 2005 loan cycle. The 64 authorized projects fall into the following categories:

- 28 domestic water projects totaling \$43.8 million;
- 27 sanitary sewer projects totaling \$85.5 million;
- five storm sewer projects totaling \$9.3 million;
- three road projects totaling \$13.8 million; and
- one solid waste project totaling \$2.6 million.

Votes on Final Passage:

House	96	0
Senate	47	0

Effective: March 28, 2005

2SHB 1050
PARTIAL VETO

C 215 L 05

Creating a foster care endowed scholarship program.

By House Committee on Appropriations (originally sponsored by Representatives Kenney, Hinkle, Kagi, Dunn, Quall, Clements, Morrell, McIntire, Schual-Berke, Haigh, Simpson, Linville, Santos and Chase).

House Committee on Higher Education
House Committee on Appropriations
Senate Committee on Early Learning, K-12 & Higher Education

Background: When the state intervenes to remove children from their homes in cases of abuse, neglect, parental substance abuse, or family conflict, these children are placed in foster care homes. While some of these children eventually are returned to their own homes, others remain in the foster care system until reaching adulthood. When foster care youth leave the system at adulthood, they may be entering the adult world with little or no guidance or support for their transition.

Concerns over foster care youth have prompted various foundations and non-profit organizations to begin collecting data and proposing ways to help these young adults. A 2001 study by Casey Family Partners found that when compared with non-foster care youth, foster care youth are less likely to be enrolled in college preparatory programs, are twice as likely to drop out of high school, and are significantly underrepresented in post-secondary programs.

In response to these and similar findings, various state agencies have begun partnering with the Washington Education Foundation and other nonprofit entities to create the Foster Care to College Partnership. This partnership coordinates its efforts to provide support services, information, and college scholarship aid to youth in permanent, state-supported foster care.

Summary: An endowed scholarship program is created for financially needy foster care youth and former foster care youth ages 16 to 23 years who have been in the state's foster care system six months or longer since turning 14 years of age. To be eligible, students must be Washington residents and enrolled or planning to enroll in a post-secondary program within three years of graduating from high school or earning a general educational development diploma.

The Higher Education Coordinating Board (HECB) may work with the Superintendent of Public Instruction (SPI) and the Department of Social and Health Services (DSHS) to publicize the program to eligible students 16 years of age or older and also may contract with a private agency to perform outreach to potentially eligible students. The HECB must establish the Foster Care Endowed Scholarship Advisory Board with not more

than seven members who must reflect the cultural diversity of Washington. The advisory board is charged with assisting the HECB in publicizing the program, soliciting grants and donations from public and private sources, and assisting in program development and the application screening process.

The HECB may deposit \$25,000 of state matching moneys, subject to availability, into the endowment fund created in the custody of the State Treasurer when private cash donations reach \$25,000. After the initial match, state matching moneys may be released semiannually so long as there are moneys available in the endowment trust fund. The initial \$25,000 deposited into the endowment fund will be the principal and may not be invaded.

The amount of the scholarship may not exceed the student's demonstrated financial need, as determined by the HECB after consideration of the student's costs for tuition, fees, books, supplies, transportation, room, board, personal expenses, and child care, if applicable. Receipt of a scholarship does not affect a student's eligibility for other state financial aid assistance.

Votes on Final Passage:

House	96	0
Senate	44	0

Effective: July 24, 2005

Partial Veto Summary: Vetoes a section that would have limited administrative support for the program to one-quarter FTE (full time employee).

VETO MESSAGE ON HB 1050-S2

April 28, 2005

To the Honorable Speaker and Members,
The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning, without my approval as to Section 9, Second Substitute House Bill 1050 entitled:

“AN ACT Relating to the creation of a foster care endowed scholarship program.”

This bill and the Board creates scholarships for foster youth. I am vetoing Section 9, however, as it would limit the administrative support for the foster youth scholarship program to one-quarter full-time equivalent employee (FTE). Any money allocated for the foster youth scholarship program should go directly to that purpose. But FTE targets or limitations are properly addressed through the budget process.

For these reasons, I have vetoed Section 9 of Second Substitute House Bill 1050.

With the exception of sections Section 9, Second Substitute House Bill 1050 is approved.

Respectfully submitted,



Christine O. Gregoire
Governor

SHB 1054

C 433 L 05

Enacting the revised Uniform Arbitration Act.

By House Committee on Judiciary (originally sponsored by Representatives Lantz, Priest and Morrell).

House Committee on Judiciary
Senate Committee on Judiciary

Background: Arbitration. Arbitration is one form of non-judicial dispute resolution. Arbitration is done pursuant to an agreement made by two or more parties that they will submit a dispute to a third party for resolution. Arbitration has been described by its advocates as an economical and streamlined method of resolving disputes, particularly those that involve technical or highly specialized issues. Generally, procedural complexity is less in an arbitration than in a court proceeding.

Arbitration in Washington is exclusively statutory. That is, under the common law of the state, arbitration agreements are not enforceable.

Washington's Arbitration Statute. Generally, to be enforceable an arbitration agreement must comply with the arbitration statute. An exception is made in the arbitration statute itself for labor disputes, which may be resolved by whatever method the parties choose subject, of course, to applicable labor laws.

Washington's statute on arbitration was adopted by the Legislature in 1943 and has not been substantively amended since. The state's Arbitration Act authorizes the use of arbitration as an alternative to judicial resolution of disputes. Arbitrations conducted in accordance with the statute are enforceable in court.

An arbitration agreement may be entered into before any dispute has arisen or may be entered into after a legal action has already been begun in court. Courts may be asked to review arbitration agreements and procedures for compliance with the statute, but court review of arbitration decisions is limited to correction of an award or vacation of an award on specified grounds. Courts may not review the merits of an award.

Arbitration under the statute is an alternative to the use of the courts for resolving a dispute. There is no general right of appeal in the statute, and the parties to an arbitration agreement may not provide for a trial following an arbitration. In rejecting an arbitration agreement clause that allowed for a trial de novo following arbitration, the Washington State Supreme Court has characterized the purpose of Washington's arbitration statute as follows:

Encouraging parties voluntarily to submit their disputes to arbitration is an increasingly important objective in our ever more litigious society. This objective would be frustrated if a trial court were permitted to conduct a trial de novo when it reviews an arbitration award. Arbitration is attractive because it is a more expeditious and final alternative

to litigation. (*Godfrey v. Hartford Cas. Ins. Co.*, 142 Wn.2d 885 (2001), citing earlier decisions.)

In other words, arbitration in Washington is "binding." (Note: This kind of binding arbitration done pursuant to an agreement is not to be confused with the "mandatory" arbitration that a separate Washington law imposes on parties in some cases. Mandatory arbitration applies only where the sole relief being sought is a relatively small money judgment. Mandatory arbitration, unlike binding arbitration, is followed by a right to a trial de novo precisely because entering mandatory arbitration is involuntary.)

The arbitration statute sets out various rights of the parties, as well as procedures for initiating and conducting arbitration that are generally less formal and complex than procedures that apply in a lawsuit.

The Uniform Arbitration Act. In the years since the enactment of Washington's law, arbitration has become widely accepted and is regularly used in this state and others. In 1955, the National Conference of Commissioners on Uniform State Laws (NCCUSL) drafted a proposed uniform state law on arbitration. That 1955 Uniform Act was based in large part on state statutes such as the one Washington had adopted in 1943. The 1955 Uniform Act, or modified versions of it, were eventually adopted in all 49 of the other states. Washington's law, as noted above, has remained virtually unchanged since 1943. In 2000, the NCCUSL proposed a revision to the Uniform Arbitration Act. A few states have already adopted the 2000 revision, and several others are in the process of considering it.

Summary: The 2000 Revised Uniform Arbitration Act (RUAA) is adopted to replace the state's 1943 arbitration statute.

Many changes are made to the previous law, including the addition of provisions to cover issues not addressed in the 1943 arbitration statute. Many of the RUAA's provisions deal with procedural matters. Among the new issues covered by the RUAA are:

- Consolidation of Proceedings. Courts are given explicit authority to consolidate some or all of the claims in multiple arbitration proceedings.
- Arbitrator Disclosure of Facts Potentially Affecting Impartiality. Arbitrators are generally required to disclose known facts that a reasonable person would consider likely to affect the arbitrator's impartiality. Special rules apply to disclosures by neutral arbitrators.
- Arbitrator Immunity From Civil Actions. Generally, arbitrators are given the same immunity as judges.
- Arbitrator Testimony in Other Proceedings. Generally, arbitrators may not testify and cannot be required to produce records regarding an arbitration proceeding.
- Nonwaivability of Specific Sections of the Arbitration Statute. The RUAA is generally a default stat-

ute that allows parties to customize arbitration agreements. However, certain provisions of the RUAA may not be waived or varied. Provisions that may never be waived include: application of the RUAA to arbitration agreements; compelling or staying proceedings; immunity of arbitrators; judicial enforcement of pre-award rulings; judicial authority to confirm, vacate, modify, clarify, or correct an award; and judicial entry of judgment and awarding of costs. In addition, stricter nonwaiver rules apply to the parties before any controversy has arisen. For example, before a controversy, nonwaivability applies to: procedural requirements for motions and notices; availability of provisional remedies; arbitrator impartiality disclosures; the right to counsel (except in labor disputes); subpoena and deposition authority; court jurisdiction; and the right of appeal.

- Electronic Technology in the Arbitration Process. Electronic means are expressly authorized for notice requirements in the RUAA. "Records" are defined to include electronic records, and the RUAA is expressly declared to conform to the federal Electronic Signatures in Global and National Commerce Act.

In addition to including these new provisions, the RUAA also makes changes with respect to issues previously addressed in the Washington arbitration statute. The authority of arbitrators to issue provisional remedies during the pendency of an arbitration is expanded and generalized. Arbitrators may protect the effectiveness of an arbitration through provisional remedies, including interim awards, to the same extent as those remedies would be available in a judicial proceeding. In the same manner, the authority of arbitrators to award costs, fees, or exceptional damages is explicitly tied to the ability of a court to do the same in a judicial proceeding on the same kind of issue.

The RUAA applies to all agreements entered into and after the effective date of the Act, January 1, 2006. On or after July 1, 2006, the RUAA also applies to arbitration agreements entered into before the effective date of the Act. In addition, parties to an agreement entered into before the RUAA's effective date may choose to make the Act apply.

The RUAA does not apply to cases subject to mandatory arbitration and does not apply to labor disputes.

Votes on Final Passage:

House	95	0	
Senate	49	0	(Senate amended)
House	95	0	(House concurred)

Effective: January 1, 2006

SHB 1058

C 371 L 05

Revising provisions relating to mental health treatment for minors.

By House Committee on Juvenile Justice & Family Law (originally sponsored by Representatives Dickerson, Hinkle, Moeller, Kenney and Darneille).

House Committee on Juvenile Justice & Family Law
Senate Committee on Human Services & Corrections

Background: Traditionally, parental consent has been required before any medical treatment could be provided to a minor. The only acceptable exception to this rule was if there was an emergency and it was either impracticable to obtain parental consent or any delay would unduly endanger the minor's life.

The Washington Legislature has modified this common law approach, and current law permits a minor who is over the age of 13 to consent to inpatient mental health treatment. The consent of the minor's parent or guardian is not required. If the child is over the age of 13 and does not consent to mental health treatment a parent may only obtain mental health treatment for the child through the parent-initiated alternative.

Under the parent-initiated alternative, a parent may bring a child into a mental health evaluation and treatment facility and have the child evaluated and treated without the consent of the minor even if the minor is over the age of 13. The facility must follow the statutory guidelines for the evaluation and notification of the Department of Social and Health Services (Department). Once notified, the Department must conduct an independent evaluation. The minor also has the option of seeking a court review. The minor may be held under this option for 30 days.

Summary: Parental authorization is required for inpatient treatment of a minor under the age of thirteen.

A parent is permitted to bring a minor child into an evaluation and treatment facility, or an inpatient facility, for a mental health evaluation and treatment.

A minor is prohibited from bringing a cause of action against a facility for accepting the minor for an evaluation or treatment when the minor does not consent, but the parent provides consent for the evaluation or treatment. A facility may not refuse to treat a minor solely on the basis that the minor has refused to consent to treatment.

A liability limitation is added for mental health provider decisions to admit, detain, or release a minor for evaluation and treatment, so long as the duties were performed in good faith and without gross negligence.

The statutes pertaining to mental health treatment for minors are divided into categories and organized under headings to identify the different alternatives for mental health treatment of minors.

A severability clause is added and the definition of "professional person" is clarified for the purposes of the parent-initiated alternative for mental health treatment of minors.

Votes on Final Passage:

House	96	0	
Senate	42	0	(Senate amended)
House			(House refused to concur)
Senate	42	1	(Senate amended)
House	97	0	(House concurred)

Effective: July 24, 2005

ESHB 1062

C 298 L 05

Regulating the energy efficiency of certain products.

By House Committee on Technology, Energy & Communications (originally sponsored by Representatives Morris, Hudgins and Chase; by request of Governor Locke).

House Committee on Technology, Energy & Communications

Senate Committee on Water, Energy & Environment

Background: Two federal laws, and their accompanying regulations, govern energy efficiency standards for certain electrical products. The National Appliance Energy Conservation Act of 1987 specifies efficiency standards, testing procedures, and labeling requirements for certain residential appliances such as dishwashers, room air conditioners, and fluorescent-lamp ballasts. The Energy Policy Act of 1992 specifies similar requirements for certain types of industrial equipment such as electric motors, commercial water heaters, and commercial furnaces.

Washington has not adopted state efficiency standards for products not covered by federal law.

Summary: Efficiency Standards. Minimum efficiency standards and testing procedures are established for 12 electrical products that are not covered by federal law. The efficiency standards apply to products sold, offered for sale, or installed in the state. The standards do not apply to: (1) products installed in mobile manufactured homes at the time of construction; and (2) products designed expressly for installation and use in recreational vehicles. The 12 electrical products are:

- *automatic commercial ice cube machines*, such as those found in motels and restaurants;
- *commercial clothes washers*, such as those found in apartments and coin laundries;
- *commercial pre-rinse spray valves*, such as those used in restaurants to remove food residue from plates prior to their cleaning;
- *commercial refrigerators and freezers*, such as those used in large institutional kitchens;

- *illuminated exit signs*, such as those used in public buildings to mark exit doors;
- *low-voltage dry-type distribution transformers*, which are devices that reduce electrical voltage and are often found in electrical closets of office buildings;
- *metal halide lamp fixtures*, such as those found on the high ceilings of industrial buildings and gymnasiums;
- *single-voltage external AC to DC power supplies*, such as the small boxes attached to power cords that allow battery-operated appliances to use power from electrical outlets;
- *incandescent reflector lamps*, such as the light bulbs that are typically used in "recessed can" lights;
- *torchieres*, which are portable lamps used to provide indirect lighting;
- *traffic signal modules*, which are used in street and highway traffic signals; and
- *commercial space heaters* that use natural gas or propane.

Tests and Inspections. With certain exceptions, all manufacturers of covered products must test their products using specified tests and certify to the Department of Community, Trade, and Economic Development (CTED) that the products comply with the standards. The CTED must obtain the test methods in paper form and make them available for public use. The CTED must also establish rules governing certification.

Manufacturers of covered products must identify their products as in compliance. The CTED must establish rules governing identification.

The CTED is authorized to test covered products. If a product fails its test, the CTED must inform the public of the test results and charge the manufacturer for the cost of purchasing and testing the product.

The CTED must investigate alleged violations of the standards. A manufacturer or distributor that repeatedly violates the standards is subject to a civil penalty of not more than \$250 per day.

Statutory updates. The CTED may recommend updates to the energy efficiency standards and test methods for the covered products. The CTED may also recommend establishing state standards for additional nonfederally covered products. Any recommendations must be transmitted to the appropriate committees of the Legislature 60 days before the start of any regular legislative session.

In making recommendations, the CTED must use the following criteria:

- multiple manufacturers produce products that meet the proposed standard at the time of recommendation;
- products meeting the proposed standard are available at the time of recommendation;

- products are cost-effective to consumers on a life-cycle cost basis using average Washington resource rates;
- the utility of the energy efficient product meets or exceeds the utility of the comparable product available for purchase; and
- the standard exists in at least two other states in the United States.

For commercial clothes washers, the CTED must consider the fiscal effects on the low-income, elderly, and student populations.

Application dates for selling covered products. New products, except commercial ice-makers and metal halide lamp fixtures, may not be sold on or after January 1, 2007, if they do not meet or exceed the specified standards. The effective date for new ice-makers and halide lamps, the date is January 1, 2008.

Application dates for installing covered products. New products, except commercial ice-makers and metal halide lamp fixtures, may not be installed for compensation on or after January 1, 2008, if they do not meet or exceed the specified standards. For new ice-makers and halide lamps, the date is January 1, 2009.

Votes on Final Passage:

House	80	18	
Senate	34	15	(Senate amended)
House	85	13	(House concurred)

Effective: July 24, 2005

ESHB 1064
PARTIAL VETO
C 385 L 05

Improving government performance and accountability.

By House Committee on State Government Operations & Accountability (originally sponsored by Representatives Miloscia, Nixon, Haigh, Shabro, Green, Hunt, Priest, Linville, Armstrong, Simpson, Bailey, Kenney, Haler, Springer, Chase, Quall, Murray, Wallace, McDermott, Uptegrove, Kilmer, Moeller, Kessler, Appleton, Williams, McCoy, Blake, Dickerson, Conway, Tom, P. Sullivan, Kagi, Morris, Wood, McIntire, Lantz, Hudgins, Ericks, Darneille, Clibborn, Morrell, Takko, O'Brien, Ormsby, McDonald and B. Sullivan).

House Committee on State Government Operations & Accountability

Senate Committee on Government Operations & Elections

Senate Committee on Ways & Means

Background: Various state agencies and programs address government efficiency and accountability.

The Joint Legislative Audit and Review Committee (JLARC) employs the Legislative Auditor and conducts performance audits, program evaluations, sunset

reviews, and other studies. The State Auditor audits public accounts in state agencies and local governments. In addition, the State Auditor may conduct performance audits or performance verifications if authorized to do so in the operating budget or in JLARC's work plan.

Legislation was enacted in 1996 establishing a performance-based budgeting system for state agencies. Agencies are expected to: (a) establish mission statements and set goals; (b) develop strategies to achieve goals; (c) set outcome-based objectives; (d) provide continuous self-assessment of each program; (e) link budget proposals with their mission statements and goals; and (f) objectively determine the success in achieving goals. The Office of Financial Management (OFM) assists agencies in developing strategic plans.

The Productivity Board was established to administer the Employee Suggestion Program and the Teamwork Incentive Program. State agencies are authorized to make employee recognition awards.

The Governor issued Executive Order 97-03 in 1997. The Executive Order directed all agencies to develop and implement programs to improve the quality, efficiency, and effectiveness of their public services using quality improvement, business process redesign, employee involvement, and other quality improvement techniques.

Summary: Citizen Oversight Board. A Citizen Oversight Board (Board) is created to improve efficiency, effectiveness, and accountability in state government. The Board consists of seven members as follows: the State Auditor, the JLARC chair and the Director of the Office of Financial Management, who are non-voting members; four citizen members selected by the Governor from a list submitted by each major caucus in the Senate and the House of Representatives; and three citizen members selected by the Governor. Appointed members serve staggered terms and must have an understanding of state government operations and knowledge and expertise in performance management, quality management, strategic planning, performance assessments, or closely related fields. Staff support to the Board is provided by the State Auditor.

Assessment and Performance Grading. The Board must establish and conduct an assessment and performance grading program of all state agencies on a phased-in schedule. Areas to be assessed include quality management, productivity and fiscal efficiency, program effectiveness, contract management and oversight, internal audit, internal and external customer satisfaction, statutory and regulatory compliance, and technology systems and on-line services. The results of the assessment and grading program are submitted to the Governor, the appropriate legislative committees, and the public by December 15 of each year. Results will be posted on the Internet.

Performance Audits. The Board and the State Audi-

tor must collaborate with the JLARC regarding performance audits of state government. The Board must establish performance audit criteria consistent with criteria and standards followed by the JLARC. Using these criteria, the State Auditor must contract for a statewide performance review as a preliminary step to preparing a draft performance audit plan. The purpose of the reviews is to identify agencies, programs, functions, or activities most likely to benefit from performance audits and to identify likely areas warranting early review. The Board and the State Auditor must develop the draft work plan on performance audits based on input from citizens, state employees, including frontline employees, state managers, chairs and ranking members of appropriate legislative committees, the JLARC, public officials, and others. Before adopting a final work plan, the Board and the State Auditor must consult with the Legislative Auditor to coordinate work plans and avoid audit duplication.

The State Auditor must contract out for the performance audits. The performance audits may include:

- identification of programs and services that can be eliminated, reduced, consolidated, or enhanced;
- analysis of gaps and overlaps in programs and services and recommendations to correct gaps or overlaps;
- analysis of, and recommendations about, the roles and functions of the state agency, its programs, and its services and their compliance with statutory authority;
- identification of potential cost savings in the state agency, its programs, and its services; and
- identification and recognition of best practices.

For institutions of higher education, performance audits must not duplicate existing audit records, accreditation reviews, and performance measures required by the Office of Financial Management, the Higher Education Coordinating Board, and nationally or regionally recognized accreditation organizations.

The State Auditor must solicit comments on preliminary performance audit reports and the comments must be incorporated into the final performance audit report. Audit objectives, scope, and methodology, audit results, conclusions, and identification of best practices must be contained in the final report. Audited agencies are responsible for follow-up and corrective action on the audit findings and recommendations. The agency plan for addressing audit findings must be included in the final audit report. The State Auditor and the Board must jointly release the audit reports to the Governor, the citizens of Washington, the JLARC, and the appropriate standing legislative committees. Final performance audit reports will be posted on the Internet.

The State Auditor is authorized to contract for and oversee performance audits. If the legislative authority of a local jurisdiction requests a performance audit of programs under its jurisdiction, the State Auditor has the

discretion to conduct the review under separate contract and funded by local funds.

The Office of the Administrator for the Courts is encouraged to conduct performance audits of the courts in conformity with criteria and methods developed by the Board.

By June 30, 2007, and every four years following, the JLARC must contract for a performance audit of the performance audit program and the Board's responsibilities under the performance audit program.

The Legislature is directed to appropriate funds necessary for performance reviews, performance audits, and the activities of the Board. The Board and the State Auditor must submit recommended budgets for their responsibilities and the State Auditor must prepare a consolidated budget request in the form of request legislation.

Votes on Final Passage:

House	74	22	
Senate	30	19	(Senate amended)
House	75	22	(House concurred)

Effective: July 24, 2005

Partial Veto Summary: The Governor vetoed the section requiring the Board to establish and conduct an assessment and performance grading program of state agencies.

VETO MESSAGE ON HB 1064-S

May 11, 2005

To the Honorable Speaker and Members,
The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning, without my approval as to Section 4, Engrossed Substitute House Bill No. 1064 entitled:

“AN ACT Relating to improving government performance and accountability.”

This bill is an important step in strengthening accountability in state government agencies. Alongside the Government Management, Accountability, and Performance program (GMAP), the statewide performance audits contemplated in this bill usher in a new era of responsible state governance.

In discussion with our State Auditor, I have decided to veto Section 4 of this bill due to funding considerations. Section 4 establishes an assessment and grading program, and authorizes the citizen advisory board to contract each year for an assessment and grading of all agency management systems, as well as all agency technology, procurement, compliance monitoring, on-line contracting and internal audit systems. The performance assessment and grading program, if implemented in all agencies every year in a meaningful way, is likely to quickly exhaust the appropriated funding for performance audits.

In addition, with the passage of House Bill 1970, all agencies will be required to apply for an independent assessment of their management systems every three years. The assessments that would result will identify strengths and weaknesses in each agency's management systems, and will give agencies more actionable feedback on a regular basis. Section 4 of Engrossed Substitute House Bill No. 1064 therefore duplicates efforts that will be accomplished more cost-effectively under House Bill 1970.

For these reasons, I have vetoed Section 4 of Engrossed Substitute House Bill No. 1064.

With the exception of Section 4, Engrossed Substitute House Bill No. 1064 is approved.

Respectfully submitted,

Christine O. Gregoire
Governor

SHB 1065
C 216 L 05

Creating the "Armed Forces" special vehicle license plate collection.

By House Committee on Transportation (originally sponsored by Representatives Hudgins, Ericksen, McCoy, Haigh, Miloscia, Simpson, Upthegrove, Kessler, Appleton, Williams, Curtis, Conway, Nixon, P. Sullivan, Kenney, Hinkle, Wallace, Jarrett, Dunn, Linville, Morris, Wood, Hunter, Sells, Clibborn, Morrell, Campbell, B. Sullivan and Chase; by request of Department of Veterans Affairs).

House Committee on Transportation
Senate Committee on Transportation

Background: The Legislature created the Special License Plate Review Board (Board) in the 2003 session to review special vehicle license plate applications from governmental or nonprofit organizations in Washington. The Board must verify that the organization and proposed plate meet criteria set by state law and then forward the approved application to the Legislature.

Drivers pay an additional fee for a special vehicle license plate. The initial revenue generated from the special plate sales is deposited into the Motor Vehicle Account until the state has been reimbursed for implementation costs. After reimbursement, the revenue is deposited into the account designated by the authorizing statute for the specific special vehicle license plate.

On December 10, 2004, the Board approved the Washington Department of Veterans Affairs' "Armed Forces" license plate collection application.

Summary: The Department of Licensing must issue a special vehicle license plate collection displaying a symbol or artwork recognizing the contribution of veterans, active duty military personnel, and reservists. The collection includes five designs representing the army, navy, air force, marine corp, and coast guard.

Armed forces license plates are available only to veterans, active duty military personnel, reservists, members of the Washington National Guard, and the spouses of deceased veterans.

An applicant for an "Armed Forces" license plate pays an initial fee of \$40 and an annual renewal fee of \$30. After reimbursement to the state, the revenue must be deposited into the Veterans Stewardship Account, to

be used by the Department of Veterans Affairs for activities that benefit veterans, including but not limited to programs and services for homeless veterans, establishing memorials honoring veterans, and maintaining a future state veterans' cemetery.

Votes on Final Passage:

House	96	1	
Senate	47	0	(Senate amended)
House	93	2	(House concurred)

Effective: July 24, 2005

HB 1066
C 489 L 05

Revising learning assistance program distribution formula.

By Representatives McDermott, Quall, P. Sullivan, Haigh, Hunter and Ormsby; by request of Governor Locke.

House Committee on Education
House Committee on Appropriations

Background: Washington's Learning Assistance Program (LAP) has been in operation since 1987. The program is designed to help students who need additional time and assistance to achieve basic skills in reading, mathematics, language arts, and academic readiness. School districts apply to the Office of Superintendent of Public Instruction (OSPI) for program funds, each submitting a program plan to the agency. The OSPI must approve the districts' program plans before any funds are released. The plans may include a variety of activities and services targeted to struggling students, including extended learning, focused professional development, consulting teachers, tutoring, and parent outreach and support.

Since the second Doran decision in 1983, funding for struggling students has been considered part of basic education. The Legislature has appropriated about \$127 million for the LAP program for the 2003-05 biennium. The money is allocated to school districts using a formula that includes both student achievement on norm-referenced tests and a poverty factor. The formula, which is not codified, is included in the state's biennial budget. Once the districts have received the funding, they may distribute it as necessary to assist eligible low-performing students anywhere in their district. In many districts, the LAP funds are blended with funding from the federal Title I program. During the biennium, Washington received more than \$310 million for the Title I program. The combination of these funds provided about \$437 million to school districts during the 2003-05 biennium to meet the specific learning needs of struggling students.

The formula for determining budget allocations to

the program was changed in 2004. Beginning with the 2005 budget, 50 percent of the funding will be based on assessment results and the other 50 percent will be based on one or more family income factors measuring economic need. The law does not specify which assessments or income factors will be used in the budget formula.

Former Governor Locke proposed changing the formula to one based totally on economic need. He also proposed a hold harmless provision so that no district's LAP funding would be lower than the amount the district received in the previous year. Finally, he proposed an increase in program funding of \$41,000,000 for the 2005-07 biennium.

Summary: The funding formula for the Learning Assistance Program is revised from one based on 50 percent for assessment results and 50 percent for family need to one based solely on family need.

Votes on Final Passage:

House	82	15
Senate	28	19

Effective: July 24, 2005

EHB 1068
C 217 L 05

Eliminating mandatory norm-referenced student assessments.

By Representatives Quall, McDermott and Haigh; by request of Governor Locke and Superintendent of Public Instruction.

House Committee on Education
House Committee on Appropriations
Senate Committee on Early Learning, K-12 & Higher Education

Background: Norm-referenced Tests. By law, public school students in the third, sixth, and ninth grades must take norm-referenced achievement tests that assess the students' basic skills in reading, language arts, and mathematics. The two assessments used are the Iowa Test of Basic Skills (ITBS) and the Iowa Test of Education Development (ITED). The scores are reported as percentile points, meaning students perform as well as or better than a certain percentage of other students in the nation. The national average score is 50, and is based upon a national sample selected from 1995.

The ITBS is a norm-referenced test given to third and sixth grade students in our state. Students demonstrate their grasp of foundational skills (reading, mathematics, and language arts) by responding to a series of multiple-choice questions. During the 2003-04 school year, on average, the state's third grade students scored in the 58th percentile in reading and the 67th percentile in math. Sixth grade students scored in the 55th percentile

in reading and language arts and the 58th percentile in math on the ITBS.

The ITED has been given to Washington's ninth-graders each spring since 2000. Through a series of multiple choice questions, the assessment measures a student's understanding of fundamental skills in reading, quantitative reasoning (mathematics), and expression (language arts). During the 2003-04 school year, on average, the state's ninth grade students scored in the 53rd percentile in reading, the 54th percentile in expression, and the 59th percentile in quantitative reasoning. The ninth grade scores have not increased over the five year period in which the ITED was administered in the state.

The ninth grade assessment also includes an inventory of a student's interests that can be used for counseling and high school planning. Schools may use the interest inventory with eighth grade students as well.

Other Required Assessments. By state and federal law, Washington assesses students in elementary, middle, and high school in reading, writing, math, and science. The assessments are "criterion-referenced" or designed to determine the extent to which students have met the state's standards in those content areas. Under the federal No Child Left Behind Act, by the end of the 2005-06 school year, the state must add additional criterion-referenced tests in reading and math in the third, fifth, sixth, and eighth grades.

Executive Request Legislation. Former Governor Locke and the Superintendent of Public Instruction (SPI) have proposed the elimination of these required assessments. Former Governor Locke's budget proposal for the 2005-07 biennium assumed that no school district would continue offering these norm-referenced assessments. His budget assumed a savings of \$645,000 for each year of the biennium. The SPI's budget request made a different assumption, that one-fourth of the state's school districts would continue to offer the assessments. The SPI's budget assumed a savings of \$484,000 for each year of the biennium.

Summary: The requirement that each public school student in the third, sixth, and ninth grades take a norm-referenced achievement test is repealed. However, school districts may offer norm-referenced assessments at the districts' own expense.

Subject to available funds, by September 1, 2005, the Office of the Superintendent of Public Instruction (OSPI) will post on its website a guide of diagnostic assessments for voluntary use by school districts. Subject to the availability of amounts appropriated for this specific purpose, the OSPI will make diagnostic assessments available to school districts by September 1, 2006.

The OSPI is encouraged to offer training in the interpretation of diagnostic assessments and in ways to use the information from those assessments to help improve student learning. The OSPI is encouraged to offer the

training during its state and regional meetings on staff development.

Votes on Final Passage:

House	78	19	
Senate	27	22	(Senate amended)
House	95	3	(House concurred)

Effective: July 24, 2005

HB 1072
C 218 L 05

Including salts, isomers, and salts of isomers in controlled substances provisions.

By Representatives Lovick and Pearson.

House Committee on Criminal Justice & Corrections
Senate Committee on Judiciary

Background: Generally, it is illegal for a person to possess various controlled substances. Under the Uniform Controlled Substances Act, the degree of restriction exercised over a controlled substance is dependent on the potential for abuse and the degree of psychic or physical dependency which may be caused by the substance. Controlled substances are placed in five different schedules to reflect the amount of control necessary, with Schedule I being the most controlled, and Schedule V being the least restricted. The penalty for violations involving a controlled substance varies depending on the schedule on which the substance is placed.

A portion of the fines imposed on those convicted of a violation of the Uniform Controlled Substances Act is deposited with the law enforcement agency having responsibility for cleanup of the sites or substances used in the manufacture of methamphetamine.

A recent Court of Appeals case, *State v. Morris* 123 Wn. App. 467 2004, ruled that the crime of possessing or manufacturing methamphetamine does not include possession of the salts, isomers, and salts of isomers of methamphetamine. The defendant in the case possessed methamphetamine hydrochloride, which is a salt of methamphetamine. The court sentenced the offender to a lesser penalty (instead of a sentence for manufacturing methamphetamine) because the plain language of the statute did not cover the salts or isomers of methamphetamine. It stated that the Uniform Controlled Substances Act only covers methamphetamine in its pure form. The court relied in part on the fact that the Legislature, in other areas of the drug laws, has specifically referenced the salts and isomers of drugs.

Summary: The Uniform Controlled Substances Act is amended to include the "salts, isomers, or salts of isomers" of controlled substances with respect to manufacturing, delivering, and possessing with intent to manufacture a controlled substance classified as a Schedule I or II narcotic drug, a controlled substance

classified in Schedule IV, amphetamine, methamphetamine, ephedrine, pseudoephedrine, and pressurized ammonia gas (anhydrous ammonia).

The offense of endangerment with a controlled substance is amended to include a person who knowingly or intentionally permits a child or dependent adult to be exposed to the "salts, isomers, or salts of isomers" of methamphetamine, or ephedrine, pseudoephedrine, or anhydrous ammonia, that are being used in the manufacture of methamphetamine.

The fines imposed on those convicted of a violation of the Uniform Controlled Substances Act will continue to be deposited with the law enforcement agency having responsibility for the cleanup of sites or substances used in the manufacture of methamphetamine, including its salts, isomers, and salts of isomers.

Votes on Final Passage:

House 95 0
Senate 48 0

Effective: July 24, 2005

EHB 1074
C 219 L 05

Increasing the administrative cap on the housing assistance program and the affordable housing program.

By Representatives Dunshee, Jarrett, Chase and Schual-Berke; by request of Department of Community, Trade, and Economic Development.

House Committee on Housing
House Committee on Capital Budget
Senate Committee on Financial Institutions, Housing & Consumer Protection

Background: The Department of Community, Trade and Economic Development (DCTED) administers the Housing Assistance Program and the Affordable Housing Program. Both of these programs, commonly referred to as the Housing Trust Fund, provide loan and grant monies to eligible organizations and communities to meet the basic housing needs of low-income and special needs populations. The Housing Trust Fund is available to fund acquisition, new construction, and rehabilitation of low-income housing units.

The DCTED may utilize 4 percent of the annual funds available for the Housing Trust Fund for administrative purposes. The administrative cap is calculated as a percentage of the total annual funds available for Housing Trust Fund. However, the administrative cap costs are allocated specifically from the Housing Trust Repayment Account. No administrative costs are charged to the state's capital account for new projects. For the 2003 - 05 biennium, funding for the Housing Trust Fund totaled \$107,276,100. Administrative funds to the

DCTED from the Housing Trust Fund totaled \$4,291,044.

Summary: The statutory administrative cap for the Housing Assistance Program and the Affordable Housing Program available for use by the Department of Community, Trade and Economic Development is raised from 4 percent to 5 percent of the annual funds available for both of the programs.

Votes on Final Passage:

House 95 2
Senate 27 22 (Senate amended)
House 93 4 (House concurred)

Effective: July 24 2005

SHB 1075
C 17 L 05

Modifying the composition of the nursing care quality assurance commission.

By House Committee on Health Care (originally sponsored by Representatives Kenney, Morrell, Campbell, Cody, Santos, Skinner, Green, Bailey, Schual-Berke and Chase).

House Committee on Health Care
Senate Committee on Health & Long-Term Care

Background: Responsibility for the regulation of the 57 health care professions is divided between the Secretary of Health (Secretary), 12 health profession boards, and four health profession commissions. Regulatory responsibilities may include: establishing credentialing standards; approving education and training programs; investigating complaints of unprofessional conduct; conducting disciplinary proceedings and issuing findings based on those proceedings; and ordering sanctions for determinations of unprofessional conduct.

The Nursing Care Quality Assurance Commission (Commission) is responsible for the regulation of advanced registered nurse practitioners, licensed practical nurses, registered nurses, certified nursing assistants, and registered nursing assistants. This constitutes approximately 136,000 credentialed health care professionals. The Commission has 11 members consisting of advanced registered nurse practitioners, registered nurses, licensed practical nurses, members of the public, and a midwife. In comparison, the Chiropractic Quality Assurance Commission has 14 members, the Dental Quality Assurance Commission has 14 members, and the Medical Quality Assurance Commission has 19 members.

Summary: The membership of the Commission is increased from 11 to 15 members.

The number of members on the Commission who must be registered nurses is increased from three to seven. Of the members who are registered nurses: at

least one must be on the faculty at a four-year university nursing program; at least one must be on the faculty at a two-year college nursing program; at least two must be staff nurses providing direct patient care; and at least one must be a nurse manager or nurse executive. Experience requirements for all members of the Commission who are nurses are reduced from five years to three.

The number of public members on the Commission is increased from two to three. The nonvoting midwife member of the Commission is eliminated.

When appointing members of the Commission, the Governor must consider the recommendations of appropriate professional associations. When appointing pro tem members, the Secretary must make reasonable efforts to appoint one practicing registered nurse who graduated from a nursing program within three years of appointment.

Votes on Final Passage:

House 94 2
Senate 46 0

Effective: July 24, 2005

ESHB 1079

C 93 L 05

Regarding postsecondary education and training support for foster youth.

By House Committee on Higher Education (originally sponsored by Representatives Kagi, Kenney, Chase, Dickerson and Schual-Berke; by request of Governor Locke).

House Committee on Higher Education
Senate Committee on Early Learning, K-12 & Higher Education

Background: Beginning at age 13, dependent youth in state foster care can receive Independent Living Services to help them prepare for independence. When youth emancipate, or "age out," from foster care at age 18, they are eligible to receive assistance with housing, education, and employment training until age 21. According to the 2003 Performance Report by the Children's Administration of the Department of Social and Health Services, 470 youth aged out of foster care in 2002. Of these youth, 161 planned to pursue higher education.

In 2003, legislation was enacted creating an oversight committee composed of staff from the Children's Administration, the Office of the Superintendent of Public Instruction, and advocacy agencies to develop strategies for maintaining foster children in the schools they were attending at the time they entered foster care. The committee also promotes best practices in education of foster care youth.

The Higher Education Coordinating Board (HECB) administers state financial aid programs for low-income

students pursuing higher education. The two primary programs are the State Need Grant and State Work Study. Students are eligible for a need grant if they have a family income less than 55 percent of the state median family income, are enrolled at least part-time, and pursue a degree or certificate. A need grant is not an entitlement, but the program attempts to serve all eligible students within available funds. For the 2003-04 academic year, approximately 53,500 students received need grant awards, but 6,000 eligible students went unserved.

The State Work Study program served approximately 7,700 financially needy students in 2003-04. In its administration of the program, the HECB is directed to place a priority on state resident students, job placements that relate to the student's academic or vocational pursuits, and off-campus community service placements.

Summary: The membership of the Children's Administration oversight committee on education of foster youth is expanded to include the HECB, foster youth, former foster youth, and foster parents. The scope of responsibilities of the committee is expanded to include promotion of opportunities for foster youth to participate in postsecondary education or training.

The committee will:

- assess the statewide need among foster youth for assistance in pursuing postsecondary education and training;
- identify sources of funding to provide such assistance;
- review the effectiveness of existing activities and identify new activities to support former foster youth in pursuing postsecondary education and training; and
- review progress toward improving educational and vocational outcomes for foster youth.

The HECB, when making annual awards of state need grants, will give consideration to former foster youth. Eligible former foster youth are guaranteed a state need grant when funds from grants that were declined, forfeited, or otherwise unused are disbursed. The HECB must also place a priority on providing work opportunities for former foster youth through the State Work Study program.

A former foster youth is defined as a person who is at least 18 but not more than 24 years old and who was a dependent of the Department of Social and Health Services at the time the youth turned 18.

Votes on Final Passage:

House 95 0
Senate 48 0

Effective: July 24, 2005

HB 1081

C 434 L 05

Requiring prehire screening for law enforcement applicants.

By Representatives McDonald, O'Brien, Morrell and Pearson.

House Committee on Criminal Justice & Corrections
Senate Committee on Judiciary

Background: The Criminal Justice Training Commission (CJTC) provides basic law enforcement training, corrections training, and educational programs for criminal justice personnel, including commissioned officers, corrections officers, fire marshals, and prosecuting attorneys.

Basic law enforcement officer training is generally required of all law enforcement officers, with the exception of volunteers, and reserve officers employed in Washington. The training consists of a 720-hour program covering a wide variety of subjects, including constitutional and criminal law and procedures, criminal investigation, firearms training, and communication and writing skills. All law enforcement personnel hired, transferred, or promoted, are required to complete the core training requirements within six months unless the employee receives a waiver from the CJTC.

In addition to the basic training requirement, all Washington law enforcement officers must obtain and retain certification as a peace officer. As a prerequisite to certification, a peace officer must release to the CJTC all personnel files, termination papers, criminal investigation files, or any other files, papers, or information that are directly related to the certification or decertification of the officer. The CJTC has the authority to grant, deny, or revoke the certification of peace officers.

Furthermore, although not statutorily required, the WSP and several local law enforcement agencies around the state also require newly appointed peace officers to take and successfully pass a psychological examination and polygraph test as a part of the agency's hiring process for law enforcement officers.

Summary: All new full-time, part-time, and returning reserve officers must pass a psychological and polygraph test (or any similar procedure) as a condition of continued employment as a peace officer.

Each county, city, or state hiring law enforcement agency must require that every law enforcement officer applicant who has been offered a conditional offer of employment and every returning reserve officer who has been out of work for more than two years, to take and successfully pass a psychological and polygraph examination. The psychological examination must be administered by a Washington licensed psychiatrist or psychologist. Although additional tests may be administered at the option of the hiring law enforcement agency,

at a minimum, the psychological exam must consist of a standardized clinical test that: (1) complies with accepted psychological standards; and (2) is widely used as an objective clinical screening tool for personality and psychosocial disorders. The polygraph examination or similar assessment must be administered by an experienced polygrapher who is a graduate of a polygraph school accredited by the American Polygraph Association.

The hiring law enforcement agency is authorized to require those applicants taking the psychological and polygraph tests to pay a portion of the testing fee based on the actual cost of the test or \$400, whichever is less. In addition, the hiring entity may establish a payment plan for those instances where an applicant may not readily have the means to pay for his or her portion of the testing fee.

The CJTC must deny peace officer certification to any officer that has lost his or her certification as a result of a break in law enforcement work of more than two years and has failed to pass the psychological and polygraph tests.

Votes on Final Passage:

House	98	0	
Senate	38	0	(Senate amended)
House	95	0	(House concurred)

Effective: July 24, 2005

HB 1086

C 18 L 05

Regulating commercial feed.

By Representatives Linville, Kristiansen and Pettigrew; by request of Department of Agriculture.

House Committee on Economic Development, Agriculture & Trade

Senate Committee on Agriculture & Rural Economic Development

Background: The Commercial Feed Program at the Department of Agriculture (Department) regulates the distribution of animal feeds, including pet foods, specialty pet foods, and commercial livestock feed.

Pet Food Product Registration. All pet food and specialty pet food products are required to be registered by the Department prior to distribution in this state. Registrations are renewed annually.

Commercial Feed Inspection Fees and Feed Distribution Reports. Twice annually, the Department collects inspection fees and feed distribution (tonnage) reports from certain licensees and registrants. Licensees and registrants who are not required to pay an inspection fee because someone else is paying it are not required to file a report. Feed distribution reports are not public records.

Search Warrants. Department inspectors may enter,

inspect, obtain samples and examine records in feed factories, warehouses, establishments, and vehicles. If access is denied, the Department has the authority to obtain a warrant to search feed factories, warehouses, and establishments.

Summary: Pet Food Product Registration. The pet food product registration period is changed from annual to biennial. About half of the registrants will be registered for a one-year period on July 1, 2005, and for a two-year period on July 1, 2006. The other half of the registrants will be registered for a two-year cycle on July 1, 2005.

Commercial Feed Inspection Fees and Feed Distribution Reports. All commercial feed licensees and registrants must submit a semi-annual report to the Department regardless of the amount of feed they distribute or inspection fees they owe. The report must include information on: the total tonnage of commercial feed they distribute in or into the state; the total tonnage they are paying fees on; and who is responsible for paying fees on the tonnage they are not paying fees on. Company-specific information in the semi-annual report is exempt from public disclosure as is information that the Department obtains from other sources to verify information contained in the report.

Search Warrants. If the owner or agent of a vehicle carrying commercial feed denies access to inspectors, the Department may obtain a warrant to search the vehicle.

Votes on Final Passage:

House 95 0
Senate 41 0

Effective: July 24, 2005

SHB 1090
C 19 L 05

Using pictograms in transportation signs.

By House Committee on Transportation (originally sponsored by Representatives Hudgins, Jarrett, Sommers, Bailey, Morris, Strow, Nixon, Kenney, Hasegawa, Lantz, Flannigan, Santos, Murray, Wood, Upthegrove, Dickerson, B. Sullivan, Schual-Berke, Cody, Pettigrew, Conway, Simpson, Woods, McIntire, Kagi, Chase, Tom, Morrell and Kilmer).

House Committee on Transportation
Senate Committee on Transportation

Background: Federal, state and local laws and policies govern the signage required on many transportation facilities.

In most instances, the signage used to locate major transportation facilities employs internationally accepted symbols and the Roman alphabet. Similarly, urban rail systems use the Roman alphabet to identify stations. Languages using a different symbol set, into which

Sound Transit translates some ridership information, include Thai, Khmer, Korean and Chinese. Transit systems in the cities of Calgary and Mexico City, among others, use pictograms to provide a simple visual designation of a rail station stop or activities near the transit station.

Summary: Sound Transit and the Seattle Monorail Authority are to incorporate in plans for stations signing easily understood by the traveling public, including non-English speaking persons. The signage must employ graphics consistent with international guidelines and programs and must also employ pictograms as a means to identify stations. The sign requirements are intended to apply to new signing and replacement of existing signs.

Votes on Final Passage:

House 96 0
Senate 46 0

Effective: July 24, 2005

HB 1092
C 94 L 05

Modifying rural Washington loan fund provisions.

By Representatives Grant, Newhouse, Kristiansen and Linville; by request of Department of Community, Trade, and Economic Development.

House Committee on Economic Development, Agriculture & Trade

Senate Committee on International Trade & Economic Development

Background: The Rural Washington Loan Fund (RWLF) is a federally-funded loan program administered by the Department of Community, Trade and Economic Development (DCTED). In order to receive a loan, an applicant's project must: result in the creation of employment opportunities, the maintenance of threatened employment, or development or expansion of business ownership by minorities and women; conform with federal rules and regulations governing the spending of federal community block grants; be of public benefit and for a public purpose; probably be successful; and need the loan in order to be completed. Except those made to women and minority owned businesses, 80 percent of the appropriated funds are to be made available for projects in distressed areas.

Sixty-six projects in 13 counties have received over \$16 million in public moneys leading to public development investment of over \$136 million. Federal requirements mandate that earnings on federal moneys remain with the program.

In general, the Treasurer credits the State General Fund monthly with all earnings credited to the Treasury Income Account. However, certain accounts and funds

receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period. These accounts and funds include the Capitol Building Construction Account, the Drinking Water Assistance Account, and the Common School Construction Fund.

Summary: The state Treasurer is directed to transfer monthly to the RWLF its proportionate share of earnings based upon the fund's average daily balance.

Votes on Final Passage:

House	95	0
Senate	45	0

Effective: July 1, 2005

July 1, 2006 (Section 2)

SHB 1097

C 53 L 05

Creating the "Keep Kids Safe" special vehicle license plate.

By House Committee on Transportation (originally sponsored by Representatives Schual-Berke, Hinkle, Kagi, McCoy, Dickerson, Sells, Hunter, Roach, Tom, Nixon, Jarrett, Upthegrove, Murray, Campbell, Pettigrew, Roberts, Simpson, Ormsby, Appleton, Morrell, Haler, Dunn, P. Sullivan, O'Brien, Chase, Strow and Conway; by request of Washington Council for Prevention of Child Abuse and Neglect).

House Committee on Transportation

Senate Committee on Transportation

Background: The Legislature created the Special License Plate Review Board (Board) in the 2003 session to review special vehicle license plate applications from governmental or nonprofit organizations in Washington. The Board must verify that the organization and proposed plate meet criteria set by state law and then forward the approved application to the Legislature.

Drivers pay an additional fee for a special vehicle license plate. The initial revenue generated from the special plate sales is deposited into the Motor Vehicle Account until the state has been reimbursed for implementation costs. After reimbursement, the revenue is deposited into the account designated by the authorizing statute for the specific special vehicle license plate.

On September 10, 2004, the Board approved the Washington State Council for Prevention of Child Abuse and Neglect's "Keep Kids Safe" license plate application.

Summary: The Department of Licensing must issue a special vehicle license plate displaying artwork recognizing efforts to prevent child abuse and neglect.

An applicant for a "Keep Kids Safe" license plate pays an initial fee of \$45 and an annual renewal fee of \$30. After reimbursement to the state, the revenue must be deposited into the Children's Trust Account. Proceeds

from this account assist private and public agencies in identifying and establishing community-based educational and service programs for the prevention of child abuse and neglect.

Votes on Final Passage:

House	95	1
Senate	47	0

Effective: July 24, 2005

SHB 1100

C 139 L 05

Creating a state financial aid account.

By House Committee on Appropriations (originally sponsored by Representatives Kenney, Priest, Morrell, Fromhold, Jarrett, Sommers, Ormsby, Appleton, Tom, Anderson, Roberts, P. Sullivan, Lantz, Dickerson, Schual-Berke and Santos).

House Committee on Higher Education

House Committee on Appropriations

Senate Committee on Early Learning, K-12 & Higher Education

Background: State Financial Aid Programs. State funds for a number of financial aid programs are appropriated in the operating budget to the Higher Education Coordinating Board (HECB). These programs include: State Need Grant, State Work Study, Washington Scholars, Washington Award for Vocational Excellence, and Educational Opportunity Grant.

In distributing the funds to public institutions of higher education and students attending private institutions, the HECB makes certain assumptions about how many eligible students will be attending each institution. If these assumptions are not precisely accurate or money is not moved among institutions in a timely manner, it is possible for financial aid funds to remain unspent at the end of a fiscal year. Under state law, unspent funds cannot be used in the following fiscal year (i.e., the money lapses).

In recent years, the following money from the State Need Grant (by far the largest program) has lapsed at the end of the fiscal year:

1997-98: \$ 450,000	2001-02: \$ 0
1998-99: \$ 350,000	2002-03: \$110,000
1999-00: \$4,100,000	2003-04: \$ 201
2000-01: \$ 0	

Promise Scholarship. When the Promise Scholarship was authorized in statute in 2002, the Legislature created a Promise Scholarship Account. A legislative appropriation is not needed to spend monies placed in the account, which are to be used only for Promise Scholarships. Disbursements from the account are exempt from state laws regarding allotments or lapsing of funds at the end of a fiscal year. The statute directs

the HECB to place state funds for the Promise Scholarship into the account.

Summary: The State Financial Aid Account is created with the primary purpose to ensure appropriations for financial aid are made available to eligible students. A legislative appropriation is not needed to spend monies placed in the account, which are to be used only for various scholarship programs. Disbursements from the account are exempt from state laws regarding allotment or lapsing of funds at the end of a fiscal year.

The HECB is directed to place state funds for the following financial aid programs in the account: State Need Grant, State Work Study, Washington Scholars, Washington Award for Vocational Excellence, and Educational Opportunity Grant.

Votes on Final Passage:

House 97 0
Senate 46 0

Effective: July 24, 2005

HB 1108

C 396 L 05

Providing additional limitations for vehicles passing pedestrians or bicyclists.

By Representatives Grant, Walsh, Wallace, Rodne, Wood, Morrell, Lovick, Williams, Jarrett, Kilmer, Simpson, Kessler, Chase and Dickerson.

House Committee on Transportation
Senate Committee on Transportation

Background: When a vehicle overtakes and passes another vehicle, the passing vehicle must pass to the left at a safe distance and is prohibited from returning to the right side of the roadway until safely clear of the overtaken vehicle.

Vehicles are forbidden from driving on the left side of the roadway, from the driver's perspective, when: (1) approaching or upon the crest of a grade where the driver's view is obstructed; (2) within 100 feet of an intersection or railroad crossing; (3) the view is obstructed upon approaching within 100 feet of a bridge, viaduct or tunnel; or (4) the left side is not clearly visible and free of oncoming traffic for a sufficient distance to permit overtaking and passing without interfering with oncoming traffic.

Summary: The driver of a vehicle passing other traffic on the roadway, or approaching a pedestrian or bicyclist on the roadway or on the shoulder of the roadway, must pass at a safe distance to the left. The driver must also be safely clear of the overtaken pedestrian or bicyclist before returning to his or her original position on the roadway.

The driver of a vehicle may also not drive on the left side of the roadway, from the perspective of the driver,

when a bicycle or pedestrian is within view of the driver and is approaching from the opposite direction or when doing so would put the vehicle within a hazardous distance of a bicyclist or pedestrian.

The act clarifies that nothing in the statutes governing passing by vehicles relieves pedestrians or bicyclists of their legal duties while traveling on public highways.

Votes on Final Passage:

House 95 0
Senate 45 1 (Senate amended)
House 95 0 (House concurred)

Effective: July 24, 2005

HB 1110

C 397 L 05

Modifying recertification standards for private applicators of pesticides.

By Representatives Eickmeyer, B. Sullivan, Hinkle, Haler and Newhouse.

House Committee on Economic Development, Agriculture & Trade
Senate Committee on Agriculture & Rural Economic Development

Background: The Pesticide Management Division of the Department of Agriculture (Department) licenses and certifies pesticide applicators, dealers, and consultants. There are several different types of pesticide applicators, and the specific licensing requirements for each depends upon who the employer is and what type of pest control work will be performed.

A private applicator of pesticides is a person who uses or supervises the use of restricted use pesticides for the production of any agricultural commodity on property owned or rented by the applicator or his or her employer. A private applicator must be licensed, and the license must be renewed each year that the applicator performs work that requires a license.

In order to maintain the license, a private applicator must complete re-certification requirements every five years. Re-certification can be satisfied either by examination or by attending Department-approved courses. A private applicator who chooses to be re-certified by taking approved courses must accumulate 20 credits within the five-year cycle, and may accumulate no more than eight credits per year.

Summary: A private applicator who chooses to be re-certified by taking approved courses may accumulate no more than 10 credits per year.

Votes on Final Passage:

House 97 0
Senate 46 0 (Senate amended)
House 95 0 (House concurred)

Effective: July 24, 2005

HB 1112
C 95 L 05

Creating an additional superior court position.

By Representatives Quall, Bailey, Morris, Strow, Kristiansen and Pearson; by request of Board For Judicial Administration.

House Committee on Judiciary
House Committee on Appropriations
Senate Committee on Judiciary

Background: The Legislature sets by statute the number of superior court judges in each county.

The state and the counties share the costs of the superior courts. Benefits and one-half of the salary of a superior court judge are paid by the state. The other half of the judge's salary and all other costs associated with a judicial position, such as capital and support staff costs, are borne by the county.

Periodically, the Administrative Office of the Courts (AOC) does a workload analysis of the superior courts to determine if additional judicial positions are needed.

Skagit County has three judges. Based on the AOC workload analysis, the Board for Judicial Administration has requested an additional judge for the county.

Summary: One additional superior court judge is authorized in Skagit County.

The additional judicial position is effective only if Skagit County documents its approval by January 1, 2007, and agrees to pay for its share of the costs for the position without reimbursement from the state.

Votes on Final Passage:

House	96	0
Senate	45	0

Effective: July 24, 2005

SHB 1113
C 183 L 05

Regulating traffic signal preemption devices.

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Wallace, Jarrett, Fromhold, Armstrong, Moeller, Lovick, Morrell, Kilmer, Dickerson, Appleton, Wood, Ormsby, Sells and Chase).

House Committee on Criminal Justice & Corrections
Senate Committee on Judiciary
Senate Committee on Transportation

Background: Optical Strobe Light Devices. Under the Motor Vehicles Act, the chapter governing vehicle lighting and other equipment describes "optical strobe light

devices" as devices that emit optical signals at specific frequencies to traffic control signals in order to alter the cycle of the lights. Optical strobe light devices may only be installed or used on the following classes of vehicles: (1) law enforcement or emergency vehicles in order to obtain the right-of-way at intersections; (2) the Department of Transportation, city, or county maintenance vehicles in order to perform maintenance tests; and (3) public transit vehicles in order to accelerate the cycle of the lights. A violation of these provisions is a traffic infraction.

Although there are some exceptions, generally under the chapter governing disposition of traffic infractions, a person found to have committed a traffic infraction is assessed a maximum monetary penalty of \$250.

Traffic Control Signal. The chapter governing public highways and transportation defines a "traffic control signal" as any manual, electronic, or mechanically operated traffic device by which traffic is alternately directed to stop or proceed or is otherwise controlled. Traffic control signals are designed and operated to respond to certain classes of approaching vehicles, usually emergency or transit vehicles, to give them priority in passing through an intersection. Devices which activate this priority or otherwise preempt the normal traffic signal operations have recently become more available to the general public.

Any meddling with a traffic control signal, which includes any attempt to alter, deface, injure, knock down, or remove any official traffic control signal, traffic device, or railroad sign or signal is a misdemeanor offense.

Summary: It is a criminal offense to possess, sell, purchase, install, or use a signal preemption device in a vehicle, unless the vehicle is being used as an emergency vehicle authorized by the state patrol, a publicly owned law enforcement or emergency vehicle, or a public transit vehicle.

Optical Strobe Light Devices. Provisions relating to optical strobe light devices are deleted.

Signal Preemption Device. A signal preemption device is defined as a device capable of altering the normal operation of a traffic control signal. Any other device manufactured by a vehicle manufacturer is not a signal preemption device if the primary purpose of the device is any purpose other than the preemption of traffic signals and the device's ability to alter traffic signals is unintended and incidental to the device's primary purpose.

Possession of Signal Preemption Devices. Unless otherwise authorized, it is a misdemeanor offense to possess a signal preemption device. (A misdemeanor offense is punishable by imprisonment in the county jail for a maximum term of not more than 90 days, or by a fine of not more than \$1,000, or both.)

Selling and Purchasing of Signal Preemption

Devices. It is a gross misdemeanor offense to: (1) use a signal preemption device unless authorized to do so; (2) sell a signal preemption device to a person other than someone authorized to use such a device; and (3) purchase a signal preemption device for unauthorized uses. (A gross misdemeanor offense is punishable by imprisonment of not more than one year in jail, or by a fine of not more than \$5,000, or both.)

Penalties for Causing an Accident Due to the Unauthorized Use of a Signal Preemption Device. *Negligently Causing an Accident.* It is an unranked class C felony offense to negligently cause an accident by the unauthorized use of a signal preemption device. Negligently causing an accident occurs when an unauthorized person uses a signal preemption device that causes an accident resulting in injury to property or to a person that does not result in substantial bodily harm.

(A person convicted for an unranked felony would receive a sentence of up to one year in jail. The sentence may also include community service, legal financial obligations, a term of community supervision not to exceed one year and a fine.)

Negligently Causing Substantial Bodily Harm by Use of a Signal Preemption Device. It is a seriousness level III, class B felony offense to negligently cause substantial bodily harm by the unauthorized use of a signal preemption device. Negligently causing substantial bodily harm occurs when an unauthorized person uses a signal preemption device that causes an accident that results in injury to a person that amounts to substantial bodily harm. (A first-time offender with no prior criminal history would receive a presumptive sentence range of one to three months in jail.)

Negligently Causing Death. It is a seriousness level VII, class B felony offense to negligently cause death by the unauthorized use of a signal preemption device. Negligently causing death occurs when an accident results in the death of a victim due to an unauthorized person using a signal preemption device. (A first-time offender with no prior criminal history would receive a presumptive sentence range of 15 to 20 months in prison.)

Authorized Users of Signal Preemption Devices. Exemptions exist for the use, selling, and purchasing of signal preemption devices and the criminal violations do not apply to the following:

- a law enforcement agency and law enforcement personnel in the course of providing law enforcement services;
- a fire station or a firefighter in the course of providing fire prevention or fire extinguishing services;
- an emergency medical service or ambulance in the course of providing emergency medical transportation or ambulance services;

- an operator, passenger, or owner of an authorized emergency vehicle in the course of his or her emergency duties;
- the Department of Transportation, city, or county maintenance personnel while performing maintenance;
- public transit personnel in the performance of their duties. However, public transit personnel operating a signal preemption device must have second degree priority to law enforcement personnel, fire fighters, emergency medical personnel, and other authorized emergency vehicle personnel, when simultaneously approaching the same traffic control signal;
- a mail or package delivery service or employee or agent of a mail or package delivery service in the course of shipping or delivering a signal preemption device; and
- an employee or agent of a signal preemption device manufacturer or retailer in the course of his or her employment in providing, selling, manufacturing, or transporting a signal preemption device to an authorized individual or agency.

Votes on Final Passage:

House	98	0
Senate	43	0

Effective: July 24, 2005

SHB 1116
C 220 L 05

Creating the "Ski & Ride Washington" special vehicle license plate.

By House Committee on Transportation (originally sponsored by Representatives Wallace, Ericksen, Linville, Kristiansen, Grant, Serben, Walsh, Sells and Strow).

House Committee on Transportation
Senate Committee on Transportation

Background: The Legislature created the Special License Plate Review Board (Board) in the 2003 session to review special vehicle license plate applications from governmental or nonprofit organizations in Washington. The Board must verify that the organization and proposed plate meet criteria set by state law and then forward the approved application to the Legislature.

Drivers pay an additional fee for a special vehicle license plate. The initial revenue generated from the special plate sales is deposited into the Motor Vehicle Account until the state has been reimbursed for implementation costs. After reimbursement, the revenue is deposited into the account designated by the authorizing statute for the specific special vehicle license plate.

On December 10, 2004, the Board approved the 49

Degrees North Winter Sports Foundation's "Ski and Ride Washington" license plate application.

Summary: The Department of Licensing must issue a special vehicle license plate displaying a symbol or artwork recognizing the Washington snow sports industry.

An applicant for a "Ski and Ride Washington" license plate pays an initial fee of \$40 and an annual renewal fee of \$30. After reimbursement to the state, the revenue must be deposited into the Ski and Ride Washington Account. Proceeds from this account promote: winter snow sports, such as skiing and snowboarding, and related programs, such as ski and ride safety programs; underprivileged youth programs; and active, healthy lifestyle programs.

Votes on Final Passage:

House	95	2	
Senate	42	0	(Senate amended)
House	90	5	(House concurred)

Effective: July 24, 2005

SHB 1117
PARTIAL VETO
C 96 L 05

Modifying provisions for the transport of farm implements transporting dairy nutrients.

By House Committee on Transportation (originally sponsored by Representatives Ericksen, Linville, Newhouse, Buri, Straw and B. Sullivan).

House Committee on Transportation
Senate Committee on Transportation

Background: State law establishes weight and size limits for vehicles traveling on state highways.

Washington passed the Dairy Nutrient Management Act in 1988, which requires farmers to have plans to remove dairy nutrients during certain times of the year and to dispose of the nutrients by spreading over a field or other methods.

Many of the trucks used to remove and transport dairy nutrients to comply with the Dairy Nutrient Management Act exceed the state highway weight limits. The only weight limit exemption for farming vehicles is for vehicles that weigh less than 45,000 pounds, are 70 feet long or less, and 14 feet wide or less.

Summary: The Washington State Department of Transportation (WSDOT) is directed to work with the federal government, local transportation authorities, transportation agencies in other states, and legislative members and/or staff to conduct a study regarding overweight farming vehicles.

Until such a study and any subsequent law or rule changes are enacted:

- Certain farm implements that weigh up to 105,500 pounds, and used to transport dairy nutrients in order to comply with the Dairy Nutrient Management Act, may travel on city or county roads under certain conditions. A city or county road authority may restrict the movement of such vehicles.
- The Legislature requests that the U.S. Department of Transportation allow certain farm implements to travel on Washington highways under rules or policies established by the WSDOT.

Votes on Final Passage:

House	95	0
Senate	47	0

Effective: July 24, 2005

Partial Veto Summary: The Governor vetoed Section 2 of the act, the emergency clause. The act will take effect 7-24-05.

VETO MESSAGE ON HB 1117-S

April 20, 2005

To the Honorable Speaker and Members,

The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning, without my approval as to Section 2, Substitute House Bill 1117 entitled:

"AN ACT Relating to the highway weight limit for farm implements."

This legislation requires the Washington state Department of Transportation to study the issue of enabling Washington state farms to operate in an economically feasible manner while following federal and state laws and protecting state roads and highways.

The bill also permits overweight farm implements transporting dairy nutrients, in order to comply with the Dairy Nutrient Management Act, to travel over city and county roads. Cities and counties may enact restrictions on the movement of these farm implements.

Farming and the maintenance of our streets and roads are both vital economic interests in our state. I recognize that our farmers are faced with many challenges as they try to operate efficiently and profitably, while complying with environmental and transportation regulations. The economic impact of stricter transportation regulations on our farmers is an issue that needs to be resolved. I am vetoing, therefore, only the emergency clause in the bill (Section 2) to give our local jurisdictions time to take whatever actions they deem necessary to best protect their streets and roads. I view this legislation as a temporary solution. I fully expect the Department's study and subsequent recommendations to result in legislation next session that will resolve this issue for both our farmers and local jurisdictions.

We cannot afford to lose our farms; but we also cannot afford to damage our roads and streets in this time of very limited revenue.

For these reasons, I have signed Section 1 and vetoed Section 2 of Substitute House Bill 1117.

Respectfully submitted,

Christine Gregoire

*Christine O. Gregoire
Governor*

HB 1124
C 398 L 05

Authorizing the use of signs, banners, or decorations over highways under limited circumstances.

By Representatives Eickmeyer, Buck, Blake, Upthegrove, B. Sullivan, Chase and Dunshee.

House Committee on Transportation
Senate Committee on Transportation

Background: The Washington State Department of Transportation (WSDOT) is required to adopt standards and specifications for a uniform system of traffic control devices. These standards provide consistency statewide concerning the display and location of signs, signals, signboards, guideposts, and other traffic devices erected on state highways.

The WSDOT has the authority to prohibit the suspension of signs, banners or decorations over highways in incorporated areas if they are less than 20 feet from the roadway surface. Similar authority is not provided for unincorporated areas of the state.

Under the Scenic Vistas Act, limitations are placed on the type of signs allowed within view, or within the right of way, of certain highways. The applicable highways include those designated by the Legislature as being part of the scenic highway system.

Summary: The WSDOT is permitted to include a standard in the uniform system it adopts allowing signs, banners, or decorations to be placed over a highway when they:

- are in an unincorporated area;
- are placed at least 20 vertical feet above the highway; and
- do not interfere with or obstruct the view of any traffic control device.

The WSDOT must adopt rules regulating the placement of allowable signs, banners, and decorations.

An exemption is provided in the Scenic Vistas Act permitting signs, banners, or displays sponsored by local agencies. The signs, banners, or displays may not contain advertising.

Votes on Final Passage:

House	96	0	
Senate	42	0	(Senate amended)
House	95	0	(House concurred)

Effective: July 24, 2005

HB 1125
C 97 L 05

Managing trusts and estates.

By Representatives Serben, Lantz, Priest, Shabro and Ahern.

House Committee on Judiciary
Senate Committee on Judiciary

Background: A large and complex set of statutes governs the control and disposition of a person's property through the use of wills or trusts or through intestacy.

Right to Inherit. Over the years, the Legislature has generally removed the requirement that a child be the "lawful issue" of a person in order to inherit from that person. For instance, inheritance "to, through or from" a child is not affected by the marital status of the child's parents. Also, adopted children are afforded the same rights of inheritance as children who are biological descendants of deceased parents. A definition section in the probate and trust law, however, continues to use the word "lawful" with respect to "issue" who are the lineal descendants of a person.

Anti-Lapse Statute. Sometimes a will identifies a person who is to receive property from the estate, but fails to address the possibility that the identified person may die before the testator dies. The so-called "anti-lapse" statute provides a default system that allows descendants of such an already deceased person to receive that person's share of the estate. The anti-lapse provision applies to the descendants of any person who is a descendant of a grandparent of the testator. The anti-lapse provision applies only when the testator has not otherwise directed the outcome.

The anti-lapse provision also applies to property given under a trust. The anti-lapse provision does not, however, explicitly cover a situation in which property is left subject to a contingency, such as when an estate goes first in trust to a surviving spouse of the testator and then, after the death of the spouse, to children of the testator. In such a situation, if a child of the testator dies after the testator, but before the spouse of the testator, the anti-lapse provision does not explicitly preserve the interests of any descendants of the deceased child.

Notice to Creditors. Various statutes govern the timing, manner, and form required when notice must be given to the creditors of a deceased person. There are separate but parallel provisions for creditors of an estate subject to a will and for creditors of an estate subject to the laws on intestacy. Different notice and filing requirements apply to personal representatives of estates, to nonprobate notice agents, and to creditors depending on whether a probate proceeding is begun in the county of the decedent's residence or in a different county.

Designation of Guardians for Minors and Use of Powers of Attorney. When one parent has died, the surviving parent of a minor child is authorized to use a will

to "appoint" a guardian for the child. This provision does not account for single parenthood. It also implies that a person may appoint a guardian when in fact only a court may do so.

A person may designate another to be his or her "attorney in fact" through a power of attorney. A person may execute a power of attorney that expressly continues should the person become disabled, or that expressly takes affect when the person becomes disabled. Such a power of attorney may extend to making decisions about the medical care of the person, as well as to management of the person's financial and other affairs.

Changing Trustees. The statute controlling how changes in trustees are accomplished refers to adult "income beneficiaries" of a trust as among those persons who are to be given notice of a change in a trusteeship. Not all trusts have income beneficiaries. The statute also requires notice to be given even if all interested parties have agreed to a change of trustees.

Uniform Transfer on Death Registration Act. The Uniform Transfer on Death Registration Act (Act) is a uniform act that has been adopted by Washington, as well as a majority of the other states. The Act allows the owner of a security account to register the account and designate a beneficiary to take possession of the account upon the owner's death without going through the probate process. The primary purpose of the Act is to provide for the non-probate transfer of specially registered securities. In 2003, the Legislature amended the Act to allow "investment management or custody accounts" to be transferred to a beneficiary without going through the probate process following the death of the owner of the account. The term "investment management account" may not precisely describe some of the accounts the Act was intended to cover.

Time Limit of Liability for Debts. As part of a major rewrite of the probate code in 1997, various time limits were established for bringing claims against an estate. These periods vary depending on categories of creditors and types of notice given. At the outside, if no notice to creditors has been given, creditors have 24 months after the decedent's death to present a claim against the estate. One statute in the chapter of law dealing with the distribution of property in an intestacy, however, was not addressed by the 1997 amendments. That statute continues to imply that there is a six-year period for bringing creditor claims.

Summary: A variety of changes are made to the state's probate and trust law.

Right to Inherit. The definition of "issue" for purposes of inheritance is clarified. The reference to "lawful" issue is removed. Adopted persons are expressly included as lineal descendants of their adoptive parents and of persons from whom those parents are lineal descendants.

Anti-Lapse Statute. The anti-lapse statute is

expressly made to cover situations in which a person named in a will dies after the testator but before the happening of some event upon which the named person's right to receive property is contingent. The descendants of such a named person will receive the property absent a contrary provision in the will.

Notice to Creditors. The manner in which publication of notice is to be made is clarified. Creditors are required to file claims in the county of the estate proceeding, rather than in the county of the decedent's residence, if the two counties are different.

Designation of Guardians for Minors and Use of Powers of Attorney. A sole parent, as well as a surviving parent, is authorized to "nominate" a guardian for his or her minor child. The reference to "appointment" of a guardian by a parent is removed.

A power of attorney may include authority for the attorney in fact to provide for the care of a minor child. The authority is effective only if the minor child has no other parent or legal representative who is available and authorized to make health care decisions for the child. The power of attorney may also include the nomination of a guardian for the child. Once a guardian has been appointed by the court, the guardian's authority supersedes any authority of the attorney in fact. If a nomination of a guardian under a will conflicts with the nomination of a guardian under a power of attorney, the nomination authorized by the most recent designation controls.

Uniform Transfer on Death Registration Act. The definition of "security account" is expanded to include expressly "agency accounts" and "investment advisory accounts."

Changing Trustees. The term "income beneficiaries" is removed so that notice requirements apply to adult "distributees" of a trust, whether or not those distributees include income beneficiaries. If all parties with an interest in a trust agree to a change in a trustee, then notice need not be given.

Time Limit of Liability for Debts. The statute implying that a six-year period exists for bringing a claim against an estate is repealed.

Miscellaneous Changes. A provision that requires the oath of a personal representative to be "recorded," rather than simply filed, is removed. The definition of "authorized agent" for purposes of allowing access to a safe deposit box is expanded to expressly include the personal representative of an estate, an attorney in fact, a special representative, and a trustee under a revocable living trust. Several cross-reference citations to sections of law are corrected or updated.

Votes on Final Passage:

House	96	0
Senate	49	0

Effective: July 24, 2005

HB 1128
C 321 L 05

Modifying the definition of "conviction" for chapter 77.15 RCW.

By Representative Nixon.

House Committee on Natural Resources, Ecology & Parks
Senate Committee on Natural Resources, Ocean & Recreation

Background: The Department of Fish and Wildlife (Department) is required to suspend the recreational hunting and fishing privileges of an individual for two years if that person is convicted of any three hunting or fishing violations within the previous ten years. The requirement to suspend privileges only applies when the person in question is convicted of a criminal act. Violations that are punishable as a civil infraction are not counted towards the three required convictions leading to a suspension.

Summary: The Department is required to suspend a person's recreational hunting and fishing privileges for two years if the person is either convicted of a hunting or fishing offense, has an uncontested notice of infraction, fails to appear at a hearing to contest an infraction, or is found to have committed an infraction three times within the previous 10 years. Infractions count towards a suspension of privileges only if the infraction was punishable as a crime on the effective date of the act and was later decriminalized or was a violation of certain infractions that existed on the effective date of the act.

Votes on Final Passage:

House 97 0
Senate 47 0 (Senate amended)
House 98 0 (House concurred)

Effective: July 24, 2005

HB 1130
C 184 L 05

Eliminating drop-in inspections of campaign accounts.

By Representatives Nixon, Haigh, Kenney and Shabro.

House Committee on State Government Operations & Accountability
Senate Committee on Government Operations & Elections

Background: The Public Disclosure Act requires political committees to maintain books that accurately reflect all contributions and expenditures. The committees must keep the books current within five business days of a receipt or an expenditure until the last eight days of the campaign, during which time the books must be kept current within one business day of a receipt or an expen-

diture.

Political committees must keep the books open for public inspection on the eighth day before the election for at least two consecutive hours between 8:00 a.m. and 8:00 p.m. at the principal headquarters of the campaign, at the address of the treasurer, or at another location authorized by the Public Disclosure Commission. For the week prior to the election, the committee must keep the books open for public inspection by appointment between 8:00 a.m. and 8:00 p.m. at a location designated by the campaign. Neither the candidate nor the campaign may refuse a request for an appointment, which must be allowed within 24 hours of the date and time requested.

Summary: The requirement that a political committee's books be open for inspection for two consecutive hours on the eighth day prior to an election is removed. Instead, for the eight days prior to the election, the committee must make the books available for inspection by appointment.

Votes on Final Passage:

House 98 0
Senate 47 0

Effective: July 24, 2005

SHB 1132
C 221 L 05

Allowing more candidates to file with the secretary of state.

By House Committee on State Government Operations & Accountability (originally sponsored by Representatives Nixon, Haigh and Shabro).

House Committee on State Government Operations & Accountability
Senate Committee on Government Operations & Elections

Background: A candidate for the state Legislature, the Court of Appeals, or the Superior court must file a declaration of candidacy with the county auditor if the district in which the candidate is running is composed of voters from only one county. If the district is composed of voters from more than one county, the candidate must file with the Secretary of State.

Summary: A candidate for the state Legislature, the Court of Appeals, or the Superior Court may file a declaration of candidacy with either the Secretary of State or the county auditor if the district in which the candidate is running is composed of voters from only one county. If the candidate files with the Secretary of State, the filing fee must be sent to the county auditor. For purposes of the rest of the election laws, the candidate is deemed to have filed with the county auditor, even if he or she actually filed with the Secretary of State.

Votes on Final Passage:

House 96 0
Senate 37 0

Effective: July 24, 2005

SHB 1133

C 274 L 05

Reorganizing public disclosure law.

By House Committee on State Government Operations & Accountability (originally sponsored by Representatives Nixon, Haigh and Shabro).

House Committee on State Government Operations & Accountability
Senate Committee on Government Operations & Elections

Background: In 1972, voters approved Initiative 276. The initiative called for disclosure of campaign finances, lobbyists activities, financial affairs of elective officers and candidates, and access to public records.

At the time the initiative was passed, there were 10 exemptions from public records disclosure. In a 1978 decision, the Washington Supreme Court observed that the scheme set in statute by the disclosure statutes establishes a positive duty for a public agency to disclose public records unless they fall within the specific exemptions.

The public records disclosure statutes are codified between the statutes on campaign finance reporting and campaign finance contribution limits, making responsibility for enforcement of the public records disclosure status unclear.

Summary: The public records disclosure statutes are recodified, amended, and reorganized as a new chapter to be cited as the Public Records Act. Exemptions from disclosure are reorganized into separate sections and, where possible, grouped by discrete subjects as follows:

- personal information;
- employment and licensing;
- investigative, law enforcement, and crime victim information;
- licensing and employment information;
- real estate;
- financial, commercial, and proprietary information;
- education information;
- public utilities and transportation information;
- health care information;
- agricultural and livestock information;
- insurance and financial institutions information;
- fish and wildlife information; and
- security information.

Statute cross- references are changed to reference the new chapter. No exemptions are modified, deleted, or added.

Votes on Final Passage:

House 96 0
Senate 46 0

Effective: July 1, 2006

HB 1136PARTIAL VETO

C 435 L 05

Ordering a study of electronic monitoring systems.

By Representatives O'Brien, Darneille, Kirby, Miloscia, Lovick and Chase.

House Committee on Criminal Justice & Corrections
Senate Committee on Human Services & Corrections

Background: A range of terminology is used when describing electronic supervision. One of the most frequently used terms is electronic monitoring, which is generally associated with technologies that determine whether an offender is at home (or other location) as stipulated by his or her condition of supervision. Other terms that are frequently used when referring to electronic monitoring include electronic bracelets, home detention, home arrest, and home confinement.

The electronic monitoring program uses electronic equipment to monitor a person's presence at a particular location from a remote location. It works like a cordless phone. During specified times, one has to be at the location where the monitor sends a signal to the base. The base connects over a modem to a remote station and delivers data of the offender's whereabouts. It is a device the size of a regular pager. A rubber strip (with a metal cord inside) attaches the monitor to the person's leg. If that person steps outside of the monitored range an alarm or other signal can go off.

Electronic monitoring is often used by the courts as well as local and state correctional entities to ensure an offender's compliance with a condition or requirement of a sentence. Offenders can be charged a fee for this special service (alternative to incarceration sentence) of electronic monitoring to help offset the cost of supervision.

Summary: Electronic Monitoring Study. The Washington Association of Sheriffs and Police Chiefs (WASPC) must conduct a study on electronic monitoring in every state. The study must analyze each state's activity regarding electronic monitoring and must review the following issues:

- how often electronic monitoring is used;
- a description of laws and circumstances of when an offender is placed on electronic monitoring;
- the discovery and analysis of specific programs used to promote electronic monitoring and how they are operated;
- the type of electronic monitoring technology used;

- an evaluation of offender pay programs and the amount of money recovered from these programs;
- overall perceptions of electronic monitoring from the criminal justice community, and any real or perceived problems or concerns with electronic monitoring; and
- any estimates on savings realized by utilizing electronic monitoring.

The WASPC must place its findings and recommendations into a final report and present it to the Legislature by December 31, 2005.

Placement of Offenders on Electronic Monitoring.

The Department of Corrections (DOC) must work with the WASPC to establish and operate an electronic monitoring program for low-risk offenders who violate the terms of their community custody. Between January 1, 2006, and December 31, 2006, the DOC must endeavor to place at least one hundred low-risk community custody violators on the electronic monitoring program per day if there are at least that many low-risk offenders who qualify for the electronic monitoring program.

Local governments, their subdivisions and employees, the DOC and its employees, and the WASPC and its employees are immune from civil liability for damages arising from incidents involving low-risk offenders who are placed on electronic monitoring unless it is shown that an employee acted with gross negligence or bad faith.

If specific funding is not provided for the study, that portion of the act becomes null and void. The entire act expires on December 31, 2005.

Votes on Final Passage:

House	95	0	
Senate	49	0	(Senate amended)
House	95	0	(House concurred)

Effective: July 24, 2005

Partial Veto Summary: The Governor vetoed the section that required the entire act to expire on December 31, 2005.

VETO MESSAGE ON HB 1136

May 13, 2005

*To the Honorable Speaker and Members,
The House of Representatives of the State of Washington*

Ladies and Gentlemen:

I am returning, without my approval as to Section 4, House Bill No. 1136 entitled:

“AN ACT Relating to studying electronic monitoring as an alternative to incarceration.”

Section 3 of the bill requires the Department of Corrections to operate an electronic monitoring program beginning on January 1, 2006. In its entirety, Section 4 states: ‘This act expires December 31, 2005.’ Section 4 was apparently left in the bill inadvertently after Section 3 was added. Section 3 cannot be effective if Section 4 remains in the bill.

For these reasons, I have vetoed Section 4 of House Bill No. 1136.

With the exception of Section 4, House Bill No. 1136 is approved.

Respectfully submitted,



*Christine O. Gregoire
Governor*

SHB 1137

C 501 L 05

Modifying the scope of care provided by physical therapists.

By House Committee on Health Care (originally sponsored by Representatives Morrell, Orcutt, Cody, McDonald, Green, Campbell, Clibborn, Schindler, Kagi, Woods, Hunt, Miloscia, Linville, Lantz, Moeller, Williams, Wallace and Kenney).

House Committee on Health Care
Senate Committee on Health & Long-Term Care

Background: Physical therapists conduct tests to measure the strength, range of motion, balance and coordination, muscle performance, and motor function of patients with movement or mobility problems due to injury or disease. With this information they develop treatment plans and perform services for patients to restore function, improve mobility, relieve pain, and prevent or limit permanent physical disabilities.

Physical therapists work in several different settings including hospitals, private offices, clinics, public schools, nursing homes, and rehabilitation centers. Some physical therapists specialize in certain areas such as pediatrics, geriatrics, orthopedics, sports medicine, neurology, and cardiopulmonary physical therapy.

In Washington, physical therapists are regulated by the Department of Health and the Board of Physical Therapy.

Summary: Practice of Physical Therapy. The general and non-specific description of the practice of physical therapy as applying to any bodily or mental condition is replaced with more specific parameters referencing the practice's basis in movement science and functional limitations in movement.

The range of physical therapist activities, including treatment of bodily or mental conditions by: (1) the use of heat, cold, air, light, water, electricity, sound, massage, and therapeutic exercise; and (2) the performance of tests and measurements of neuromuscular function, are replaced with more specific activities. Permissible activities are redefined to include:

- examining patients to determine proper diagnoses and plans for therapeutic interventions;
- designing and implementing therapeutic interventions, functional training, manual therapy, therapeutic

tic massage, postural control devices, airway clearance techniques, physical agents or modalities, mechanical and electrotherapeutic modalities, and patient-related instruction;

- training and evaluating the function of people wearing orthotic or prosthetic devices;
- performing wound care services;
- reducing the risk of injury, impairment, functional limitations, and disability; and
- engaging in consultation, education, and research.

Medications. Physical therapists may purchase, store, and administer medications such as topical anesthetics, hydrocortisone, fluocinonide, silvadine, lidocaine, zinc oxide, and other similar medications. Physical therapists may administer other drugs and medications as prescribed by an authorized health care provider.

Referral and Additional Training Requirements.

When a physical therapist believes that a person has symptoms or conditions that are beyond the scope of practice of a physical therapist or that physical therapy is contraindicated, he or she must refer the person to an appropriate health care practitioner.

The requirement that physical therapists only provide treatment using certain orthoses upon referral or consultation by an authorized health care practitioner is removed.

A physical therapist may only perform electro-neuromyographic examinations upon completion of additional training and education and referral from an authorized health care provider. Wound care services may only be performed upon referral from an authorized health care provider. Wound care services that involve sharp debridement may only be performed by physical therapists who have obtained adequate education and training.

Assistive Personnel. Three categories of assistive personnel are defined: "physical therapist assistants;" "physical therapy aides;" and "other assistive personnel." They may assist a licensed physical therapist with delegated or supervised tasks or procedures that are within the practice of physical therapy according to their level of training. Other licensed health care providers may use such assistants, aides, and personnel in their practices.

Matters Related to Licensure. The practice of physical therapy without a license is prohibited. Licensing requirements do not apply to: (1) people satisfying supervised clinical education requirements as part of a physical therapist education program; (2) physical therapists practicing in the military, United States Public Health Service, or Veteran's Administration; or (3) physical therapists credentialed out-of-state who are teaching or participating in an educational seminar.

Votes on Final Passage:

House	88	9	
Senate	40	9	(Senate amended)
House	94	1	(House concurred)

Effective: July 24, 2005

HB 1138

C 98 L 05

Regulating fees for using an automated teller machine.

By Representatives Ericksen and Holmquist.

House Committee on Financial Institutions & Insurance
Senate Committee on Financial Institutions, Housing & Consumer Protection

Background: Financial institutions may issue debit and credit cards to their customers for use at an automated teller machine (ATM). An ATM may be owned by an entity that is not a financial institution. Customers may use an ATM to obtain cash, bank balances, view and make bank transactions, and, in some cases, receive stamps.

ATM Fees. The financial institution issuing the debit or credit card may charge its customers a convenience fee when a card is used at an ATM. In addition to a fee possibly charged by the financial institution, the owner of an ATM may charge an access fee. The ATM owner keeps the access fee for each transaction; the fee is paid by the financial institution that issued the card.

Some card networks have contractually prohibited ATM owners from imposing an access fee on holders of foreign bank cards unless state or federal law allows for a fee. At least 13 states have enacted legislation allowing ATM owners to impose access fees on all users, not just on users with accounts located in the United States.

Definitions. "Automated teller machine" is defined as an electronic information processing device located in this state that accepts or dispenses cash in connection with a credit, deposit, or convenience account. It does not include a device used primarily to facilitate check guarantees or check authorizations used in connection with the acceptance or dispensing of cash on a person-to-person basis, such as by a store cashier, or used for payment of goods and services.

"Financial institution" is defined as a bank, trust company, mutual savings bank, savings and loan association, or credit union authorized to do business and accept deposits in this state under state or federal law.

Summary: The owner of an ATM may charge an access fee to customers who are making transactions when the account is located outside the United States.

Votes on Final Passage:

House	98	0
Senate	44	0

Effective: July 24, 2005

HB 1140
C 54 L 05

Developing a schedule of fees for performing independent reviews of health care disputes.

By Representatives Bailey, Cody and Wallace.

House Committee on Health Care
Senate Committee on Health & Long-Term Care

Background: Health carriers that offer health plans must have a comprehensive grievance process for addressing complaints from plan enrollees about customer service or the quality or availability of a health service. Where the health carrier's grievance process has issued an unfavorable decision to an enrollee or it has exceeded mandated timelines without good cause, the enrollee may seek review by a certified independent review organization. This review is available only for those complaints pertaining to payment for health care services or the denial, modification, reduction, or termination of coverage for health care services. The Office of the Insurance Commissioner assigns an independent review organization to a complaint on a rotational basis.

The Department of Health (Department) is responsible for adopting rules to certify independent review organizations. These rules relate to ensuring: the confidentiality of medical records; the qualifications of medical reviewers; the absence of conflicts of interest; and the fairness and timeliness of the proceedings.

Summary: By January 1, 2006, the Department must develop a fee schedule that establishes reasonable maximum fees that may be charged to health carriers by an independent review organization when conducting reviews. The Department is required to adopt rules requiring that independent review organizations assess fees to health carriers consistent with the maximum fee schedule.

Votes on Final Passage:

House 97 0
Senate 47 0

Effective: July 24, 2005

HB 1141
C 185 L 05

Changing the expiration date of the Washington real estate research account.

By Representatives Conway, Tom, Wood, Buri, Miloscia, Condotta, Armstrong and Kenney.

House Committee on Commerce & Labor
Senate Committee on Labor, Commerce, Research & Development

Background: In 1989 the Washington Center for Real Estate Research (Center) was established at Washington State University. The Center's purpose is to provide research and education services to real estate licensees, others in the industry, and the public, including consumers, agencies, and communities in Washington and the Pacific Northwest.

Since 1999 the Center has been funded, in part, with revenues from a \$10 fee assessed on real estate brokers and sellers when their licenses are issued or renewed. During the 2003-05 biennium, the fees totaled \$300,000, providing approximately two-thirds of the Center's funding. Grants and private funding sources provided the other third of the funding.

The Department of Licensing (Department) collects the fees and deposits them in the Washington Real Estate Research Account. Moneys in the account must be appropriated. The Department's authority to collect the fees and related provisions expire September 30, 2005.

Summary: The Department of Licensing's authority to collect a \$10 fee from real estate brokers and sellers to fund the Washington Center on Real Estate Research's activities is extended for five additional years (from September 30, 2005 to September 30, 2010). Related provisions are also extended for five years.

Votes on Final Passage:

House 96 0
Senate 44 0

Effective: July 24, 2005

EHB 1146
C 222 L 05

Funding group life insurance.

By Representatives Roach, Kirby and Simpson.

House Committee on Financial Institutions & Insurance
Senate Committee on Financial Institutions, Housing & Consumer Protection

Background: The Office of the Insurance Commissioner regulates life insurance contracts that are issued or delivered in Washington. The law permits an employer to provide group life insurance policies for the benefit of employees and their families. If the employer offers this

benefit, the employer must pay all or part of the premium. Employees are not allowed to pay the entire premium.

These group life policies may be issued only if there are at least 10 covered lives. If part of the premium is to be paid by employees, at least 75 percent of the eligible employees must elect to make the required contribution.

In some cases, coverage offered by an employer may be extended to the employee's spouse and dependent children. An employee may purchase life insurance on the family member in an amount not to exceed 50 percent of the insurance on the life of the employee.

Summary: Group life policies may be issued where the entire premium is paid by the insured employees. The minimum group size is reduced from 10 to two. The minimum participation rate for insured employees is eliminated. In cases where group life coverage is extended to spouses and dependents, the spouse or dependent may be insured up to the same amount as is purchased by the insured employee. The premiums for insurance on family members must be paid by the policyholder. The funds for these premiums may come from the employer, employee, funds contributed to the employee, trust, or labor union.

Votes on Final Passage:

House	98	0
Senate	40	0

Effective: July 24, 2005

SHB 1147
C 436 L 05

Protecting communities from sex offenders through the establishment of community protection zones.

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Clements, O'Brien, Skinner, Woods, Pearson, Simpson, Lovick, Tom and B. Sullivan).

House Committee on Criminal Justice & Corrections
Senate Committee on Human Services & Corrections

Background: The standard sentence range for an offender convicted of more than one "two strikes" sex offense is life in prison without the possibility of parole. Two strikes sex offenses include:

- rape in the first and second degrees;
- rape of a child in the first and second degrees;
- child molestation in the first degree;
- indecent liberties by forcible compulsion; and
- the following crimes when committed *with sexual motivation*:
 - murder in the first and second degrees;
 - homicide by abuse;
 - kidnapping in the first and second degrees;
 - assault in the first and second degrees;

- assault of a child in the first degree; and
- burglary in the first degree.

An offender who commits a first "two strikes" sex offense is sentenced to a "determinate plus" sentence. Such an offender will receive a minimum term and a maximum term. The minimum term is generally equal to the offender's standard range sentence. The maximum term is the statutory maximum term for the crime: life for class A felonies, 10 years for class B felonies, and five years for class C felonies.

The offender will be evaluated by the Indeterminate Sentence Review Board after the expiration of his or her minimum term and must be released unless he or she is likelier than not to commit a predatory sex offense. If the offender is released, he or she will be on community custody for the remainder of his or her maximum term. The terms for the community custody must include conditions such as reporting to a community corrections officer and obtaining residence approval from the Department of Corrections (DOC).

Summary: Community Protection Zone. Community protection zones are established around public and private schools. The zones have a radius of 880 feet around the schools.

The court must prohibit an offender who is convicted of a first "two strikes" sex offense against a minor victim from residing in a community protection zone while on community custody. In addition, the DOC may not approve a residence location for the offender if the proposed residence is in a community protection zone.

Law enforcement agencies and the DOC are immune from civil liability for damages from any discretionary decisions made if they make a good faith effort to comply with the act.

Joint Task Force on Sex Offender Management. A Joint Task Force on Sex Offender Management is established. The task force, in collaboration with the Partnership for Community Safety, must examine issues of community safety and the management of sex offenders in the community.

The task force must be chaired by one of the legislative members, selected by the task force members. The task force members include one member of each of the two largest caucuses of the Senate, appointed by the president of the Senate; one member of each of the two largest caucuses of the House of Representatives, appointed by the speaker of the House; the secretary of the Department of Corrections; the Superintendent of Public Instruction; the secretary of the Department of Social and Health Services; the attorney general; the executive director of the Washington Association of Sheriffs and Police Chiefs; the Executive Director of the Indeterminate Sentence Review Board; the chair of the End of Sentence Review Committee; the executive director of the Criminal Justice Training Commission; and a representative of the broadcast media and the print

media, appointed by the Governor.

The task force must make recommendations to the Governor and the Legislature by December 1, 2005, on the following subjects:

- The effectiveness of community protection zones and other strategies to promote community safety, including recommendations on proactive and reactive approaches to sex offender residence locations and any statutory, constitutional, or practical limitations on the state's ability to address sex offender housing requirements;
- Standardization of the community sex offender notification process;
- Applicability of the public disclosure act to sex offender information sharing;
- The training needs of law enforcement, criminal justice staff, and school personnel to increase community safety in relationship to sex offender notification and management strategies; and
- The impact and advisability of pre-notification of local government officials related to sex offender residence location.

The entire act expires on July 1, 2006

Votes on Final Passage:

House	97	0	
Senate	46	0	(Senate amended)
House	95	0	(House concurred)

Effective: July 24, 2005

E2SHB 1152

C 490 L 05

Creating a Washington early learning council.

By House Committee on Appropriations (originally sponsored by Representatives Kagi, Fromhold, Jarrett, Schual-Berke, Walsh, Quall, B. Sullivan, Grant, Ormsby, Kessler, Simpson, Moeller, Lovick, Roberts, Chase, Williams, P. Sullivan, Tom, Morrell, McIntire, Kenney, Haigh, McDermott, Dickerson, Santos and Linville).

House Committee on Children & Family Services
House Committee on Appropriations
Senate Committee on Early Learning, K-12 & Higher Education
Senate Committee on Ways & Means

Background: In 2000, the Legislature directed the Office of Financial Management (OFM) to conduct a study of the best method for coordinating and consolidating child care and early education programs funded by the state. The Child Care and Early Learning Organizational Study, which the OFM produced in response, provided the following recommendations: adopt an umbrella mission statement that captures all child care and early learning programs; combine programs with similar or duplicate functions and missions; streamline

the current configuration by reducing the number of state agencies involved in the child care licensing process; assign an interagency task force to examine and reduce the differences in program service standards; and coordinate training for providers regarding state agency rules by all programs. In response to this report, the Office of the Governor undertook administrative action to consolidate child care and early learning programs in the state, the primary component of which was the creation of the Division of Child Care and Early Learning (DCCEL) within the Economic Services Administration in the Department of Social and Health Services (DSHS).

Child care and early learning programs in the state are administered through three state agencies: the DSHS, the Department of Community, Trade and Economic Development (CTED), and the Office of the Superintendent of Public Instruction (OSPI). The DCCEL within the DSHS licenses child care homes and centers, develops policy and procedures for the state's child care subsidy program, and directs the Head Start-State Collaboration Project. The CTED administers the Early Childhood Education and Assistance Program (ECEAP), which is the state's preschool program. The OSPI administers services and programs relating to child care and early learning including family literacy programs, special education for children 3 years of age and older, and the nutrition assistance program for child care. Training and professional development programs for early learning professionals are available through such sources as the State Training and Registry System and the state's higher education institutions.

The Child Care Coordinating Committee was established in state law in order to provide coordination and communication among state agencies responsible for child care and early childhood education services, serve as an advisory coordinator for all state agencies responsible for early childhood or child care programs, and annually review state programs and make recommendations to state agencies and the Legislature to maximize funding and promote furtherance of the state's child care services policy.

Summary: The Washington Early Learning Council (Council) is established in the Office of the Governor for the purpose of providing vision, leadership, and direction to the improvement, realignment, and expansion of early learning programs and services for children birth to 5 years of age in order to better meet the early learning needs of children and their families. "Early learning programs and services" are defined to include the following: child care; state, private, and nonprofit preschool programs; child care subsidy programs; and training and professional development programs for early learning professionals. The goal of the Council is to build upon existing efforts and recommend new initiatives, as necessary, to create an adequately financed high-quality, accessible, and comprehensive early learning system that

benefits all young children whose parents choose it.

Early Learning Plan. The Council is required to develop an early learning plan to improve the organization of early learning programs and services at the state level, and to improve the accessibility and quality of early learning programs and services throughout the state.

By November 15, 2005, the Council is required to make recommendations to the Governor and the appropriate committees of the Legislature concerning statewide organization of early learning.

The Council is also required to make recommendations to the Governor and the appropriate committees of the Legislature concerning the following:

- identification of current populations being served and potential populations to be served by early learning programs and services;
- the state's role in supporting quality early learning programs and services;
- appropriate levels and sources of stable and sustainable funding to meet statewide and local need for early learning programs and services, including public-private partnerships;
- changes in existing early learning programs and services, including the administration of those programs and services, to improve their efficiency, effectiveness, and quality;
- changes in existing early learning programs and services to ensure that the content is aligned with what children need to know and be able to do upon entering school;
- how to maximize available early learning resources to ensure children are receiving continuity of care; and
- providing for smooth transitions from early learning programs and services to K-12 programs.

As provided in the act, the Council is required to focus on quality improvements to licensed child care through the following mechanisms:

- voluntary, quality-based, graduated rating system to provide information to parents on the quality of child care programs and to provide resources and incentives for quality improvements; and
- tiered-reimbursement system for state-subsidized child care to improve the quality of care for children participating in state-funded care.

The Council is required to make recommendations to the Governor and the appropriate committees of the Legislature concerning the regulation of child care, including child care that is exempt from regulation and unlicensed child care that is subject to regulation, in order to ensure the safety, health, quality, and accessibility of child care services throughout the state.

The Council serves as the Advisory Committee on Early Learning (Advisory Committee) to the Comprehensive Education Study Steering Committee (Steering

Committee), created in Engrossed Second Substitute Senate Bill No. 5441 of 2005, and the nongovernmental co-chair of the Council serves as the chair of the Advisory Committee. The Council must have input on the recommendations developed by the Steering Committee.

The Council must make use of existing reports, research, planning efforts, and programs, including, but not limited to, the following: the federal Early Head Start program, the federal Head Start program, the state Early Childhood Education and Assistance Program (ECEAP), the state's Essential Academic Learning Requirements and K-3 Grade Level Expectations, the Washington State Early Learning and Development Benchmarks, existing tiered-reimbursement initiatives, the state's Early Childhood Comprehensive Systems Plan, and the work of the Child Care Coordinating Committee.

Quality Rating System. The Council is required to develop a voluntary, quality-based, graduated rating system consisting of levels of quality to be achieved by licensed child care providers. In developing the voluntary rating system, the Council must seek to build upon existing partnerships and initiate new partnerships between the public and private sectors.

In developing the voluntary rating system, the Council must establish a system of tiers as the basis for the rating system's levels of quality. In developing the system of tiers, the Council must take into consideration the following quality criteria:

- child-to-staff ratios;
- group size;
- learning environment;
- curriculum;
- parent and family involvement and support;
- staff qualifications and training;
- staff professional development;
- staff compensation, including wage progression based on formal education;
- staff stability;
- accreditation;
- program evaluation; and
- program administrative policies and procedures.

In developing the voluntary rating system, the Council is also required to establish quality assurance measures as well as a mechanism for system evaluation.

In developing the voluntary rating system, the Council is required to make recommendations concerning both initial and subsequent statewide implementation of the rating system, including the following:

- potential implementing entities;
- sources of funding for implementation;
- necessary infrastructure for facilitating and supporting participation in the rating system, including assistance necessary to help providers progress up the tiers; and

- strategies for raising public awareness of the rating system.

The Council is required to complete initial development of the voluntary rating system by December 1, 2005, and complete development by December 1, 2006. The Council is required to submit the voluntary rating system to the Governor and the appropriate fiscal and policy committees of the Legislature by January 1, 2007. If no action is taken by the Legislature by the end of the 2007 regular legislative session, the Council may begin initial implementation of the voluntary rating system, subject to available funding.

Tiered-Reimbursement System. The Council is required to develop a tiered-reimbursement system that provides higher rates of reimbursement for state-subsidized child care for licensed child care providers that achieve one or more levels of quality above basic licensing requirements in accordance with the voluntary quality-based graduated rating system developed by the Council.

In developing the tiered-reimbursement system, the Council must review existing tiered-reimbursement initiatives in the state and integrate those initiatives into the tiered-reimbursement system.

The Council is required to complete initial development of the tiered-reimbursement system by December 1, 2005, to be implemented in two pilot sites in different geographic regions of the state with demonstrated public-private partnerships. The Council is required to complete development of the tiered-reimbursement system by December 1, 2006, to be implemented statewide, subject to the availability of amounts appropriated by the Legislature for this specific purpose.

Subject to the availability of amounts appropriated for this specific purpose, the DSHS is required to implement the tiered-reimbursement system developed by the Council. Implementation of the tiered-reimbursement system is to initially consist of two pilot sites in different geographic regions of the state with demonstrated public-private partnerships, with statewide implementation to follow.

In implementing the tiered-reimbursement system, consideration must be given to child care providers who provide staff wage progression.

The DSHS is required to begin implementation of the two pilot sites by March 30, 2006.

Membership of the Washington Early Learning Council. The Council must include representation from public, nonprofit, and for-profit entities, and its membership must reflect regional, racial, and cultural diversity to ensure representation of the needs of all children and families in the state. The Council is to consist of 17 members, as follows:

- one representative each of the Office of the Governor, the DSHS, the Department of Health, and the

State Board for Community and Technical Colleges, appointed by the Governor;

- one representative of the OSPI, appointed by the Superintendent of Public Instruction;
- two representatives of private business and two representatives of philanthropy, appointed by the Governor;
- four individuals who have demonstrated leadership and engagement in the field of early learning, appointed by the Governor; and
- two members of the House of Representatives appointed by the Speaker of the House of Representatives, one of whom must be a member of the majority caucus and one of whom must be a member of the minority caucus, and two members of the Senate appointed by the President of the Senate, one of whom must be a member of the majority caucus and one of whom must be a member of the minority caucus.

The Council is to be co-chaired by the representative of the Office of the Governor and a non-governmental member designated by the Governor.

Members of the Council must be compensated and reimbursed for travel expenses in accordance with state law.

The Governor may employ an executive director, who is exempt from the provisions of the state Civil Service law, and such other staff as is necessary to carry out the purposes of this chapter. The Governor is to fix the salary of the executive director in accordance with state law.

The Council is required to monitor and measure its progress and regularly report, as appropriate, to the Governor and the appropriate committees of the Legislature on the progress, findings, and recommendations of the Council.

The Council is required to establish one or more technical advisory committees, as needed. Membership of such advisory committees may include the following: representatives of any state agency the Council deems appropriate, including the Higher Education Coordinating Board and the State Board for Community and Technical Colleges; family home child care providers, child care center providers, and college or university child care providers; parents; early childhood development experts; representatives of school districts and teachers involved in the provision of child care and preschool programs; representatives of Resource and Referral programs; parent education specialists; pediatric or other health professionals; representatives of citizen groups concerned with child care and early learning; representatives of labor organizations; representatives of private business; and representatives of Head Start and ECEAP agencies.

Child Care Coordinating Committee. The Child Care Coordinating Committee is eliminated.

Other Provisions. The provisions of the act relating to the Council expire July 1, 2007.

The act is null and void unless funded in the state operating budget.

Votes on Final Passage:

House	68	28	
Senate	30	16	(Senate amended)
House	77	21	(House concurred)

Effective: May 16, 2005

SHB 1154

C 6 L 05

Requiring that insurance coverage for mental health services be at parity with medical and surgical services.

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Schual-Berke, Campbell, Kirby, Jarrett, Green, Kessler, Simpson, Clibborn, Hasegawa, Appleton, Moeller, Kagi, Ormsby, Chase, McCoy, Kilmer, Williams, O'Brien, P. Sullivan, Tom, Morrell, Fromhold, Dunshee, Lantz, McIntire, Sells, Murray, Kenney, Haigh, Darneille, McDermott, Dickerson, Santos and Linville).

House Committee on Financial Institutions & Insurance
Senate Committee on Health & Long-Term Care

Background: Health carriers are not required to provide mental health coverage. Health carriers providing group coverage to employers with 50 or more employees are required to offer optional supplemental coverage for mental health treatment, which can be waived at the request of the employer. If a health carrier does provide mental health coverage, there are no specific mandates on the level of coverage that must be provided under the group coverage.

The administrator of the Basic Health Plan (BHP) is authorized to offer mental health services under the BHP as long as those services, along with chemical dependency and organ transplant services, do not increase the actuarial value of BHP benefits by more than 5 percent. The BHP covers inpatient care in full up to 10 days per calendar year and outpatient care in full up to 12 visits per year. These limits are not found on other hospital inpatient services. The coinsurance rate, applicability of a deductible, and maximum facility charges for mental health benefits are generally consistent with hospital inpatient service charges.

The Washington State Health Care Authority (HCA) administers health care benefits for low income residents through the BHP. The HCA also oversees state employee health insurance programs provided by various private health insurers (e.g., Group Health, Premera, Regence, etc.) as well as the Uniform Medical Plan.

The Office of the Insurance Commissioner (OIC) oversees private health insurance. There are three main

categories of insuring entities or "health carriers" that offer health plans that fall under the jurisdiction of the OIC:

- disability insurers;
- health care services contractors; and
- health maintenance organizations.

Optional supplemental mental health coverage.

Generally, health carriers are required to offer optional, supplemental mental health treatment coverage to group purchasers. The coverage extends to insureds and covered dependents. The contract holder for the group may waive coverage for the group. The coverage must be offered at the "usual and customary rates for such treatment" and is subject to other specified requirements and conditions.

Diagnostic and Statistical Manual of Mental Disorders (DSM). The DSM is a manual published by the American Psychiatric Association that covers all recognized mental health disorders affecting both children and adults. It lists the factors known to cause these disorders, presents pertinent statistics, and cites research concerning optimal treatment approaches. The DSM is considered to be the standard reference for mental health professionals who make psychiatric diagnoses.

Summary: I. OVERVIEW. Group health insurance plans covering over 50 employees are required to provide a level of coverage for mental health services that is equal to the coverage provided for medical and surgical services. The requirements are imposed in three increments between 2006 and 2010. Once the mental health parity requirements are fully implemented in 2010, limitations on mental health services may be imposed by an insurance plan only if the same limitations are imposed on medical and surgical services.

The mental health parity requirements for each type of plan are largely identical and are subject to the same structured phase-in. This mental health parity requirement applies to five categories of group health insurance coverages:

- 1) plans administered by the HCA on behalf of state employees;
- 2) plans provided by disability insurers;
- 3) plans provided by health care services contractors;
- 4) plans provided by health maintenance organizations; and
- 5) benefits provided by the Washington Basic Health Plan.

Small business exemption. Health carriers do not have to provide mental health coverage to small businesses with 50 or fewer employees. As a general rule, health carriers must make an offer of optional coverage to any group other than a group of 50 or fewer employees.

II. COVERED MENTAL HEALTH SERVICES.
"Mental health services" defined. The required mental health services include medically necessary inpatient and

outpatient services provided to treat mental disorders listed in the most current version of the Diagnostic and Statistical Manual of Mental Disorders, published by the American Psychiatric Association. The determination of whether a mental health service is medically necessary in a particular case is subject to the discretion of the medical director of the health plan. The medical necessity standard for mental health care must be comparable to that applied for medical and surgical services.

Exempted mental health services. There are specified types of mental health disorders and treatment categories that are exempted from coverage, including:

- disorders related to substance abuse;
- life transition problems (family/marital issues, occupational/academic problems, etc.);
- residential treatment and custodial care; and
- court ordered treatment (unless medically necessary).

III. FIVE YEAR PHASE-IN. Health coverage is generally offered for one year periods. Parity between mental health and medical and surgical services is achieved in three phases between January 1, 2006, and July 1, 2010. Phase One begins on January 1, 2006. Phase Two begins on January 1, 2008. Phase Three begins on July 1, 2010. The phases are cumulative. The second phase incorporates the coverage requirements of the first phase. The third phase incorporates the coverage requirements of the first two phases. On July 1, 2010, all of the parity provisions will become effective.

Phase One - For health benefit plans established or renewed on or after January 1, 2006:

- 1) The copayment or coinsurance for mental health services may not exceed the copayment or coinsurance for medical/surgical services provided under the plan. *Begun in Phase One.*
- 2) Prescription drug coverage for mental health services must be covered to the same extent and under the same conditions as other prescription drug coverage in the health benefit plan. *Begun in Phase One.*

Phase Two - For health benefit plans established or renewed on or after January 1, 2008:

- 1) The copayment or coinsurance for mental health services may not exceed the copayment or coinsurance for medical/surgical services provided under the plan. *Begun in Phase One. Maintained in Phase Two.*
- 2) Prescription drug coverage for mental health services must be covered to the same extent and under the same conditions as other prescription drug coverage in the health benefit plan. *Begun in Phase One. Maintained in Phase Two.*
- 3) If the health insurance plan imposes a maximum out of pocket limit or stop loss, the same limit or stop loss must apply to medical, surgical, and mental health services. *Begun in Phase Two.*

Phase Three - For health benefit plans established or renewed on or after July 1, 2010:

- 1) The copayment or coinsurance for mental health services may not exceed the copayment or coinsurance for medical/surgical services provided under the plan. *Begun in Phase One. Maintained in Phases Two and Three.*
- 2) Prescription drug coverage for mental health services must be covered to the same extent and under the same conditions as other prescription drug coverage in the health benefit plan. *Begun in Phase One. Maintained in Phases Two and Three.*
- 3) If the health insurance plan imposes a maximum out of pocket limit or stop loss, the same limit or stop loss must apply to medical, surgical, and mental health services. *Begun in Phase Two. Maintained in Phase Three.*
- 4) If the health insurance plan imposes a deductible, it must be a single deductible covering medical, surgical, and mental health services. *Begun in Phase Three.*
- 5) Any treatment limitations or financial requirements must be the same for mental health, medical, or surgical services. *Begun in Phase Three.*

IV. OTHER PROVISIONS. Groups with 50 or fewer employees. Health carriers are not required to offer these mental health parity provisions to groups with 50 or fewer employees. Generally, health carriers must offer optional supplemental mental health coverage to these groups. The group contract holder may waive the optional coverage for all insureds.

Rule-making authority. The Insurance Commissioner, the administrator of the State Health Care Authority, and the administrator of the Basic Health Plan are each granted authority to adopt rules necessary to implement the mental health priority requirements.

Votes on Final Passage:

House	67	25
Senate	40	9

Effective: July 24, 2005

SHB 1158
C 502 L 05

Modifying county treasurer administrative provisions.

By House Committee on Local Government (originally sponsored by Representatives Takko and Alexander).

House Committee on Local Government
Senate Committee on Government Operations & Elections

Background: County treasurers operate under the authority of various state statutes relating to the receipt, processing, and disbursement of funds. County treasurers are the custodian of the county's money and the

administrator of the county's financial transactions. In addition to his or her duties relating to county functions, the county treasurers provide financial services to special purpose districts and other units of local government, including receipt, disbursement, investment, and accounting of the funds of each of these entities. County treasurers are responsible for the collection of various taxes (including legal proceedings to collect past due amounts) and other miscellaneous duties, such as conducting bond sales and sales of surplus county property.

Requirements for the filing of documents with governmental entities. Documents transmitted to state governmental entities through the United States mail are deemed to have been filed or received by such governmental entity on the date shown by the post office cancellation mark stamped upon the envelope or other wrapper. Where a document was either mailed and not received, or the required cancellation mark is illegible or missing, the document is deemed to have been timely received by the governmental entity, provided competent evidence is provided by the sender showing that the document was sent on or before the required date for filing.

Collection services provided by county treasurers. County treasurers may provide services to other county departments with respect to the collection of various funds. Upon the receipt of such funds, a county department must deposit the funds within 24 hours unless a special waiver is granted by the county treasurer.

Disposition of abandoned property under the Uniform Unclaimed Property Act. The Uniform Unclaimed Property Act (UUPA) sets forth the regulations controlling the identification, treatment, and disposition of abandoned or unclaimed property in the possession of state and local governmental entities. The UUPA is administered by the Department of Revenue. Certain categories of abandoned property are exempt from the provisions of the UUPA, including lottery and parimutuel tickets, certain claims drafts issued by insurance companies, certain categories of personal property, and specified types of gift certificates.

Reporting requirements for governmental entities regarding unclaimed property. Pending a claim and establishment of proof of ownership, governmental entities, including counties, are allowed to retain various categories of unclaimed funds they are holding pursuant to the UUPA. Such funds include certain cancelled warrants, uncashed checks, excess proceeds from property tax and irrigation district foreclosures, and property tax overpayments. Governmental entities are required to file reports with the Department of Revenue regarding the retention of such property that include the identification of the property and the owner.

Changes to regulations regarding the calculation of certain interest rates owed to developers as the result of payment refunds. As a general rule, the state preempts local governmental entities with respect to the collection

of most types of excise taxes. Except for the collection of specified impact fees expressly allowed by statute, local governments are precluded from imposing taxes, fees, or charges related to the development of buildings or land. However, a local government may enter into a voluntary agreement with a private entity in which the entity is allowed to pay a fee in lieu of a dedication of land or to mitigate an impact resulting from a proposed development. Such agreements are subject to several requirements, including the requirement that under certain conditions the developer must be refunded such payments, with interest, if the payments are not expended by the local government. In this event, the interest must be calculated at the same rate as applied to judgments owed to property owners of record at the time of the refund, which is a fixed rate of 12 percent.

Regulations regarding the payment of taxes and the recording of boundary line adjustments. State law does not require the presentation of proof to the county auditor that the requisite tax payments have been made as a condition precedent to a boundary line adjustment being recorded by the county.

Prohibition against property tax penalties for certain active duty military personnel. No interest or penalties may be assessed for the period April 30, 2003, through April 30, 2005, on delinquent taxes imposed for collection in 2003 or 2004 which are imposed on the personal residences owned by military personnel who participated in the recent military operation known as "Operation Enduring Freedom."

Clarification of regulations regarding the deadline for the payment of unpaid real property tax liens. Persons having claims to real property subject to unpaid real property tax liens may satisfy the lien at any time before the execution of the deed of trust to the property.

Changes to regulations regarding payments to third parties regarding refunds for property tax errors. County treasurers are subject to regulations regarding the payment of refunds on certain erroneously paid property taxes. The types of errors entitling a payee to a refund include, but are not limited to:

- taxes paid more than once;
- clerical or other record keeping errors by governmental entities;
- monies paid under levies or statutes later found to be illegal;
- monies paid by a person legally exempted from paying real property taxes; and
- certain payments made on the basis of an improperly calculated property value assessment.

Erroneous payments made by third parties having no legal interest in the property may also be refunded.

Summary: Requirements for the filing of documents with governmental entities. Documents transmitted to governmental entities through private third-party delivery services are subject to the same proof of delivery

standards applied to documents sent through the United States mail. A record of the shipping date or delivery date authenticated by the private third-party delivery service will be deemed competent evidence of such shipping or delivery date.

Collection services provided by county treasurer. Money received by a county department from the county treasurer must be deposited within 24 hours in an account designated by the county treasurer unless a waiver is granted.

Revision of the applicability of the Uniform Unclaimed Property Act. The requirements of the Uniform Unclaimed Property Act do not apply to excess proceeds held by governmental entities obtained from foreclosures for delinquent property taxes, assessments, or other liens.

Retention of certain funds by public entities under the Uniform Unclaimed Property Act. Governmental entities are no longer allowed to retain funds derived from "excess proceeds from property tax and irrigation district foreclosures" pending a formal claim being made by the owner.

Changes to regulations regarding the calculation of certain interest rates owed to developers as the result of payment refunds. The calculation of interest rates owed to developers on refunds from local governments for certain unexpended land development payments are revised. The revision requires that the interest be calculated at a variable rate calculated consistent with the regulations concerning certain tax refunds, rather than the current fixed rate of 12 percent.

Regulations regarding the payment of taxes and the recording of boundary line adjustments. A boundary line adjustment may not be recorded by a county auditor absent documentary proof from the person requesting the recordation that all taxes and assessments on the affected property or properties have been paid in full.

Prohibition against property tax penalties for certain active duty military personnel. The assessment of interest or penalties is prohibited for unpaid property taxes owed on the personal residences of active duty military personnel that have accrued during a period of armed conflict while such personnel are on duty overseas. This prohibition is applicable to all taxes levied for collection in 2005 and thereafter. These provisions extend the duration of the tax payment benefits allowed certain military personnel and add criteria that must be satisfied before a person in the military may be eligible for such benefits.

Clarification of regulations regarding the deadline for the payment of unpaid real property tax liens. The deadline for the payment of unpaid liens is revised to allow persons having claims to real property subject to unpaid tax liens to satisfy such liens at any time before the filing of a certificate of delinquency. Redemption rights are subject to specified statutory requirements

after a certificate of delinquency or judgment has been issued.

Changes to regulations regarding payments to third parties regarding refunds for property tax errors. Third parties who erroneously pay taxes on property in which they have no legal interest are no longer entitled to refunds from a county treasurer.

Votes on Final Passage:

House	96	0	
Senate	44	0	(Senate amended)
House	95	0	(House concurred)

Effective: May 17, 2005

HB 1160
C 187 L 05

Reducing workplace violence in state hospitals.

By Representatives Conway, Wood, Green, Hudgins, McCoy, Lovick, Darneille, Morrell, Chase, Cody, Kenney and Sells.

House Committee on Commerce & Labor
Senate Committee on Human Services & Corrections

Background: According to a Department of Labor and Industries report published in 2004, data from 1995 to 2000 show that social services and health services accounted for over 50 percent of assault- or violence-related claims in the workplace. From 1993 to 2003, the rate of assault-related claims at state mental hospitals was 8.4 claims per 100 full-time employees.

Legislation enacted in 2000 required state mental hospitals to take certain actions related to protecting employees from workplace violence. In particular, state hospitals were required to:

- develop and implement plans to protect employees from workplace violence;
- provide violence prevention training; and
- keep records of violent acts committed against employees or patients at the hospitals.

In addition, the Department of Social and Health Services was required to report annually to the Legislature on efforts to reduce workplace violence.

Legislation enacted in 2003 repealed this reporting requirement.

Summary: The requirement that the Department of Social and Health Services report annually on its efforts to reduce violence in state hospitals is restored. The report must be made to the House Commerce & Labor Committee and the Senate Commerce & Trade Committee by September 1 of each year.

Votes on Final Passage:

House	85	0
Senate	46	0

Effective: July 24, 2005

HB 1161

C 99 L 05

Adding entities entitled to notification about sex offenders and kidnapping offenders.

By Representatives Buri, O'Brien, Walsh, Ericks, Darneille, McCoy, Clements, Serben, Pearson, Strow, Kristiansen, Moeller, Lovick, Simpson, Campbell, Tom, Morrell, Chase, Ahern, Newhouse, Armstrong, Woods, Sells and Ormsby.

House Committee on Criminal Justice & Corrections
Senate Committee on Human Services & Corrections

Background: The Department of Corrections (DOC), the Juvenile Rehabilitation Administration (JRA), and the Indeterminate Sentence Review Board (ISRB), are required to classify all sex offenders released from their facilities into risk levels I (low-risk), II (moderate-risk), or III (high-risk) for the purposes of public notification. These releasing agencies must issue to appropriate law enforcement agencies narrative notices that contain the identity, criminal history behavior, and the risk level classification for each sex offender being released and, for level II and III offenders, the reasons underlying the classification.

Local law enforcement agencies are required to consider the state classification level when assigning their own level for public notification purposes. When a local jurisdiction assigns a different risk classification level than the one assigned by the releasing agency, the local jurisdiction must notify the releasing agency of its decision and its reasons for doing so.

Kidnapping offenders are not classified into one of the three risk levels unless the underlying kidnapping offense has some type of sexual motivation. The DOC, the JRA, and the ISRB provide the same notifications to the local law enforcement agencies regarding kidnapping offenders as they do for sex offenders.

Notice Dissemination. A public agency may release information to the public regarding a sex or kidnapping offender when the agency has determined that the disclosure is relevant and necessary to protect the public and counteract the danger posed by the offender. The extent of this disclosure must be rationally related to:

- the risk posed by the offender to the community;
- the location of the offender; and
- the need of the community for the information to enhance safety.

A law enforcement agency must consider certain guidelines when determining the extent of the disclosure depending on the risk level of the sex offender:

- For level I offenders, the agency must share the information with other law enforcement agencies and may share the information with: (1) victims; (2) witnesses; and (3) individual community members living near the offender.

- For level II offenders, the agency may also share the information with: (1) schools; (2) day care centers and providers; (3) businesses and organizations primarily serving children, women, or vulnerable adults; and (4) neighbors and community groups located near the offender.
- For level III offenders and sex offenders registered as homeless or transient, the agency may also share the information with the public at large.

The county sheriff, with whom an offender is classified as a level III offender, must publish sex offender community notification in at least one legal newspaper with general circulation in the area of the offender's registered address or location. In addition, the sheriff must publish a list of level III offenders in the county twice a year. The list must also be maintained on a publicly accessible web site that must be updated once a month.

Summary: The statute that regulates the dissemination of community notifications of sex and kidnapping offenders is expanded. In addition to the other specified individuals and organizations as stipulated in statute, local law enforcement agencies may share information regarding level II and III offenders with public libraries.

Votes on Final Passage:

House	87	0
Senate	48	0

Effective: July 24, 2005

2SHB 1168

C 275 L 05

Authorizing the state board of pharmacy to regulate non-resident Canadian pharmacies.

By House Committee on Appropriations (originally sponsored by Representatives Appleton, O'Brien, Cody, Campbell, Moeller, P. Sullivan, Chase, Flannigan, McCoy, Sells, Simpson, Darneille, Hasegawa, McIntire, Murray, McDermott, Morrell, Green, Schual-Berke, Kagi, Kessler, Dickerson, Kenney, Hankins, Conway, Lantz, Ormsby, Wallace and Upthegrove).

House Committee on Health Care
House Committee on Appropriations
Senate Committee on Health & Long-Term Care

Background: The Department of Health (Department) currently licenses pharmacies located in Washington state, and out-of-state pharmacies that provide services to Washington residents. The Department maintains reciprocal licensing agreements with other state's pharmacy licensing authorities. The Department does not license pharmacies located in foreign countries.

Summary: The Board of Pharmacy will submit a waiver request to the food and drug administration authorizing it to license Canadian pharmacies. The Department of Health will license any Canadian phar-

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macy that ships, mails, or delivers prescription drugs to Washington residents. If the Department is unable to develop a reciprocal licensing agreement with Health Canada or a Canadian province, it will license participating Canadian pharmacies through on-site inspection and certification.

Votes on Final Passage:

House	54	41	
Senate	33	14	(Senate amended)
House	60	35	(House concurred)

Effective: July 24, 2005

HB 1170

C 188 L 05

Eliminating basic health plan eligibility of persons holding student visas.

By Representatives Dickerson, Cody, Sommers, Darneille, Schual-Berke, Kenney and Clibborn.

House Committee on Health Care
Senate Committee on Health & Long-Term Care

Background: The Basic Health Plan provides coverage to people who are not eligible for Medicare, not confined in government-operated facilities, live in an area of the state served by a participating managed care program, have household income below 200 percent of the federal poverty level, and agree to make periodic payments to the plan. Eligibility does not require that an enrollee be a United States citizen.

Summary: Full-time students on a temporary visa to study in the United States are not eligible to enroll in the Basic Health Plan.

Votes on Final Passage:

House	97	0
Senate	45	0

Effective: July 24, 2005

SHB 1171

C 55 L 05

Limiting the court's discretion concerning denial of dissolution decrees.

By House Committee on Juvenile Justice & Family Law (originally sponsored by Representatives Dickerson, Moeller, Cody, Roberts, Schual-Berke, Appleton, Morrell, Darneille, Chase, Kenney and Ormsby).

House Committee on Juvenile Justice & Family Law
Senate Committee on Judiciary

Background: In Washington, the word "divorce" has been replaced by the term "dissolution." Washington is a no-fault state, which means that either spouse may ask the court to dissolve the marriage by stating that the marriage is irretrievably broken. The other party can delay, but not stop, the dissolution by alleging that the marriage is not irretrievably broken.

To start a dissolution proceeding, one spouse must file with the court a summons and petition for dissolution of marriage. If the other party joins in the petition or does not deny that the marriage is irretrievably broken, the court may enter a decree of dissolution 90 days after the petition for dissolution of marriage has been filed with the court. The decree of dissolution legally terminates the marriage and makes provisions for the parenting of minor children, family support, and the division of property and liabilities.

Summary: A court is prohibited from using a party's pregnancy as the sole basis for denying or delaying entry of a decree of dissolution of marriage. This prohibition does not affect further proceedings under the Uniform Parentage Act.

Votes on Final Passage:

House	89	0
Senate	44	0

Effective: July 24, 2005

SHB 1174

C 249 L 05

Changing veterans' tuition waiver provisions.

By House Committee on Higher Education (originally sponsored by Representatives McCoy, Campbell, Morrell, Chase, Condotta, Hunt, Appleton, Hudgins, Armstrong, Hinkle, Conway, Lantz, Ormsby, Haigh and Upthegrove).

House Committee on Higher Education
Senate Committee on Early Learning, K-12 & Higher Education

Background: Within certain limits, institutions may waive all or a portion of tuition and fees for eligible students. For these waivers, known as state-supported

waivers, it is assumed that state moneys in the institutions' budgets will offset the tuition not collected from students as a result of granting the waivers. This authority to grant state-supported waivers is capped for each institution at a certain percentage of the total tuition revenue the institution collects. Within its respective percentage caps, each institution decides how to apportion its waiver authority among the various categories of state-supported permissive waivers.

Institutions also have authority to waive tuition on a space-available basis for certain eligible persons. Student attendance under space-available waivers is not counted for budgetary purposes.

In addition to state-supported waivers and space-available waivers, institutions also have authority to waive all or a portion of the tuition operating fee (not the building fee) for any student.

Veteran-Related State-Supported Waiver Authority.

State-supported permissive waiver authority includes the authority to waive all or a portion of tuition and fees for certain veterans. Three separate statutes permit state-supported tuition waivers for veterans. One statute permits a waiver for children of a veteran listed as missing in action or a prisoner of war.

- *A veteran enrolled on or prior to October 1977* is eligible for a full or partial tuition waiver if he/she no longer is eligible for federal educational or vocational benefits. The Higher Education Coordinating Board reports no veterans currently qualify under this category.
- *A veteran of the Vietnam conflict* is eligible for a waiver of tuition increases that have occurred since October 1977, if he/she qualifies as a resident student for tuition purposes. For purposes of the waiver, a Vietnam veteran means anyone who served in active federal duty in the armed forces during the period August 5, 1964 through May 7, 1975.
- *A veteran of the Persian Gulf combat zone* is eligible for a waiver of tuition increases that have occurred after the 1990-91 academic year, if he/she could have qualified as a resident student as of August 1990. For purposes of the waiver, a Persian Gulf veteran means anyone who served on active duty in the armed forces during any portion of 1991 in the Persian Gulf combat zone.
- *Children of a veteran listed as missing in action or a prisoner of war* are eligible for a waiver of all or a portion of tuition and fees.

Veteran-Related Space-Available Waiver Authority.

A veteran of the Korean Conflict is eligible for a waiver of all or a portion of tuition and fees. For purposes of the waiver, a veteran of the Korean Conflict means anyone who served on active duty in the armed forces of the United States during any portion of the period beginning June 27, 1950, and ending January 31, 1955.

Summary: Tuition waiver authority for all veterans is incorporated into one chapter and the various separate statutes are repealed. State-supported waiver authority is expanded to include the children and spouse, or surviving children and spouse, of eligible veterans and National Guard members. For waiver eligibility purposes, a single definition is created for veterans and National Guard members.

Eligible Veterans and National Guard Members.

Eligible veterans and National Guard members means Washington residents who are or were active duty or reserve military members or National Guard members called to active federal service in a war or conflict fought on foreign soil or in international waters or in support of others serving on foreign soil or in international waters. Veterans and National Guard members who have been discharged from active federal service must have received an honorable discharge in order to be eligible for a waiver.

Permissive Waivers. Within state-supported waiver authority, institutions of higher education may waive all or a portion of tuition and fees for:

- an eligible veteran or National Guard member;
- the child or spouse of an eligible veteran or National Guard member who was totally disabled in the line of duty, or who is listed as missing in action or a prisoner of war; and
- the surviving child or spouse of an eligible veteran or National Guard member killed in the line of duty. Upon remarriage, however, the surviving spouse no longer is eligible for a waiver.

Institutions of higher education also may waive all or a portion of tuition and fees for a military or naval veteran who did not serve in active federal service abroad or in support of those serving abroad and who does not qualify as an eligible veteran or National Guard member. For these waivers no State General Fund support is assumed and they are not counted for purposes of an institutions percentage cap on tuition waivers.

Private vocational schools and institutions of higher education are encouraged to provide waivers consistent with those provided by the public institutions.

Votes on Final Passage:

House	96	0	
Senate	44	0	(Senate amended)
House	95	0	(House concurred)

Effective: July 24, 2005

SHB 1179

C 312 L 05

Authorizing a pilot project for high-occupancy toll lanes.

By House Committee on Transportation (originally sponsored by Representatives Murray, Shabro, Wallace, Woods, Jarrett, Simpson, Springer, Dickerson, Quall, Armstrong, Kenney, Clibborn and McIntire; by request of Department of Transportation).

House Committee on Transportation
Senate Committee on Transportation

Background: High Occupancy Vehicle (HOV) lanes are highway lanes reserved part-time or full-time for vehicles carrying a minimum number of occupants. The object of these lanes is to facilitate the operation of transit vehicles and other multi-occupant vehicles, allowing them to avoid congestion and providing those vehicles with improved travel times. There are currently over 200 miles of HOV lanes in operation in the central Puget Sound area. During certain periods, HOV lanes are operating below capacity while adjacent general purpose lanes are congested.

High Occupancy Toll (HOT) lanes are lanes that are open to carpools, vanpools, transit vehicles, and toll-paying single occupant vehicles. The goal for establishing these lanes is to provide a higher level of service for multi-occupant vehicles, while permitting single occupant vehicles to use surplus capacity in the lane by paying a toll. The HOT lanes have been employed in several corridors in California.

The Department of Transportation (DOT) has authority to designate HOV lanes on state highways. It does not, however, have the authority to designate HOT lanes and impose charges for the use of those lanes. The Transportation Commission as part of its evaluation of HOV lanes directed the DOT to evaluate the feasibility of converting a portion of the HOV lane system to HOT lanes. The DOT staff identified a portion of State Route 167 as the best candidate to implement a HOT lane pilot project.

Summary: The DOT is permitted to establish and operate a HOT lane pilot project along the nine miles of high occupancy vehicle lanes on State Route 167 within King County. Tolls on the project are to be established by the Transportation Commission and may vary in amount by time of day, level of traffic congestion, vehicle occupancy or other criteria. Special tolls may be provided for zero emission vehicles. During peak hours, the tolls must be adjusted to maintain HOT lane performance of at least 45 miles per hour for at least 90 percent of the time. The DOT is directed to mitigate impacts to HOV lane users and address safety issues. The DOT is to report annually to the Transportation Commission and the Legislature on the project impacts on operational efficiency, effectiveness for transit, sufficiency of financ-

ing through tolls, and impacts on all highway users and model choices. Surveys are authorized to determine this information.

Construction of the facilities to implement the toll project must begin within four years or the HOT lane pilot authority expires and the tolling authorization is limited to a period of four years. Violation of the restricted access portion of a HOT lane is a traffic infraction.

The HOT Lanes Operations Account is created in the state treasury. Interest on the Account accrues to the Account. Money in the Account may be used for financing the improvements, toll collections enforcement, and maintenance on the facility and carpools, vanpools, and transit services in the corridor. A reasonable proportion of the funds in the Account must be dedicated to increase transit, vanpool, carpool and trip reduction services.

The personally identifying information of persons using transponders to facilitate payment of tolls is exempted from public disclosure but the information may be disclosed in aggregate by census tract. Law enforcement agencies may only access personally identifying information for toll enforcement purposes, except by court order.

Votes on Final Passage:

House	83	13	
Senate	47	2	(Senate amended)
House	86	9	(House concurred)

Effective: July 24, 2005
May 9, 2005 (Section 5)
June 30, 2005 (Section 6)
July 1, 2006 (Section 8)

HB 1180

C 189 L 05

Harmonizing vehicle size limits with federal rules.

By Representatives Kilmer, Wallace and Woods; by request of Department of Transportation.

House Committee on Transportation
Senate Committee on Transportation

Background: Vehicles considered to be "specialized equipment" include auto and boat carriers, certain cranes, concrete pumper trucks and various well drilling apparatus. To operate on public roadways in Washington, many of these vehicle classes must on a class-by-class basis, have a permit, and some are unable to operate due to incompatibilities with state law. In 2004 the Federal Highway Administration (FHA) adopted a federal rule in the category of specialized equipment regarding a vehicle combination used for moving explosives. A vehicle of this type is not permitted to operate under Washington law.

The FHA also revised its Federal National Safety

Standard regarding external rearview mirrors used on vehicles engaged in interstate transport. Washington law, which does not allow mirrors to extend more than five inches from the side of the vehicle, is out of compliance with the FHA rule. In addition, the federal list of devices excluded from vehicle length and width measurements is dynamic, doubling in the last five years, with further revisions nearing adoption. Each change places state law out of compliance.

Summary: The Department of Transportation is authorized to adopt rules regulating the size and weight of vehicles considered to be specialized equipment by the FHA, in the case of interstate travel, or the Department of Transportation, in the case of intrastate travel.

The partial list of safety and energy conservation devices that are excluded from the vehicle width and length requirements is repealed. Instead, the Department of Transportation is required to adopt rules identifying certain devices attached to vehicles for safety, energy conservation, or other necessary purposes. These devices are excluded from calculations of the vehicles length or width, provided that these devices are not designed or used to carry cargo.

External rearview mirrors are no longer limited to extending no more than five inches beyond the width limit of the vehicle. The mirrors may extend beyond the width limits of the vehicle to a point that allows conformance with the Federal National Safety Standard and state law.

Votes on Final Passage:

House	96	1
Senate	47	0

Effective: July 24, 2005

SHB 1181

C 311 L 05

Facilitating sealed ocean-going container movement.

By House Committee on Transportation (originally sponsored by Representatives Flannigan, Ericksen, Wallace, Woods, Chase and Kilmer; by request of Department of Transportation).

House Committee on Transportation
Senate Committee on Transportation

Background: Vehicles in excess of the legal weight limits are prohibited from traveling on public highways of the state without an overweight permit. Legal weight limits are determined by a combination of three factors: tire size, axel weight, and a vehicle weight table (established in state law). The maximum legal gross vehicle weight under federal law is 80,000 pounds. However, Washington has grandfather rights to 105,500 pounds.

Under certain circumstances, the Washington State Department of Transportation (WSDOT) may issue a

special overweight permit for a vehicle exceeding legal axle and/or gross weight limits. To qualify for an overweight permit, the hauler first must show that the load is non-divisible (meaning that it cannot reasonably be dismantled or disassembled). If the load can be reduced, even if that would require the use of additional vehicles, no overweight permit may be issued.

For non-divisible loads, an overweight permit may be granted if the WSDOT determines that the structures and roads over which the load is to travel can sustain the weight without undue roadway stress.

Cities and counties also regulate the permissible weights of vehicles moving on their roadways. In most instances, the vehicle weight restrictions match state and federal law, although local permit fees for overweight loads may differ from state permit fees.

Public policy encourages the movement of heavy loads by water or rail. Most long-distance heavy loads are transported by rail, ship or barge. However, moving these heavy loads from one mode of travel (e.g., rail) to another mode of travel (e.g., ocean-going vessel or river barge) often requires a "trans-load" — a transfer of the load between the two primary modes of travel. This transload is often accomplished by heavy-haul trucks. Since these trucks sometimes exceed legal weights, special overweight permits would be required any time the trucks enter a public highway.

Several states have declared sealed, containerized cargo destined for ocean-going vessels as non-divisible. In Washington, there is no clear definition or declaration whether such sealed, ocean-going containers are divisible. If these containers are considered divisible, they would be prohibited from traveling overweight on public highways. If they are considered non-divisible, they would be eligible for issuance of a special overweight permit.

Summary: The WSDOT is authorized to enter into agreements with port districts to create and maintain heavy haul industrial corridors within port district property. At the request of a port district, heavy haul industrial corridors may be established for the purpose of issuing special permits for the transloading of sealed ocean-going containers over short distances.

Sealed ocean-going containers are declared non-divisible when transported within a heavy haul industrial corridor.

Special permits may be issued to vehicles operating within the corridor, provided the gross vehicle weight and/or axle weight limits are within the permitted weight limits as prescribed in state law.

The special permit fees for vehicles operating in the heavy haul industrial corridor are set at \$100 per month, or \$1,000 per year. After administrative costs are paid, proceeds from these fees must be deposited into the Motor Vehicle Fund. The costs of these permits may not be passed on to for-hire truckers or rail shippers.

Votes on Final Passage:

House 94 1
Senate 45 0 (Senate amended)
House 95 0 (House concurred)

Effective: July 24, 2005

HB 1183
C 190 L 05

Renaming the commission on supreme court reports.
By Representatives Williams and Serben; by request of Supreme Court.

House Committee on Judiciary
Senate Committee on Judiciary

Background: The Commission on Supreme Court Reports advises the Washington Supreme Court on the publication of the decisions of the appellate courts in the state. The appellate courts include both the Washington Supreme Court and the Court of Appeals.

Summary: The name of the Commission on Supreme Court Reports is changed to the Washington Court Reports Commission.

Votes on Final Passage:

House 96 0
Senate 46 0

Effective: July 24, 2005

SHB 1185
C 322 L 05

Prohibiting disclosure of personal wireless numbers.
By House Committee on Technology, Energy & Communications (originally sponsored by Representatives Morrell, Haler, Morris, Tom, Green, Jarrett, Clibborn, Moeller, Upthegrove, Pettigrew, Chase, Flannigan, Cody, Newhouse, Wallace, Hasegawa, Quall, Linville, Simpson, B. Sullivan, Sells, Lantz, Schual-Berke, Appleton, Campbell, Darneille, Dickerson, Armstrong, Kenney, Condotta, Kagi, Ormsby, Hunt, McIntire, Haigh and Kilmer).

House Committee on Technology, Energy & Communications
Senate Committee on Financial Institutions, Housing & Consumer Protection

Background: In 1991, Congress enacted the Telephone Consumer Protection Act (TCPA), which specifically prohibits the use of automatic dialers or pre-recorded messages to make telemarketing calls to telephones.

In 2003, the Federal Communications Commission (FCC) revised its rules implementing the TCPA and established a national Do-Not-Call Registry, which

allows individuals to place their home and wireless phone numbers in the registry. Under the Do-Not-Call Registry, telemarketers are required to search the registry every three months and to avoid calling individuals who have included their number in the registry. Washington does not maintain its own do-not-call list, but Washington residents may register for the Do-Not-Call Registry.

Washington law prohibits the sending of unsolicited commercial electronic text messages to wireless phones or pagers. It does not, however, prohibit telemarketers from making unsolicited calls to wireless phones.

Directory service using 4-1-1 is not available for wireless service. Washington law does not restrict wireless telephone companies from including a subscriber's wireless phone number in a public directory.

Summary: Wireless telephone companies must obtain express opt-in consent from a subscriber before publishing his or her wireless phone number in a directory. Consent must be obtained in writing or electronically, and a receipt must be provided to the subscriber. In addition, the subscriber's consent must be obtained in a separate document or located on a separate screen or web page that has the sole purpose of authorizing a wireless telephone company to include the subscriber's phone number in the directory. In obtaining consent, the provider must disclose to the subscriber that he or she bears the responsibility for paying for any additional cost incurred as the result of receiving unsolicited calls.

A subscriber may revoke his or her consent at any time. If the subscriber revokes his or her consent, the telephone company must comply with the subscriber's request within a reasonable period of time, not to exceed 60 days. In addition, the subscriber may not be charged for choosing not to be listed in the directory.

Non-consensual disclosure of a subscriber's wireless phone number is permissible under certain, limited circumstances:

- to law enforcement, fire protection, public health, or city or county emergency service planning agencies for purposes of responding to a 911 call or communicating imminent threat to life or property;
- to a sales agent for providing cell phone numbers to the cellular provider for billing and customer service;
- through a lawful process under state or federal law;
- to a telephone company to facilitate service between service areas;
- to a third party for billing purposes;
- to a telephone company to transfer a telephone number from one provider to a new provider; and
- to the Washington Utilities and Transportation Commission (WUTC) pursuant to its jurisdiction and control over telephone companies.

The Attorney General may bring an action to enforce compliance. Knowing violations are punishable by a

fine of up to \$50,000 for each violation. For first violations, the Attorney General may send a letter of warning.

Votes on Final Passage:

House	96	0	
Senate	45	0	(Senate amended)
House	95	0	(House concurred)

Effective: July 24, 2005

EHB 1187
C 437 L 05

Eliminating mandatory minimum sentences for certain youthful offenders tried as adults.

By Representatives Dickerson, Moeller, Kagi, Roberts, Darneille, Schual-Berke, Chase, Clibborn, McIntire, Upthegrove and Hasegawa.

House Committee on Juvenile Justice & Family Law
Senate Committee on Human Services & Corrections

Background: Generally, juvenile court exercises jurisdiction over criminal offenses committed by juveniles 17 years of age or younger. However, the adult court may exercise jurisdiction over an offender under the age of 18 in two circumstances. First, the court may hold a hearing and decline jurisdiction over the youth. Second, jurisdiction may be automatically transferred to adult court if the youth is 16 or 17 years old and the specific criteria for automatic transfer is met.

If the youth is convicted of the offense in adult court, he or she will be subject to the same penalties as an adult who is over the age of 18. The Sentencing Reform Act governs the sentencing of adults and juveniles prosecuted as adults. Offenders are sentenced based upon a grid by which the sentence is calculated from the seriousness level given to the offense and the offender's prior criminal history. The sentencing grid contains a range of months of confinement from which the judge may choose a specific number of months as the sentence to be imposed on the defendant.

A judge may impose a sentence outside the standard range only if he or she finds aggravating or mitigating circumstances sufficient to support an exceptional sentence that is either above or below the standard range.

Some offenses carry a mandatory minimum sentence, meaning that the judge may not give a sentence below the period of confinement specified in the statute. These sentences cannot be reduced by factors that would be considered in a standard range sentence, such as exceptional sentences or earned early release. Mandatory minimum sentences apply to both adults and juveniles who are tried as adults.

Summary: The adult mandatory minimum sentences do not apply when a juvenile is sent to adult court after a decline hearing has been held in juvenile court and the court determines the adult court is the appropriate court

for the juvenile. When a juvenile has been discretionarily declined, a judge may either sentence a juvenile to any sentence within the standard range for the offense or impose an exceptional sentence downward. The juvenile would also be eligible for the same opportunity for earned early release as any person sentenced for a standard range sentence.

The mandatory minimum sentences will continue to apply to cases that are automatically transferred to adult court. The sentencing change applies only to offenses committed on or after the effective date of the act.

Votes on Final Passage:

House	96	0	
Senate	49	0	(Senate amended)
House			(House refused to concur)
Senate	49	0	(Senate amended)
House	97	0	(House concurred)

Effective: July 24, 2005

2SHB 1188
C 438 L 05

Negotiating state patrol officer wages and wage-related matters.

By Representatives Murray, Woods, Conway, O'Brien, Ericks, Condotta, Wood, Simpson, Campbell, P. Sullivan, Lovick, Williams, Chase, Hinkle and Ormsby.

House Committee on Commerce & Labor
House Committee on Appropriations
House Committee on Transportation
Senate Committee on Transportation

Background: Employees of cities, counties, and other political subdivisions of the state bargain their wages and working conditions under the Public Employees' Collective Bargaining Act (PECBA). The Washington State Patrol is also subject to the PECBA as the public employer of its appointed officers.

Under the PECBA, the employer and exclusive bargaining representative have a mutual obligation to negotiate in good faith over specified mandatory subjects of bargaining: grievance procedures and personnel matters, including wages, hours, and working conditions. With respect to negotiations between the Washington State Patrol and its appointed officers, the subjects of bargaining include wage-related matters, but negotiations are prohibited over rates of pay, wage levels, or matters relating to retirement benefits, health care, or other employee insurance benefits. If wage-related provisions are entered into before the Legislature approves the necessary funding, then these provisions must be conditioned on subsequent approval of the funds.

State Patrol officers and certain other law enforcement officers and fire fighters are considered "uniformed personnel." To resolve bargaining disputes involving

these uniformed personnel, the PECBA requires binding interest arbitration if negotiations for a contract reach impasse and cannot be resolved through mediation.

Summary: For the officers of the Washington State Patrol, subjects of bargaining include all wage and wage-related matters. However, negotiations over retirement benefits, health care, or other employee insurance benefits continue to be prohibited.

For the purpose of bargaining with state patrol officers, the state is the employer. The state is represented by the Governor or Governor's designee appointed under the Personnel System Reform Act of 2002. The Governor or Governor's designee must consult with the Chief of the Washington State Patrol regarding collective bargaining.

When negotiating wages and wage-related matters, the Governor's designee must also consult with a subcommittee of the Joint Employment Relations Committee (JCER). This subcommittee will consist of the JCER leadership members and the chairs and ranking minority members of the Senate Transportation Committee and the House Transportation Committee.

The Governor must submit a legislative request for funds necessary to implement the wage and wage-related matters in the collective bargaining agreement, or for legislation necessary to implement the agreement, if the requests have been submitted to the Office of Financial Management (OFM) by October 1 before the legislative session at which the request would be considered and the Director of OFM certifies the requests as financially feasible, or if the request reflects the decision of an arbitration panel.

If an impasse in negotiations results in an arbitration award, that decision is not binding on the Legislature. If the Legislature does not approve the funds necessary to implement the wage and wage-related matters of an arbitrated collective bargaining agreement, the arbitration decision is not binding on the state or the Washington State Patrol.

Votes on Final Passage:

House	96	0	
Senate	48	0	(Senate amended)
House			(House refused to concur)
Senate	46	0	(Senate amended)
House	98	0	(House concurred)

Effective: July 24, 2005

Providing relief for indigent veterans and their families.

By House Committee on Local Government (originally sponsored by Representatives Moeller, Bailey, McCoy, Armstrong, Williams, Newhouse, Fromhold, Springer, Ericks, Flannigan, Curtis, Cody, Condotta, Appleton, Hinkle, Morrell, Campbell, Pearson, Chase, Dickerson, Linville, Woods, Kenney, O'Brien, Conway, Lantz, Sells, Kagi, Ormsby, Haigh, Upthegrove, Hasegawa and Kilmer).

House Committee on Local Government
Senate Committee on Government Operations & Elections

Background: Veterans' Relief - General Provisions.

The legislative authority of a county with a city, town, or precinct containing qualifying indigent and suffering veterans or family members must provide funds for the relief of these veterans and family members. Eligibility and procedural criteria must be satisfied and the funds may only be drawn upon by certain officials of qualifying national veterans' organizations (organization officials). "Veteran," for the purposes of this relief provision, includes every person who, at the time he or she seeks certain benefits, has received an honorable discharge or a discharge for physical reasons with an honorable record, subject to statutory requirements.

If a post, camp, or chapter of a qualified national veterans' organization does not exist in any precinct in which it should be granted, the applicable county legislative authority may, if certain criteria are met, accept and pay the orders drawn upon by organization officials located in the nearest city or town.

The commander of any post, camp, or chapter of a qualifying national veterans' organization (commander) must file, prior to relief acts becoming operative, notice with the county auditor that the post, camp, or chapter intends to undertake veterans' relief actions. The notice, which must be filed annually with the auditor, must contain specific information, including a detailed statement of the amount of relief furnished during the preceding year.

The county legislative authority may require that the organization officials post a bond with sufficient and satisfactory sureties for the faithful and honest discharge of veterans' relief duties.

Interment Provisions. The legislative authority in each county must designate a proper authority to ensure the interment of, at the request of a commander, qualifying veterans and family members who die without leaving sufficient means to defray funeral expenses. The interment must not cost more than a county-established limit, nor less than \$300. Relatives or friends of the deceased may receive the defrayal funds from the county treasurer if specified requirements are met.

Taxation Provisions. County legislative authorities must levy a tax for the purpose of creating the veteran's assistance fund for the relief of qualifying veterans and the indigent wives, husbands, widows, widowers, and minor children of such indigent or deceased veterans. "Veteran" is defined for this provision using a different statutory definition than was referenced above. The funds are to be disbursed by the county legislative authority. The costs incurred in the administration of the fund must be computed by the county treasurer at least annually and such amount may then be transferred from the relief fund to the county current expense fund.

Summary: Veterans' relief provisions are modified or repealed and new provisions are specified. A summary of the new, amended, and repealed provisions is as follows:

Veterans' Relief - General Provisions. Each county legislative authority (legislative authority) must establish a veterans' assistance program to address the relief needs of qualifying local indigent veterans and their families. The legislative authority must consult with and solicit recommendations from the applicable veterans' advisory board to determine the appropriate services needed for local indigent veterans. Veterans' assistance programs must at least partially be funded by the veterans' assistance fund established in the county.

Legislative authorities may authorize other entities to administer veterans' assistance programs through grants, contracts, or interlocal agreements. If this authorization is exercised, the terms of the grant, contract, or interlocal agreement must specify certain provisions, including the details of the program, the costs and sources of funding, insurance or bond requirements, and the format and frequency of reports. Counties exercising this authorization should, to the extent feasible and consistent with specified relief provisions, ensure that a local branch of a nationally recognized veterans' service organization is the initial point of contact for a veteran or family member seeking assistance.

Counties may authorize the continued operation of veterans' relief or assistance programs existing on January 1, 2005, if the county solicits advice from the applicable veterans' advisory board and satisfies specified grant, contractual, or interlocal agreement requirements.

Veterans' Advisory Board. The legislative authority of each county must establish a veterans' advisory board to advise the authority on the needs of local indigent veterans, the resources available to such veterans, and programs that could benefit the needs of these veterans and their families. Legislative authorities must solicit representatives for the board from either local branches of nationally recognized veterans' service organizations or the veterans' community at large, or both. A majority of the board members must be members from nationally recognized veterans' service organizations. Only veterans may serve as board members. Service on the board

is voluntary, but the county may provide reimbursements for expenses incurred.

Burial and Cremation Provisions. Each legislative authority must designate a proper authority to be responsible, at the expense of the county, for the burial or cremation of any qualifying deceased indigent veteran or family member who died without leaving sufficient means to defray funeral expenses. The burial or cremation may not exceed the limit established by the county nor be less than \$300. Relatives or friends of the deceased may be recipients of the defrayal funds from the county auditor or qualifying chief financial officer if specified requirements are met. Expenses incurred for the burial or cremation of a qualifying deceased veteran or family member must be paid from the veterans' assistance fund.

Financial Provisions and Direct and Indirect Costs. Expenditures from the veterans' assistance fund and interest earned on balances from the fund may only be used for:

- authorized veterans' assistance programs;
- the burial or cremation of a qualifying veteran or family member; and
- qualifying direct and indirect costs incurred in the administration of the fund.

The direct and indirect fund administration costs must be computed by the county auditor or qualifying chief financial officer not less than annually. Following this computation, an amount equal to these costs may then be transferred from the assistance fund to the county current expense fund.

The Department of Social and Health Services must exempt payments provided from veterans' assistance programs when determining eligibility for public assistance.

Repealed Provisions. Statutory provisions pertaining to precincts without veterans' organizations, notifications of intentions to furnish veterans' relief, annual relief statements, and performance bonds are repealed.

Definitions. Definitions of terms pertaining to veterans' relief are specified or modified. Examples include:

- "Veteran" is defined by referencing existing definitions specifying, in part, that the term includes every person who, at the time he or she seeks certain benefits, has received an honorable discharge or a discharge for physical or medical reasons with an honorable record, and who has served in specified capacities.
- "Family" is defined as the spouse, widow, widower, and dependent children of a living or deceased veteran.
- "Indigent" is defined, in part, as a person who is defined as such by the county legislative authority in accordance with specified criteria.

Votes on Final Passage:

House	90	6	
Senate	49	0	(Senate amended)
House	95	0	(House concurred)

Effective: July 24, 2005

SHB 1196
C 100 L 05

Including the longshore and harbor workers' compensation account within the Washington insurance guaranty association.

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Kirby, Roach, Simpson and Chase; by request of Insurance Commissioner).

House Committee on Financial Institutions & Insurance
Senate Committee on Labor, Commerce, Research & Development

Background: United States Longshore and Harbor Workers' Compensation Insurance. Under the United States Longshore and Harbor Workers' (USL&H) Compensation Act, businesses whose employees are employed in maritime employment on or near the navigable waters of the United States are required to purchase USL&H workers' compensation insurance. This includes businesses that provide services on docks, such as electricians and other contractors. This insurance is available from private insurers authorized to write coverage in Washington. If an employer cannot obtain this insurance coverage through the private market, the employer can purchase coverage from the USL&H assigned risk plan.

Guaranty Associations. The purpose of a guaranty association is to provide a mechanism for payment of covered claims when an insurer becomes insolvent. The association spreads the cost by assessments on member insurers. Under the existing guaranty associations, an insurer is allowed to credit one-fifth of an assessment against the premium tax owed by the insurer for five consecutive years.

There are two insurance guaranty associations in Washington. One covers life and disability insurance policies. The second, the Washington Insurance Guaranty Association (WIGA), covers most property and casualty insurance policies but does not cover any private workers' compensation coverages. The WIGA has two accounts, one account for automobile insurance and one account for all other insurances.

The USL&H is a type of insurance that is not allowed to participate in WIGA. If an insurer selling USL&H coverage becomes insolvent, the employer who purchased the coverage is liable for costs associated with an employee's on the job injury or death if the insurer

becomes insolvent.

Insurance Commissioner study. Engrossed Senate Bill 6158 in 2004 required the Insurance Commissioner to study the impact and effectiveness of covering USL&H insurance under the Washington guarantee association and make recommendations to the Legislature. The results of the study and recommendations were included in a report submitted by Insurance Commissioner prior to the 2005 session.

Summary: Administration of the USL&H Account. A third account is created in WIGA, for USL&H insurance. The WIGA may not use funds from any other account to pay for USL&H claims. After an insolvency of a USL&H insurer, WIGA's board must have at least one member that represents the interest of USL&H insurers. The member may be added at the next annual meeting following the insolvency.

Coverage of Existing Troubled Employers. The WIGA is obligated to cover USL&H claims involving an insolvency that occurs after the effective date of the act. "Insolvent insurer" as an insurer that (1) was authorized to write USL&H insurance at the time of the contract, and (2) is determined to be insolvent by a court after the act's effective date.

Pre-insolvency Assessment. Beginning on July 1, 2005, insurers who write USL&H insurance will be assessed to create a pool of money in the new account. The annual rate will be determined by WIGA but will not exceed 3 percent of the insurer's net direct written premium for the previous calendar year. Assessments will continue until the fund equals 4 percent of the direct written premium of all insurers in the preceding calendar year.

Post-insolvency Assessments. After an insolvency, insurers will be assessed to create a pool of money in the new account. The annual rate will be determined by WIGA but will not exceed 3 percent of the insurer's net direct written premium for the previous calendar year. Assessments will continue until WIGA determines that the fund can meet all claim and loan obligations of the fund. At no time may the fund exceed 4 percent of the direct written premium of all insurers in the preceding calendar year.

Premium Tax Credit. The insurers are allowed to credit one-fifth of an assessment against their premium tax owed for five consecutive years.

Loans. If funds are needed for the USL&H account, WIGA may seek a loan from the USL&H Assigned Risk Plan or other parties.

Votes on Final Passage:

House	93	2
Senate	48	0

Effective: April 20, 2005

SHB 1197
PARTIAL VETO
 C 223 L 05

Regulating insurance, generally.

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Roach and Kirby; by request of Insurance Commissioner).

House Committee on Financial Institutions & Insurance
 Senate Committee on Financial Institutions, Housing & Consumer Protection

Background: The Insurance Commissioner (Commissioner) is authorized to regulate all insurance business in Washington, including certification of various types of insurers, approval of rate and form contracts, licensing of agents and brokers, collection of premium taxes, and responding to consumer complaints.

Title Insurance Reserve Requirements. A title insurance company must obtain a certificate of authority from the Office of the Insurance Commissioner (OIC) to conduct business in Washington. The certificate will not be issued unless the title insurer makes a guaranty fund deposit with the OIC. The amount required to be deposited is based on the size of the largest county in which the insurer is authorized to transact business. The amount ranges from \$10,000 for a county with a population under 15,000 up to \$200,000 for a county with a population over 500,000. Title insurers are also required to keep a reserve fund. The amount is determined by applying the rate of 25 cents for each \$1,000 of net increase of insurance the insurer has in force at the end of the year. This must continue or resume as needed to maintain the special reserve fund at an amount equal to not less than the required guaranty fund deposit. The reserve fund is held by the insurer as an additional guaranty fund and is used only for the payment of losses after the insurer's liquid resources have been exhausted.

Medicare Supplement. Medicare Supplement products are designed to fill in the "gaps" where Medicare does not provide coverage. Medicare Supplement products are filed for review by the Insurance Commissioner. The products are subject to state and federal requirements, including the Health Insurance Portability and Accountability Act (HIPAA) and the Medicare Modernization Act of 2003.

Regulation of Commercial Property Casualty Forms. Generally, commercial property casualty rates and forms must be filed with the Insurance Commissioner within 30 days of issuance. The Commissioner has, by rule, exempted certain commercial property casualty rates from filing but is precluded from doing so with forms.

Appointment of Agents. Agents must be appointed by an insurer before they can place business with the insurer.

Group Life Insurance. There is a limitation in a

group life insurance contract that an employee may purchase a life insurance policy on a spouse or child in an amount not to exceed 50 percent of the insurance on the life of the employee.

Insurer Anti-Fraud Plans. Insurers must file an anti-fraud plan with the Insurance Commissioner. Annually, insurers must provide a summary report on actions taken under its anti-fraud plan to prevent and combat insurance fraud. The anti-fraud plans and summary of the insurer's anti-fraud activities are proprietary. They are not public records, are not subject to public examination, and are not discoverable or admissible in civil litigation. An insurer that fails to follow the anti-fraud plan is subject to a civil penalty of up to \$10,000 for each violation.

Managing General Agent. A managing general agent is a person who manages all or part of the business of an insurer. An insurer's employee may not be a managing general agent. A managing general agent must be licensed by the Commissioner, designated as a managing general agent, and appointed by the insurer.

Taxes and Health Care Service Contractors (HCSCs), Health Maintenance Organizations (HMOs), and Multiple Employer Welfare Arrangements (MEWAs). HCSCs, HMOs, and MEWAs are required to prepay taxes based on a specific formula that factors in premiums and prepayment of health services. Payments are due in specified percentages at specified times in a calendar year.

Garnishment Exemption for Benefits Paid on Annuity Contracts. By law, \$250 in annuity benefits are exempt from possible wage garnishments.

Service Contractors. Application fees, renewal fees, and filings fees are deposited in the Insurance Commissioner's regulatory account.

Publication of Insurance Laws. The Insurance Commissioner may publish the insurance code "and supplements thereto, and related statutes." The Insurance Commissioner may charge a reasonable fee to cover expenses. Funds received from the sales are considered a recovery of previous expenditure for appropriation purposes and are deposited into the State General Fund.

Summary: Title Insurance. The definition of title insurance is clarified throughout the code to reflect that it is insurance for owners of "real property." The minimum capital and surplus requirements for title insurers is established at \$2 million for basic surplus and \$2 million for additional surplus. Title insurers must maintain reserves sufficient to cover all known and unknown liabilities. The insurer must calculate an adjusted statutory unearned premium reserve as of the effective date of this provision. The adjusted statutory unearned premium reserve must be released from the reserve and restored to net profits over a period not to exceed 10 years. A supplemental reserve is established as necessary to cover the company's liabilities with respect to all losses, claims, and loss adjustment expenses. The supplemental reserve

will be phased in through December 31, 2008. Domestic title insurers must keep invested funds in an amount not less than the reserve requirements specified above.

Medicare Supplement. "Creditable coverage" is defined to be consistent with the federal HIPAA standard. Changes are made to address the Medicare Modernization Act of 2003 concerning prescription drug benefits. Federal portability concerns are addressed, and changes are made to account for Medicare Supplement Plans K and L.

Regulation of Commercial Property Casualty Forms. The Commissioner may, by rule, exempt commercial property casualty forms from filing requirements.

Appointment of Agents. The Insurance Commissioner may, by rule, allow agents to place business for up to 30 days before notifying the Commissioner of the appointment by the insurer.

Group Life Insurance. The limitation is removed in a group life insurance contract that an employee may purchase a life insurance policy on a spouse or child in an amount not to exceed 50 percent of the insurance on the life of the employee.

Anti-fraud Plans. Insurers with gross written premiums of less than \$1,000 per year are exempted from filing an anti-fraud plan. The annual summary report must be filed by March 31 of each year, and penalties apply if filing is not timely.

Taxes and Health Care Service Contractors (HCSCs), Health Maintenance Organizations (HMOs), and Multiple Employer Welfare Arrangements (MEWAs). When a HCSC, HMO, or MEWA transfers a contract to another HCSC, HMO, or MEWA, the tax obligation is also transferred.

Managing General Agents. A managing general agent must hold funds collected for an insurer in a fiduciary capacity in a Federal Deposit Insurance Corporation (FDIC) insured financial institution.

Publication of Insurance Laws. The Insurance Commissioner's authority to publish insurance rules and insurance-related technical assistance advisories is clarified. Funds received from the sales may be deposited into the Commissioner's regulatory account.

Garnishment Exemption for Benefits Paid on Annuity Contracts. With respect to annuity benefits, the amount that is exempt from wage garnishment is increased from \$250 to \$2,500.

Service Contractors. Application fees, renewal fees, and filing fees are deposited in the State General Fund instead of the Insurance Commissioner's regulatory account.

Other. Various technical changes are made to correct and repeal outdated statutory references.

Votes on Final Passage:

House 97 0
Senate 45 0

Effective: July 24, 2005

Partial Veto Summary: Vetoes the provisions that updated Medicare supplemental insurance statutes to conform with changes in federal law.

VETO MESSAGE ON HB 1197-S

April 28, 2005

To the Honorable Speaker and Members,
The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning, without my approval as to Sections 26-30, Substitute House Bill No. 1197 entitled:

"AN ACT Relating to insurance."

Sections 26-30 of Substitute House Bill No. 1197, which concern Medicare supplemental insurance, are redundant and already covered in Senate Bill 5198 (Implementing changes to Medicare supplemental insurance requirements as mandated by the Medicare Modernization Act of 2003 and other federal requirements). I signed Senate Bill 5198 on April 13, 2005.

For these reasons, I have vetoed Sections 26-30 of Substitute House Bill No. 1197.

With the exception of Sections 26-30, Substitute House Bill No. 1197 is approved.

Respectfully submitted,

Christine O. Gregoire
Governor

HB 1202
C 91 L 05

Creating additional district court judge positions.

By Representatives Williams, Woods, Lantz, Hunt, Campbell, Appleton, McCune, Eickmeyer, Ormsby and Kilmer; by request of Board For Judicial Administration.

House Committee on Judiciary
Senate Committee on Judiciary

Background: The number of district court judges in each county is set by statute. Any change in the number of judges in a county must be made by the Legislature after receiving a recommendation from the Washington Supreme Court. The recommendation must be based on an objective workload analysis conducted by the Administrative Office of the Courts (AOC). The objective workload analysis takes into account available judicial resources and the caseload activity of the court.

The county must pay all costs associated with a district court judge position. The county may phase in a newly authorized judge position over a two-year period.

Kitsap County has three statutorily authorized district court positions and Thurston County has two. In 2003, the Legislature added one additional district court position in Clark County.

Summary: The number of statutorily authorized district court judges is increased in Kitsap County from three to four and in Thurston County from two to three. The additional district court position created in Clark County

in 2003 is recreated, giving the county two more years to phase in the additional judge position.

Votes on Final Passage:

House	96	0
Senate	45	0

Effective: July 24, 2005

SHB 1208

C 191 L 05

Concerning forfeited property.

By House Committee on Natural Resources, Ecology & Parks (originally sponsored by Representative O'Brien).

House Committee on Natural Resources, Ecology & Parks

Senate Committee on Water, Energy & Environment

Background: The Model Toxics Control Act (MTCA) outlines the liabilities and responsibilities of the owner or operator of a site that has been contaminated by a hazardous substance or substances. The cleaning of these contaminated sites, known as facilities, can be the responsibility of a broad range of individuals. They include the current owner or operator of the facility, any person who owned or operated the facility when the hazardous substances were disposed, and any person who owned or possessed a hazardous substance that was disposed at the facility. All entities identified as being responsible for cleaning a facility are jointly and severally liable for the expense.

The "owner or operator" of a facility is defined as any person with ownership interest or managerial control of a facility, or that was the last owner of an abandoned facility. A state entity or a local government can satisfy the criteria for being considered an owner or operator of a facility, and assume liability, unless the facility came into public ownership through bankruptcy, tax delinquency, abandonment, or other circumstances where the government acquires title involuntarily.

Subject to some conditions, ownership of any real property that is used with the knowledge of the owner for the manufacturing, compounding, processing, delivery, importation, or exportation of a controlled substance may be seized and transferred to a public entity. If the seized property is contaminated with hazardous substances to such a degree that it qualifies as a facility under the MTCA, then that public entity could be held liable as an owner or operator under the MTCA. Property seizure requires a positive action by a public entity; therefore, property seizure would not qualify as an involuntary acquisition of title under the MTCA's exceptions to the definition of owner or operator.

Summary: A state entity or local government will not become liable under the MTCA as an owner or operator

of a facility if the facility came into public ownership by way of a drug forfeiture action.

Votes on Final Passage:

House	97	1
Senate	42	2

Effective: July 24, 2005

SHB 1210

C 192 L 05

Providing for temporary combination fishing licenses.

By House Committee on Natural Resources, Ecology & Parks (originally sponsored by Representatives B. Sullivan, Buck, Blake, Kretz, Upthegrove, Eickmeyer, Orcutt and Morrell; by request of Department of Fish and Wildlife).

House Committee on Natural Resources, Ecology & Parks

House Committee on Finance

Senate Committee on Natural Resources, Ocean & Recreation

Background: The Washington Department of Fish and Wildlife (WDFW) manages the recreational harvest of fish and the licensing of recreational fishers. A personal use saltwater, freshwater, combination, or temporary license is required for all persons 15 years of age or older to fish for or possess fish taken for personal use from state or offshore waters. A temporary fishing license costs \$6 for residents and nonresidents and is valid for two consecutive days. An annual combination license allows a person to fish for or possess fish, shellfish, and seaweed from state waters or offshore waters. Fees for annual combination licenses are \$36 for residents and \$72 for nonresidents. The Fish and Wildlife Commission may set transaction fees on the sale of recreational licenses and stamps issued through the automated license system.

The WDFW requires recreational fishers to report their harvest activity on catch record cards for salmon, steelhead, sturgeon, halibut, and Dungeness crab. Catch record cards are provided free with the purchase of a license, except for Dungeness crab harvested in Puget Sound. A catch record card endorsed for Dungeness crab is required for Puget Sound recreational fishers to take or possess Dungeness crab, with a cost not to exceed \$3. A catch record card issued with a temporary short-term charter stamp is valid for two days.

Summary: Temporary combination fishing licenses are established for residents and nonresidents. The fees for

the temporary licenses are as follows:

Number of days	Resident	Nonresident
1	\$7	\$14
2	\$10	\$20
3	\$13	\$26
4	\$15	\$30
5	\$17	\$34
1 Day Charter	\$7	\$7

Charter stamps, which are valid for a one-day temporary combination fishing license, are \$7 for residents and non-residents. A transaction fee to support the automated licensing system will be taken from the amount of each temporary license. A catch record card for Dungeness crab, when purchased for a temporary fishing license, shall cost no more than \$1. Catch record cards issued with charter stamps are valid for one-day.

Votes on Final Passage:

House	96	0
Senate	42	0

Effective: July 24, 2005

HB 1211
C 140 L 05

Concerning a multiple season big game permit.

By Representatives Blake, B. Sullivan, Buck, Kretz, Eickmeyer and Armstrong; by request of Department of Fish and Wildlife.

House Committee on Natural Resources, Ecology & Parks

House Committee on Finance

Senate Committee on Natural Resources, Ocean & Recreation

Senate Committee on Ways & Means

Background: In most instances, a license issued by the Department of Fish and Wildlife (Department) is required in order for a person to hunt or fish for recreational purposes. Hunting for deer or elk requires a big game license, issued by the Department, and allows the holder to take and transport one animal. A big game license allows a hunter to participate in one of three general hunting seasons: archery, muzzleloader, or modern firearm. The dates of the general seasons are established by the Fish and Wildlife Commission (Commission).

The Department offers a number of different hunting combination license packages. These licenses allow hunters to hunt for more than one species during a year, such as deer, elk, bear, or cougar. Prices for the combination packages range from \$36 for residents to \$660 for

non-residents. Revenue from the sale of hunting licenses are deposited into the State Wildlife Fund.

Summary: The Commission is authorized to offer permits to hunt deer or elk during multiple general hunting seasons, which includes modern firearm season, archery season, and muzzleloader season. The permit only allows the holder to take one deer or elk each year, regardless of which season the animal is taken.

The fee for the multiple season big game permit is \$150 for Washington residents, and \$1,500 for non-residents. Revenues from the sales of the permits will be deposited into the State Wildlife Fund.

Votes on Final Passage:

House	96	0
Senate	48	1

Effective: July 24, 2005

SHB 1214
C 20 L 05

Concerning food fish and shellfish commercial license requirements.

By House Committee on Natural Resources, Ecology & Parks (originally sponsored by Representatives Blake and Upthegrove).

House Committee on Natural Resources, Ecology & Parks

Senate Committee on Natural Resources, Ocean & Recreation

Background: The Department of Fish and Wildlife manages the commercial harvest of food fish, shellfish, and salmon. A nonlimited entry delivery license is required to deliver certain food fish or shellfish taken in offshore waters. A limited entry delivery license is required for delivering salmon or ocean pink shrimp taken in offshore waters and delivered to a port in the state. Offshore waters means marine waters of the Pacific Ocean outside the territorial boundaries of the state, including the marine waters of other states and countries.

An "emerging commercial fishery" is the commercial taking of a newly classified species of food fish or shellfish, the commercial taking of a classified species with gear not previously used for that species, or the commercial taking of a classified species in an area from which that species has not been previously taken. The purpose of the designation is to allow scientific data to be collected on fishery impacts.

Summary: "Delivery from a commercial vessel" of food fish or shellfish means arrival at a place or port, and includes arrivals from offshore waters to waters within the state and arrivals from state or offshore waters. For purposes of requiring a nonlimited entry delivery license, shellfish does not include fish or shellfish taken under an

emerging commercial fisheries license if taken from off-shore waters.

Votes on Final Passage:

House	95	1
Senate	47	0

Effective: July 24, 2005

SHB 1216

C 224 L 05

Creating "Wild on Washington" special vehicle license plate.

By House Committee on Transportation (originally sponsored by Representatives Lovick, Eickmeyer, Upthegrove, Ericksen, Morrell, Dickerson, Holmquist and Sells).

House Committee on Transportation
Senate Committee on Transportation

Background: The Legislature created the Special License Plate Review Board (Board) in the 2003 session to review special vehicle license plate applications from governmental or nonprofit organizations in Washington. The Board must verify that the organization and proposed plate meet criteria set by state law and then forward the approved application to the Legislature.

Drivers pay an additional fee for a special vehicle license plate. The initial revenue generated from the special plate sales is deposited into the Motor Vehicle Account until the state has been reimbursed for implementation costs. After reimbursement, the revenue is deposited into the account designated by the authorizing statute for the specific special vehicle license plate.

On December 10, 2004, the Board approved the Washington State Department of Fish and Wildlife's "Wild on Washington" license plate application.

Summary: The Department of Licensing must issue a special license plate displaying a symbol or artwork recognizing wildlife in Washington.

An applicant for a "Wild on Washington" license plate pays an initial fee of \$40 and an annual renewal fee of \$30. After reimbursement to the state, the revenue must be deposited into the State Wildlife Account, and proceeds must be used for the Department of Fish and Wildlife's watchable wildlife activities.

Votes on Final Passage:

House	95	1	
Senate	43	0	(Senate amended)
House	92	6	(House concurred)

Effective: July 24, 2005

SHB 1218

C 225 L 05

Creating the "Endangered Wildlife" special vehicle license plate.

By House Committee on Transportation (originally sponsored by Representatives B. Sullivan, Lovick, Eickmeyer, Upthegrove, Ericksen, Morrell, Dickerson, Sells and Ormsby).

House Committee on Transportation
Senate Committee on Transportation

Background: The Legislature created the Special License Plate Review Board (Board) in the 2003 session to review special vehicle license plate applications from governmental or nonprofit organizations in Washington. The Board must verify the organization and proposed plate meet criteria set by state law and then forward the approved application to the Legislature.

Drivers pay an additional fee for a special vehicle license plate. The initial revenue generated from the special plate sales is deposited into the Motor Vehicle Account until the state has been reimbursed for implementation costs. After reimbursement, the revenue is deposited into the account designated by the authorizing statute for the specific special vehicle license plate.

On December 10, 2004, the Board approved the Washington State Department of Fish and Wildlife's "Endangered Wildlife" license plate application.

Summary: The Department of Licensing must issue a special vehicle license plate displaying a symbol or artwork referred to as the "Endangered Wildlife" license plate.

An applicant for an "Endangered Wildlife" license plate pays an initial fee of \$40 and an annual renewal fee of \$30. After reimbursement to the state, the revenue must be deposited into the State Wildlife Account, and must be used for the Department of Fish and Wildlife's endangered wildlife program activities.

Votes on Final Passage:

House	92	4	
Senate	46	0	(Senate amended)
House	86	9	(House concurred)

Effective: July 24, 2005

2SHB 1220

C 276 L 05

Establishing a joint legislative and executive task force on long-term care financing and chronic care management.

By House Committee on Appropriations (originally sponsored by Representatives Morrell, Schual-Berke, Cody, Simpson, Campbell, Williams, Chase, Kenney, O'Brien, Clibborn, Conway, Green, Kagi and Upthegrove; by request of Governor Gregoire).

House Committee on Health Care
House Committee on Appropriations
Senate Committee on Health & Long-Term Care

Background: People with functional disabilities who cannot complete activities of daily living such as eating, bathing, dressing, taking medications, and the use of bathroom facilities, need long-term care services. Most Americans do not purchase long-term care insurance to finance the care they may need when they are elderly or infirm. As the baby boom generation begins their retirement years, a large number of seniors will need professional care for at least part of their day. Individuals who need long-term care must purchase separate insurance, pay out-of-pocket, or have an income level that qualifies for Medicaid.

Summary: An eight member Joint Legislative and Executive Task Force on Long-term Care Financing and Chronic Care Management (Task Force) is created. The Task Force includes the Secretaries of the Department of Health and the Department of Social and Health Services. The Task Force must develop recommendations about public and private mechanisms for financing long-term care, particularly in rural communities. Additionally, the Task Force must focus on disability prevention interventions and chronic care management that can reduce the need for long-term care. The Task Force will also review the need to add additional capacity to the long-term care system and review laws and rules for possible elimination. The Task Force must report on its progress in three phases: an initial report to be completed no later than January 1, 2006; a report of recommendations no later than January 1, 2007; and a final report no later than June 30, 2007.

Votes on Final Passage:

House 94 0
Senate 43 0 (Senate amended)
House 95 0 (House concurred)

Effective: July 24, 2005

EHB 1222

C 239 L 05

Increasing accountability of ballot measure petitions.

By Representatives McDermott, Nixon, Ericks, Buri, Simpson, Shabro, Williams, Dickerson, Sells, Ormsby and Haigh.

House Committee on State Government Operations & Accountability
Senate Committee on Government Operations & Elections

Background: In order to qualify for the general election ballot or be referred to the Legislature, an initiative must garner valid signatures of legal voters in an amount equal to at least 8 percent of the votes cast for the Office of Governor in the last gubernatorial election. In order to qualify for the general election ballot, a referendum must garner valid signatures of legal voters in an amount equal to at least 4 percent of the votes cast for the Office of Governor in the last gubernatorial election.

A person who falsely signs an initiative or referendum petition or signs more than one initiative or referendum is guilty of a class C felony. A person who offers any consideration or gratuity to sign or not to sign an initiative or referendum is guilty of a gross misdemeanor.

The crime of harassment occurs when a person threatens another with harm, damage to property, or physical confinement and places the person threatened in reasonable fear that the threat will be carried out. Harassment also includes several enumerated crimes such as assault and burglary. Harassment is either a gross misdemeanor or a class C felony depending on the circumstances.

Summary: Initiative and referendum petitions must contain the following statement printed on the reverse of the petition:

"I, _____, swear or affirm under penalty of law that I circulated this sheet of the foregoing petition, and that, to the best of my knowledge, every person who signed this sheet of the foregoing petition knowingly and without any compensation or promise of compensation willingly signed his or her true name and that the information provided therewith is true and correct. I further acknowledge that under chapter 29A.84 RCW, forgery of signatures on this petition constitutes a class C felony, and that offering any consideration or gratuity to any person to induce them to sign a petition is a gross misdemeanor, such violations being punishable by fine or imprisonment or both."

The crime of harassment applies to any conduct constituting harassment against a signature gatherer.

Votes on Final Passage:

House 79 19
 Senate 32 13 (Senate amended)
 House 85 10 (House concurred)

Effective: January 1, 2006

HB 1232
FULL VETO

Clarifying the ability of Washington state patrol officers to engage in private law enforcement off-duty employment in plainclothes for private benefit.

By Representatives O'Brien, Pearson, Morrell, Lantz, Lovick, Wood, McCune, Wallace and Condotta.

House Committee on Criminal Justice & Corrections
 Senate Committee on Transportation

Background: The Washington State Patrol (WSP) officers may engage in private law enforcement off-duty employment in uniform for private benefit, subject to guidelines adopted by the Chief of the WSP.

Summary: The WSP officers continue to have permission to engage in private law enforcement off-duty employment in uniform for private benefit, and are now expressly granted permission to engage in similar employment while in plainclothes. Whether in uniform or in plainclothes, this activity is subject to guidelines adopted by the Chief of the WSP.

Votes on Final Passage:

House 97 0
 Senate 49 0

VETO MESSAGE ON HB 1232

April 22, 2005

To the Honorable Speaker and Members,
 The House of Representatives of the State of Washington
 Ladies and Gentlemen:

I am returning, without my approval, House Bill No. 1232 entitled:

“AN ACT Relating to clarifying the ability of Washington state patrol officers to engage in private law enforcement off-duty employment in plainclothes for private benefit.”

The Senate forwarded an identical companion bill, Senate Bill 5267, to the Governor's Office on April 15, 2005. I signed that bill into law on April 21, 2005. House Bill 1232, therefore, must be vetoed.

For these reasons, I have vetoed House Bill No. 1232 in its entirety.

Respectfully submitted,



Christine O. Gregoire
 Governor

SHB 1236

C 209 L 05

Changing duties for aiding injured persons.

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives O'Brien, Morrell, Miloscia, Lovick, Darneille and Lantz).

House Committee on Criminal Justice & Corrections
 Senate Committee on Judiciary

Background: Under common law, a person generally has no duty to rescue another person in distress. An exception to this rule is when a special relationship exists between the parties and that relationship creates a duty to assist.

Some statutes in Washington have departed from common law in limited ways and have established an affirmative duty to assist another. One example is the duty to report suspected child abuse or neglect. Another is the duty to report child pornography film that is presented for developing. A third is to summon aid for a peace officer when requested. A violation of any of these statutes carries criminal penalties.

Since 1968, four states have enacted duty-to-rescue statutes: Vermont, Minnesota, Rhode Island, and Massachusetts. The penalties are generally either a fine, a limited possible term of confinement (up to one year), or both. Duty to rescue statutes also exist in 13 European countries.

A state statute, often called the Good Samaritan law, protects a person from civil liability for damages resulting in acts or omissions while rendering aid to an injured person in an emergency provided the person is doing so without compensation and acts without gross negligence or wanton misconduct.

The punishment for a misdemeanor offense is a maximum of 90 days in jail, a fine of \$1,000, or both.

Summary: A new crime of "failing to summon assistance" is created.

It is a misdemeanor offense to fail to summon assistance. A person commits failure to summon assistance when:

- the person is present when the crime is committed against a victim;
- the person knows that the victim has suffered substantial bodily harm as a result of the crime committed and is in need of assistance;
- the person could reasonably summon assistance for the victim in need without danger to himself or herself and without interference with an important duty owed to a third party;
- the person fails to summon assistance for the victim in need; and
- another person is not summoning or has not summoned assistance for the person in need of such assistance.

Votes on Final Passage:

House 97 0
Senate 42 7 (Senate amended)
House 95 0 (House concurred)

Effective: July 24, 2005

HB 1237
C 193 L 05

Describing specialized commercial vehicles used for patient transportation.

By Representatives Newhouse, Cody, Clements, Bailey, Roach, Morrell, Lovick, Simpson, Murray, Chase, Kagi and Wallace.

House Committee on Transportation
Senate Committee on Transportation

Background: Ambulance services are licensed by the Department of Health. Ambulance personnel requirements include at least one person who must be an emergency medical technician under standards of the Department of Health.

State law requires that patients who must be carried on a stretcher or who may require medical attention must be transported in ambulances or aid vehicles operated by services licensed by the Department of Health.

For-hire vehicles are licensed by the Department of Licensing. Local governments may regulate the services of for-hire vehicles, which include stretcher vans and cabulances.

Summary: A stretcher is defined as a cart commonly used in the ambulance industry for transporting patients in a prone or supine position. The term does not include personal mobility aids that recline at an angle or remain in a flat position that are owned or leased for at least one week by the individual being transported.

People who use a personal mobility aid may be transported by stretcher vans or cabulances.

Votes on Final Passage:

House 96 1
Senate 45 1

Effective: July 24, 2005

2SHB 1240
C 480 L 05

Funding the development of an automated system to process real estate excise taxes.

By House Committee on Finance (originally sponsored by Representatives Kessler and DeBolt).

House Committee on Local Government
House Committee on Finance

Background: The state imposes an excise tax of 1.28 percent on each sale of real property. The tax is usually collected by the treasurer of the county within which the property is located, or in some circumstances by the Department of Revenue. Both the buyer and the seller are required to sign a real estate excise tax (REET) affidavit when a taxable transaction occurs. The affidavit must contain the names and addresses of the buyer and seller, a legal description of the property, a parcel number, and the property selling price.

The county treasurer remits collections of state REET monies by the 20th of the month following collection. The county places 1 percent of the state REET monies into the county current expense fund to pay for collection of the tax.

Included in the REET statutes are provisions governing the collection of fees for property conveyances in which either no excise taxes are due or the total excise tax is less than \$2. County treasurers are allowed to collect a \$2 fee on all such transactions in order to defray associated transaction costs.

Summary: The fee a county treasurer collects on state-imposed REET transactions is changed to \$10. Of the \$10 fee, \$5 must be deposited in the county treasurer's REET electronic technology fund. The remaining \$5 must be remitted to the State Treasurer for deposit in a newly created, statewide REET Electronic Technology Account (State Account). An appropriation is not required for expenditure from the State Account.

The State Treasurer must distribute the monies in the State Account to county treasurers each month. Three-quarters of the money must be equally distributed among all counties, and the rest must be distributed to each county on a pro rata basis based on a county's population.

The money received by the county treasurer must be used exclusively for the development and implementation of an electronic processing and reporting system for REET affidavits. The two \$5 technology fees going into the local and state REET electronic technology accounts expire as of June 30, 2010. Any money remaining in local REET electronic technology funds on July 1, 2015, reverts to the county capital improvements fund.

Votes on Final Passage:

House 52 46
Senate 26 22

Effective: July 1, 2005

EHB 1241

C 323 L 05

Modifying vehicle licensing and registration penalties.

By Representatives Fromhold, Curtis, Moeller, Wallace, Sommers, McIntire and Murray.

House Committee on Transportation

Senate Committee on Transportation

Background: New Washington residents, unless exempt, must obtain a valid Washington driver's license and register their vehicles within 30 days from the date they become residents. Exemptions include a person in the military, a nonresident driver, or a person operating special highway construction equipment, a farm tractor, or a locomotive.

Failure to register a vehicle in Washington before operating on the highways is a misdemeanor and must be punished by a penalty of no less than \$330. The licensing of a vehicle in another state by a resident of this state for the purposes of evading the payment of any tax or license in relation to registering a vehicle is a gross misdemeanor punishable as follows:

- first offense - up to one year in a county jail and a fine equal to twice the amount of delinquent taxes and fees, with no part suspended or deferred; and
- second or subsequent offense - up to one year in a county jail and a fine equal to four times the amount of delinquent taxes and fees, with no part suspended or deferred.

Washington sales tax does not apply to sales of tangible personal property to nonresidents when they are a resident of a state, a province of Canada or a United States possession that does not impose a sales tax or use tax of 3 percent or more. Any person claiming an exemption must provide one piece of identification, such as a valid driver's license or identification card, from the jurisdiction in which the out-of-state residence is claimed.

Summary: Failure to register a vehicle in Washington before operating on the highways is changed from a misdemeanor to a traffic infraction of \$529.

A motor vehicle subject to initial or renewal registration shall not be registered to a natural person unless the person has an unexpired Washington State driver's license. They are exempt from this requirement if they certify that they do not operate a motor vehicle on the public roads or they are already exempt under current law. For shared or joint ownership, the Department of Licensing (DOL) will establish procedures to verify that all owners meet these requirements. The DOL may adopt rules necessary to implement these provisions, including allowing persons to be exempt if they show evidence satisfactory to the DOL that they have a valid and compelling reason for not being able to meet these requirements.

A person falsifying residence is guilty of a gross misdemeanor punishable by only a fine of \$529.

This applies to registrations due or become due on or after January 1, 2006.

Votes on Final Passage:

House 95 3

Senate 43 2

Effective: August 1, 2005

ESHB 1242

C 386 L 05

Focusing the state budgeting process on outcomes and priorities.

By House Committee on Appropriations (originally sponsored by Representatives Linville, Jarrett, Miloscia, Tom, Haigh, Sommers, Pettigrew, Pearson, Clibborn, Kristiansen, O'Brien, Orcutt, Quall, Morris, Lantz, Wallace, Kagi, Grant, Morrell, Chase, Springer, Lovick, Kessler, Dunshee, Appleton, P. Sullivan, Kilmer, Hunter, Upthegrove, Williams, Roberts, Dickerson, Sells, Eickmeyer, Nixon, Kenney and Ormsby).

House Committee on Appropriations

Senate Committee on Ways & Means

Background: The Budget and Accounting Act establishes the framework for the development, implementation and monitoring of the state budget.

Agency Objectives. For the purpose of assessing program performance, each state agency is required to establish program objectives for each major program in its budget. The objectives must be expressed to the extent practicable in outcome-based, objective, and measurable form.

Performance Monitoring. Each state agency is also required to adopt procedures for continuous self-assessment of each program and activity, using the mission, goals, objectives, and measurements of the agency.

Agency Budget Requests. Budget proposals made by agencies must be directly linked to the agency's stated mission, program goals and objectives. Consistent with this policy, agency budget proposals must include integration of performance measures that allow objective determination of a program's success in achieving its goals.

Governor's Budget Proposal. The Budget and Accounting Act establishes various requirements for the budget documents that the Governor must submit to the Legislature before each regular session. The required documents include the Governor's budget message, which explains the budget and outlines proposed fiscal policies for the period covered by the budget; the budget bill; and other supporting information. The requirement to submit a level of budget detail referred to as activity level has been suspended in recent biennia.

Summary: Findings and Intent. The Legislature finds that agency missions, goals, and objectives should focus on statewide results. The intent of the Legislature is to refocus the state budgeting process on how state agencies produce real results that reflect the goals of statutory programs.

Agency Objectives. Objectives must specifically address the statutory purpose or intent of the activity and focus on data that measure whether the agency is achieving or making progress toward the purpose of the activity and toward statewide priorities.

Agencies are required to develop quality and productivity measures for all major activities instead of the program measures currently required.

Performance Monitoring. As part of evaluating an activity, agencies must also evaluate major information technology systems or projects that may assist the agency in achieving or making progress toward the activity purpose and statewide priorities.

The Office of Financial Management (OFM) must regularly conduct reviews of selected activities to analyze whether the objectives and measurements submitted by agencies demonstrate progress toward statewide results. The OFM must consult with the Higher Education Coordinating Board and the State Board for Community and Technical Colleges in those reviews that involve institutions of higher education. The OFM must consult with the Information Services Board when conducting reviews of major information technology systems.

The goal is for all programs to be reviewed at least once each year.

Agency Budget Requests. When a periodic performance review or other analysis determines that the agency's objectives demonstrate that the agency is making insufficient progress toward the goals of any particular program or is otherwise underachieving or inefficient, the agency's budget request must contain proposals to remedy or improve the program.

In reviewing agency budget requests to prepare the Governor's budget request, the OFM will consider the extent to which the agency's activities demonstrate progress toward the statewide priorities along with the results from any periodic performance review of agency activities.

Governor's Budget Proposal. The Governor must communicate statewide priorities to agencies for use in developing budget recommendations for their agency. The Governor must seek public involvement and input on these priorities.

The Governor's operating budget document or documents must reflect statewide priorities. The budget document must also describe performance indicators that demonstrate measurable improvement towards priority policy functions as well as identify any activities that are not addressing statewide priorities.

The Governor's budget document must include a listing of expenditures made outside the state treasury rather than listing those activities that are funded from non-appropriated, non-budgeted sources. The requirement, suspended in recent years, to submit certain detail is permanently eliminated.

Votes on Final Passage:

House	95	2
Senate	43	0

Effective: July 24, 2005

EHB 1246

C 50 L 05

Requiring vehicle sound system components to be securely attached.

By Representatives Dunshee, Pearson, Lovick, Kristiansen, Morrell, P. Sullivan, Murray, Wallace, Chase and Ormsby.

House Committee on Transportation

Senate Committee on Transportation

Background: It is increasingly popular for motor vehicle owners to install stereo speakers in the back seat of a car or in the bed of a passenger truck. Certain stereo speakers are manufactured only for residential use, rather than automotive use. These speakers, as well as unsecured automotive speakers, can become projectiles in the event of a vehicle collision.

There are no state laws or rules specifically prohibiting or restricting the placement of sound system components (such as stereo speakers) on or within a vehicle.

Summary: Vehicle sound system components are required to be securely attached to the vehicle so that they cannot become dislodged or loose during operation of the vehicle. Failure to do so is a traffic infraction.

Law enforcement officers may issue tickets for this infraction only as a secondary violation.

The Traffic Safety Commission must, within its existing budget, create an education campaign regarding properly securing vehicle sound system components.

This act will be known as the Courtney Amisson Act.

Votes on Final Passage:

House	82	16
Senate	30	18

Effective: July 24, 2005

HB 1247
C 324 L 05

Charging manufactured housing communities for water and sewer connections.

By Representatives Morris and Schindler.

House Committee on Housing
Senate Committee on Financial Institutions, Housing & Consumer Protection

Background: Under the Municipal Water and Sewer Facilities Act, every system provider, whether a municipality, county, or the commissioners of any district which operates a water or sewer system, has full authority to manage, regulate and control the rates and charges for the service and facilities, and to levy charges for connection to the system.

In the case of manufactured housing communities, water and sewer system providers typically run specified water and sewer lines up to the community property line. At the property line, the system providers install one tap-in connection with a meter. This connection enables the community to access water and sewer services. The system provider charges a "connection charge" to the property owner based upon the size of the meter which is dependent upon the size of the community; for example, a single family residential meter may measure 3/4 - 1 inch, whereas an apartment complex or a manufactured housing community meter may measure 2 inches in order to accommodate the increased demand of multiple households. The manufactured housing community property owner provides and maintains the infrastructure necessary to connect individual lots to the main water and sewer tap-in connection. Through periodic meter readings, the system provider monitors the water use of the entire community and bills the property owner, who is responsible for payment. Community property owners typically either approximate and build the cost of water and sewer into pad rental charges, or, at the time of invoice, divide the bill amongst the number of manufactured home owners and bill the units separately.

Summary: A city or county water or sewer system provider may not charge tap or connection charges for individual lots within a manufactured housing community if that city or county system provider has not provided and does not maintain specified connections to those individual lots.

Votes on Final Passage:

House	98	0	
Senate	44	0	(Senate amended)
House	94	1	(House concurred)

Effective: July 24, 2005

ESHB 1252
C 491 L 05

Providing for family and consumer science education.

By House Committee on Education (originally sponsored by Representatives Quall, Curtis, Anderson, Talcott, Eickmeyer, Kirby, Haigh, DeBolt, Dunshee, McDonald, Morrell, Buri, Miloscia, Rodne, Lovick, O'Brien, Shabro, P. Sullivan, Wood, Sells, Chase, Ormsby and Kilmer).

House Committee on Education
Senate Committee on Early Learning, K-12 & Higher Education

Background: When determining its educational programs and adopting curricula, a school district must ensure its course offerings include content meeting or exceeding: (1) the state's basic education goals; (2) the high school graduation requirements established by the State Board of Education (SBE); and (3) the minimum college entrance requirements established by the state's four-year institutions of higher education. Each district also must offer a program for high school students who plan to pursue career or work opportunities other than entering a four-year college after graduation.

Rules adopted by the SBE require school districts to offer high school students the opportunity to take at least one course in the Home and Family Life domain. Home and Family Life courses are intended generally to prepare students for family life, work life, and careers. The family and consumer science frameworks developed by the Office of the Superintendent of Public Instruction (OSPI) include instruction and study in the areas of: family and its impact on individuals and society; interpersonal relationships; parenting roles and responsibilities; and the integration of multiple life roles and responsibilities in family, work, and community settings.

Summary: School districts are encouraged to adopt a family preservation education curriculum and offer a unit in family preservation education to high school students. The OSPI must adopt a model curriculum for family preservation education. The model curriculum must include instruction on developing conflict management skills, communication skills, domestic violence and dating violence, financial responsibility, and parenting responsibility. School districts may adopt the model curriculum or may develop a curriculum with input from the community.

Votes on Final Passage:

House	88	4	
Senate	46	0	(Senate amended)
House	94	1	(House concurred)

Effective: July 24, 2005

HB 1254
C 426 L 05

Creating the "Share the Road" special vehicle license plate.

By Representatives Wood, Jarrett, Simpson, B. Sullivan, Wallace, Kilmer, Hankins, Haler, Hunter, Morrell, Lovick, Nixon and Ormsby.

House Committee on Transportation
Senate Committee on Transportation

Background: The Legislature created the Special License Plate Review Board (Board) in the 2003 session to review special vehicle license plate applications from governmental or nonprofit organizations in Washington. The Board must verify the organization and proposed plate meet criteria set by state law and then forward the approved application to the Legislature.

Drivers pay an additional fee for a special vehicle license plate. The initial revenue generated from the special plate sales is deposited into the Motor Vehicle Account until the state has been reimbursed for implementation costs. After reimbursement, the revenue is deposited into the account designated by the authorizing statute for the specific special vehicle license plate.

On December 10, 2004, the Board approved the Bicycle Alliance of Washington's Cooper Jones Memorial "Share the Road" license plate application.

Summary: The Department of Licensing must issue a special vehicle license plate commemorating the life of Cooper Jones.

An applicant for a "Share the Road" license plate pays an initial fee of \$40 and an annual renewal fee of \$30. After reimbursement to the state, the revenue must be deposited into the Share the Road Account, which promotes bicycle safety and awareness education in communities throughout Washington.

The Bicycle and Pedestrian Account is repealed. Revenue generated from the sale of the existing Cooper Jones emblems is deposited into the Share the Road Account.

Votes on Final Passage:

House 94 2
Senate 43 0 (Senate amended)
House 89 6 (House concurred)

Effective: July 24, 2005
June 30, 2007 (Section 6)

HB 1259
C 194 L 05

Making technical corrections to chapter 46.87 RCW.

By Representatives Wallace and Woods; by request of Department of Licensing.

House Committee on Transportation
Senate Committee on Transportation

Background: The International Registration Plan is an interstate compact that allows commercial vehicles to register in one state and legally operate in all U. S. states and Canadian provinces. The company registers its fleet in its "base" state, the state where the company's business resides.

The base state issues a certificate of registration called a "cab card" and prorates and distributes the registration fees and fuel taxes for all states and Canadian provinces in which the vehicles travel. If Washington is a company's base state, the Department of Licensing charges an administrative fee of \$4.50 per vehicle. Miles are reported, and fuel taxes are collected and distributed, each fiscal year.

State law governs the registration of companies and vehicles operating under the International Registration Plan. These statutes cover issues such as registration fee computation (which is based on gross weight) and reporting requirements. Since these statutes were last updated, there have been a number of changes to this program at the federal level.

Summary: Obsolete or inaccurate language is revised or removed from the statutes governing the International Registration Plan, including removal of references to the Western Compact, which was replaced by the International Registration Plan.

Obsolete language regarding the fee for registration of trailers is deleted. Language is also removed regarding the calculation of mileage estimates upon initial application, which is now standardized under the International Registration Plan.

Votes on Final Passage:

House 98 0
Senate 43 0

Effective: July 24, 2005

HB 1260
C 61 L 05

Allowing reciprocal waiver of driver's license exams.

By Representatives Jarrett, Clibborn, Pettigrew and Wallace; by request of Department of Licensing.

House Committee on Transportation
Senate Committee on Transportation

Background: The Department of Licensing (DOL) issues Washington driver's licenses to persons who successfully pass a licensing examination as part of the qualification requirements. The DOL may, however, waive the skill test required of all applicants for a Washington driver's license if the applicant presents a valid driver's license from another state, United States territory, or United States possession. While an individual with a valid driver's license from another country may drive in this state for up to one year, driver's license applicants from any foreign jurisdiction are ultimately required to take the licensing examination regardless of whether their foreign license is valid.

The requirement that foreign drivers take the Washington licensing examination has prevented the DOL from entering into agreements with foreign jurisdictions to waive their driver's licensing requirements. In the case of a Washington resident who moves to Germany, for example, this can mean the expenditure of hundreds of dollars in testing and training fees.

Summary: The DOL is authorized to enter into informal reciprocal agreements with foreign jurisdictions to waive driver's license examination requirements. These agreements may apply only to licensed drivers from that jurisdiction who are 18 years of age or older.

For an individual who submits a valid driver's license from a jurisdiction with which there is an informal reciprocal agreement, the DOL may permit the waiver of all or any part of a driver's license examination.

The DOL may only enter into an agreement with a foreign jurisdiction if the jurisdiction has procedures in place to verify the validity of the drivers' licenses that it issues.

The DOL is authorized to adopt rules necessary to implement the act.

Votes on Final Passage:

House	95	0
Senate	44	3

Effective: July 24, 2005

HB 1261

C 141 L 05

Making the joint committee on veterans' and military affairs permanent.

By Representatives Morrell, Haigh, Wallace, Campbell, O'Brien, McCoy, Moeller, Kenney, Hasegawa, Green, Lantz, Flannigan, Williams, Dunshee, B. Sullivan, Kilmer, Strow, Upthegrove, Darneille, Springer, Hunt, Sells, P. Sullivan, Tom, Talcott, McCune, Serben, McDonald, Conway, Linville, Kristiansen, Chase, Ormsby, Santos and Kagi.

House Committee on State Government Operations & Accountability

Senate Committee on Government Operations & Elections

Background: Joint Select Committee on Veterans' and Military Affairs. In 2000 the Joint Select Committee on Veterans' and Military Affairs (JSCVMA) was created. The purpose of the committee was to examine and define issues and make recommendations on programs, laws, and administrative practices affecting veterans and military affairs. The JSCVMA ceased to exist after 1999-2000 biennium.

Joint Committee on Veterans' and Military Affairs. In 2001 the Joint Committee on Veterans' and Military Affairs (JCVMA) was created. The purpose of the JCVMA is to study issues relating to veterans, active military forces, the National Guard, the Reserves, the Military Department, and the Department of Veterans Affairs. The JCVMA makes recommendations to the Legislature regarding these issues and may create subcommittees to perform its duties. The JCVMA is required to adopt operating rules and procedures.

The JCVMA consists of 16 members, four members from each caucus of the House appointed by the Speaker of the House, and four members from each caucus of the Senate appointed by the President of the Senate. The four-member executive committee, representing the majority and minority of each chamber, performs administrative duties assigned to it by the JCVMA.

The JCVMA expires on December 31, 2005.

Summary: The four-member executive committee of the JCVMA must have two members from the Senate and two from the House. The executive committee must appoint one co-chair from among the two Senators and one from among the two Representatives. The co-chairs must be of different political parties. The co-chair terms run from the end of the session in which the co-chair is appointed until the close of the next regular session in an odd-numbered year.

The expiration date is removed, making the JCVMA permanent.

Votes on Final Passage:

House 95 0
Senate 43 0

Effective: July 24, 2005

HB 1262
C 142 L 05

Limiting compensation for part-time judges.

By Representatives Takko, Walsh, Blake and Wallace; by request of Board For Judicial Administration.

House Committee on Judiciary
Senate Committee on Judiciary

Background: For various reasons temporary judges are sometimes used to hear cases in superior courts. In order to sit as a judge pro tempore, a person must be either: (1) an attorney agreed upon by the parties; (2) a sitting elected judge from another court; or (3) a superior court judge who retires and continues to preside over a pending case.

Pay for superior court judges pro tempore varies depending on the pro tempore's status:

- An attorney who is not a retired or active judge receives 1/250th of a superior court judge's annual salary for each day of work as a pro tempore.
- A retired judge receives 60 percent of 1/250th of a superior court judge's annual salary per day.
- An active judge of another court receives no compensation for work as a pro tempore.

Some elected judges of courts of limited jurisdiction serve as part-time judges in their own courts. The statute dealing with the salaries of superior court judges pro tempore does not explicitly address the payment of part-time judges who serve as judges pro tempore.

Summary: The prohibition against active judges receiving compensation as judges pro tempore is limited to active full-time judges. Active part-time judges may be compensated for time spent as a pro tempore, but only if that time is not also being compensated for by the part-time salary.

Votes on Final Passage:

House 95 0
Senate 47 0

Effective: July 24, 2005

SHB 1266

C 325 L 05

Updating laws on drugs and alcohol use by commercial drivers.

By House Committee on Transportation (originally sponsored by Representatives Murray, Woods and Kenney; by request of Department of Licensing).

House Committee on Transportation
Senate Committee on Transportation

Background: Commercial motor carriers are required under federal law to implement drug and alcohol testing programs for their drivers. In 2002, legislation was enacted requiring all medical review officers (MRO) and breath alcohol technicians (BAT) who conduct drug or alcohol testing for commercial motor carriers to report positive test results for a commercial driver directly to the Department of Licensing (DOL). A driver who wishes to challenge the positive drug or alcohol test result is entitled to a hearing.

The DOL is required to disqualify an individual from driving a commercial motor vehicle if he or she fails a drug or alcohol test. A disqualification remains in effect until the driver presents evidence of satisfactory participation in, or completion of, a drug or alcohol program certified by the Department of Social and Health Services. The DOL reinstates the commercial driver's license once it receives this evidence.

Summary: Definitions are provided for "positive alcohol confirmation test," "substance abuse professional," and "verified positive drug test" and the definition of drugs is clarified to include substances defined in federal regulations.

A refusal to take a drug or alcohol test that meets the standard for refusal under federal law is considered equivalent to a report of a verified positive drug test or a positive alcohol confirmation test, respectively.

A motor carrier, employer, or consortium that is required to have a testing program must report a refusal by a commercial motor vehicle driver to take a drug or alcohol test to the DOL, when the MRO or BAT has not reported the refusal.

An MRO or BAT under contract with an employer involved in transit operations may report a positive alcohol or drug test for transit drivers to the DOL only when the positive test is a pre-employment screening test. A transit employer must report a positive test to the DOL only after: (1) the driver's employment has been terminated or the driver has resigned; (2) any grievance procedures, up to but not including arbitration, have been concluded; and (3) at the time of termination or resignation, the driver has not been cleared to return to safety sensitive functions.

At a hearing to challenge a driver's disqualification, a copy of a positive test result with a declaration by the

tester, MRO, or BAT that states the accuracy of the laboratory protocols used to arrive at the test result is prima facie evidence of: (1) the positive test result; (2) that the motor carrier, employer, or consortium has a testing program subject to federal requirements; and (3) that the MRO or BAT making the report accurately followed the protocols for testing established to verify or confirm the results.

A driver's disqualification remains in effect until a driver undergoes a drug and alcohol assessment by a substance abuse professional (SAP) who meets federal requirements. The driver must then present proof of satisfactory participation in or completion of the drug or alcohol program recommended by the SAP. The SAP is required to provide a recommendation to the DOL for use in determining the driver's eligibility for driving a commercial vehicle.

Votes on Final Passage:

House	96	0	
Senate	45	0	(Senate amended)
House	94	1	(House concurred)

Effective: July 24, 2005

HB 1269
C 21 L 05

Permitting members of the law enforcement officers' and fire fighters' retirement system plan 2 to make a one-time purchase of additional service credit.

By Representatives Conway, Curtis, Simpson, Hinkle, Upthegrove, Moeller, Morrell, Green, O'Brien, P. Sullivan, Kenney, McDonald, Campbell, Chase, B. Sullivan, Ormsby, Kilmer, McCoy, Jarrett, Wallace, Serben and Strow; by request of LEOFF Plan 2 Retirement Board.

House Committee on Appropriations
Senate Committee on Ways & Means

Background: A vested member of the Law Enforcement Officers' and Fire Fighters' Retirement System (LEOFF 2) may retire with an unreduced benefit at age 53. At retirement in LEOFF 2 a member receives 2 percent of the member's final average salary for each year of credited service.

Beginning at age 50, a member of LEOFF 2 may apply for early retirement after 20 years of service. A member who applies for early retirement has his or her benefit reduced by 3 percent per year for each year that the member is retiring prior to age 53.

Members of LEOFF 2 generally have the opportunity to participate in deferred compensation plans. These plans permit an individual to place a portion of salary into a special account prior to being subject to payroll tax reductions. The Department of Retirement Systems (DRS) operates a deferred compensation program con-

sistent with the federal tax requirements of 26 United States Code section 457, commonly called a "457 Plan," in which employees of the state, counties, municipalities and other political subdivisions may participate. Some school districts and local governments may also participate in other deferred compensation-type plans commonly referred to as "403(b)" or "401(k)" plans. Individuals may also be able to deposit funds into accounts with preferential tax treatment such as Individual Retirement Accounts (IRAs).

In recent years, changes in federal law have liberalized the rules on the transfer of funds between tax-deferred accounts, including governmental defined benefit pension plans like the LEOFF 2 and deferred compensation accounts such as 457, 403(b), and 401(k) plans. Many state and local government pension plans have subsequently provided the opportunity for members to transfer funds, including funds from tax-deferred accounts, into these plans to add up to five years of service credit to a member's defined benefit.

The 2004 Legislature enacted House Bill 2535, which provided the opportunity for members of the Public Employees' Retirement System and the School Employees' Retirement Systems Plans 2 and 3 to purchase up to five years of additional service credit at the time of retirement. The cost of the additional service credit is the actuarial equivalent value of the resulting increase in the member's benefit.

Summary: A LEOFF 2 member who applies for retirement may, at the time of retirement, file an application with DRS to purchase up to five years of additional service credit. The cost of the additional service credit is the actuarial equivalent value of the resulting increase in the member's benefit.

The member may pay all or part of the cost of the additional service credit with an eligible transfer from a qualified retirement plan. The DRS must adopt rules to ensure that all purchases and transfers comply with the requirements of the federal Internal Revenue Code and regulations. Additional purchased service credit is not regular membership service credit, and may not be used to qualify a LEOFF 2 member for early retirement prior to completion of 20 years of credited service.

Votes on Final Passage:

House	89	0
Senate	47	0

Effective: July 1, 2006

HB 1270
PARTIAL VETO
 C 372 L 05

Suspending a retirement allowance upon reemployment.

By Representatives Curtis, Simpson, Conway, Hinkle, Uptegrove, Morrell, Moeller, Green, O'Brien, P. Sullivan, McDonald, Campbell, Chase, B. Sullivan, Ormsby, Kilmer, McCoy, Jarrett, Serben and Strow; by request of LEOFF Plan 2 Retirement Board.

House Committee on Appropriations
 Senate Committee on Ways & Means

Background: The Law Enforcement Officers' and Fire Fighters' Retirement System Plan 2 (LEOFF 2) provides retirement benefits to full-time and fully-compensated law enforcement officers and fire fighters who first entered membership-eligible employment on or after October 1, 1977. Members of LEOFF 2 are eligible for full retirement benefits beginning at age 53. LEOFF 2 members who have earned 20 or more years of service credit may retire early beginning at age 50, with a 3 percent per year reduction for each year that he or she retires before age 53.

Retired members of the LEOFF 2 pension benefits are suspended if a member is employed in a LEOFF-covered position, or a position covered by the Public Employees' Retirement System (PERS), the Teachers' Retirement System (TRS), the School Employees' Retirement System (SERS), or the Public Safety Employees' Retirement System (PSERS). A LEOFF 2 retiree may work for a private employer, or in a retirement system ineligible position for a public employer, without having his or her pension benefits suspended.

The LEOFF 2 reemployment pension benefit suspension rule is different from those of the PERS, TRS, SERS, and PSERS Plans 2 and 3. Retirees of these plans who have been separated from employment for 30 days may work in a retirement-eligible position for up to 867 hours each calendar year without suspension of pension benefits.

The general rules of Washington's retirement systems prohibit members of the LEOFF 2 from joining a second state retirement system plan if they are either receiving or are eligible to receive pension benefits from any Department of Retirement Systems (DRS) administered pension plan, or the plans operated by the cities of Seattle, Tacoma, and Spokane (the First Class Cities retirement plans). This limit does not apply to LEOFF 2 members if the retiree/member has accumulated fewer than 15 years of service credit. The rule was created in part to prevent members of the Plans 1 from moving to a second retirement plan following the accrual of 30 years of service in one plan such as LEOFF, PERS, or TRS Plan 1.

The effect of the LEOFF 2 prohibitions are that a

retiree from LEOFF 2 may neither collect their pensions, nor earn service credit if employed in a PERS, TRS, SERS, PSERS, or LEOFF-covered position.

Summary: A retiree of LEOFF 2 who becomes employed in a non-LEOFF eligible position may choose to either: receive LEOFF 2 retirement benefits while employed in the non-LEOFF position and be prohibited from entering a new retirement plan; or enter into the membership of his or her new position's retirement plan, make contributions and accrue service credit, and have their LEOFF 2 retirement benefit suspended until the employment covered by the other retirement plan ends.

Votes on Final Passage:

House	97	0	
Senate	47	0	(Senate amended)
House			(House refused to concur)
Senate			(Senate receded)
Senate	49	0	

Effective: July 24, 2005
 July 1, 2006 (Section 2)

Partial Veto Summary: The Governor vetoed the section containing the emergency clause, which made the bill effective immediately.

VETO MESSAGE ON HB 1270

May 10, 2005

*To the Honorable Speaker and Members,
 The House of Representatives of the State of Washington*

Ladies and Gentlemen:

I am returning, without my approval as to Section 4, House Bill No. 1270 entitled:

“AN ACT Relating to suspending a retirement allowance upon reemployment.”

This bill allows members of the Law Enforcement Officers and Fire Fighters Retirement System Plan 2 (LEOFF 2) to work at another state job and either earn pension credit at the new job while their original pension credits are suspended, or to continue receiving their old pension but not earn pension credit in the new system. Because law enforcement officers and fire fighters can retire earlier under the LEOFF 2 than in other pension plans, and move to another profession, this bill allows them important pension and professional flexibility.

I am vetoing Section 4 of this bill, the emergency clause, as the issues addressed in this important legislation do not rise to the level an emergency that requires the immediate revision of state laws.

For these reasons, I have vetoed Section 4 of House Bill No. 1270.

With the exception of Section 4, House Bill No. 1270 is approved.

Respectfully submitted,



*Christine O. Gregoire
 Governor*

SHB 1280

C 439 L 05

Extending the kinship care oversight committee and its duties.

By House Committee on Children & Family Services (originally sponsored by Representatives Pettigrew, Hinkle, Kagi, Walsh, Schual-Berke, McDonald, Clibborn, Dickerson, P. Sullivan, Roach, Orcutt, Darneille, Morrell, Wallace and Santos).

House Committee on Children & Family Services
Senate Committee on Human Services & Corrections

Background: In 2001, the Legislature directed the Washington State Institute for Public Policy (WSIPP) to study the prevalence and needs of families who are raising related children. In June 2002, the WSIPP issued a report describing the prevalence and characteristics of kinship care, needs of kinship care providers in the state, policies and services available in Washington and other states, and policy options that may increase appropriate kinship care placements.

The Department of Social and Health Services (DSHS) convened the Kinship Caregiver Workgroup to review the WSIPP report and develop a briefing for the Legislature identifying the policy issues related to kinship caregivers, the federal and state statutes associated with these issues, and options to address the issues.

The Kinship Care Workgroup presented recommendations to the Legislature in November 2002 including the recommendation that the Legislature mandate and fund an ongoing committee of relative caregivers and others to oversee the implementation of the recommendations in the report and continue future work on kinship care in the state.

In 2003, the Legislature passed HB 1233, which related to improving services for kinship caregivers. The bill created an oversight committee charged with the responsibility to monitor, guide, and report on kinship care recommendations and implementation activities. The committee was required to report to the Legislature by December 1, 2004, and was due to expire in January 2005.

Summary: The Department of Social and Health Services (DSHS) is required to continue the Kinship Care Oversight Committee until January 1, 2010. The responsibilities of the committee are changed to include the requirement that the committee provide consultation on the implementation of the recommendations contained in the WSIPP kinship care report. The definition of kinship care that the committee is required to adopt is revised to include persons related by adoption.

A requirement is added that the DSHS consult with the Kinship Care Oversight Committee on its efforts to better collaborate and coordinate services to benefit kinship care families.

The Kinship Care Oversight Committee is required to report to the Governor and the Legislature annually on the activities of the committee, beginning January 1, 2006.

Votes on Final Passage:

House	89	0	
Senate	44	0	(Senate amended)
House	98	0	(House concurred)

Effective: July 24, 2005

SHB 1281

C 440 L 05

Adding to the list of persons who may give informed consent to medical care for minors and providing immunity to health care providers and facilities when they rely upon the representation of a person claiming to be responsible for the care of the minor.

By House Committee on Children & Family Services (originally sponsored by Representatives Pettigrew, Hinkle, Kagi, Walsh, Schual-Berke, McDonald, Clibborn, Dickerson, Dunn, P. Sullivan, Orcutt, Darneille, Morrell, Campbell, Wallace and Chase).

House Committee on Children & Family Services
Senate Committee on Human Services & Corrections

Background: In 2001, the Legislature directed the Washington State Institute for Public Policy (WSIPP) to study the prevalence and needs of families who are raising related children. In June 2002, the WSIPP issued a report describing the prevalence and characteristics of kinship care, needs of kinship care providers in the state, policies and services available in Washington and other states, and policy options that may increase appropriate kinship care placements.

Among the findings of the WSIPP study was the recognition that because kinship caregivers lack legal standing, they can face barriers in raising the children in their care. The kinship caregiver workgroup convened by the Department of Social and Health Services (DSHS) in response to the study recommended that Washington adopt a law that would authorize relative caregivers to obtain medical care for the child.

In Washington state, a person has the right to make his or her own health care decisions. Under the principle of "informed consent," medical care must be explained to the patient so that he or she understands it and can make informed decisions. Treatment without consent, however, is allowed and will generally be provided in an emergency unless the patient indicates otherwise.

If the patient is incapacitated or incompetent to make health care decisions, a surrogate decision-maker must act for the patient. If a person is under the age of 18, he or she is considered to lack capacity to make most health care decisions. State law defines a specific hierarchy of

appropriate decision-makers which may act on behalf of an incapacitated or incompetent person. The following is the list of persons, in order of priority, who may consent to medical treatment on behalf of another person:

- a guardian who has been appointed by a court;
- the person named in the durable power of attorney with health care decision-making authority;
- a spouse;
- adult children;
- parents; and
- adult brothers and sisters.

If a child's caregiver is not a person who is on the above list, the caregiver lacks authority to consent to medical treatment for the child in his or her care.

Summary: The list of persons who may provide informed consent for medical care is revised to include persons whom the parent has authorized to consent to medical care and relatives who represent themselves to be, or have a signed declaration stating they are, responsible for the medical care of the child.

The following is the list of persons, in order of priority, who are authorized to consent to medical care on behalf of a child under the age of 18:

- a guardian or legal custodian appointed by the court;
- a person authorized by the court to consent to medical care for a child in out-of-home placement pursuant to the dependency and termination of parental rights statutes;
- parents of the minor patient;
- a person to whom the minor's parent have given a signed authorization to make health care decisions for the minor patient; and
- a competent adult representing himself or herself to be a relative responsible for the health care of such minor patient or a competent adult who has signed and dated a declaration under penalty of perjury stating that the adult person is a relative who is responsible for the health care of the minor patient. The declaration is valid for six months from the date of the declaration.

The health care provider may, but is not required to, rely upon the representations or declaration of a person claiming to be responsible for the care of the minor child, so long as the provider does not have actual knowledge of the falsity of the person's representations.

The provider may request documentation to verify the person's claimed status as being responsible for the care of the child.

An immunity clause is added to state that a health care provider who relies upon the declaration of a person claiming to be responsible for the child is immune from liability in any suit based upon the reliance.

Votes on Final Passage:

House	93	0	
Senate	46	0	(Senate amended)
House	95	0	(House concurred)

Effective: July 24, 2005

HB 1286

C 143 L 05

Creating the medical flexible spending account.

By Representatives Cody, Simpson, Morrell and Kenney; by request of Office of Financial Management.

House Committee on Appropriations

Senate Committee on Ways & Means

Background: Health Care Flexible Spending Accounts (FSAs) are benefit plans established by employers under Section 125 of the federal Internal Revenue Code to reimburse employees for health care expenses such as health care deductibles, co-payments, eligible non-prescription medications, and other items not covered by insurance. The FSAs are usually funded by employees through salary reduction agreements; however, employers are permitted to contribute.

An employee must elect to participate in a FSA at the beginning of each year, and during the plan year the amount of salary deducted for a member's FSA is irrevocable unless the person experiences a change in circumstances that meet certain requirements specified in federal law. An employee's balance builds each month as salary deductions are placed in the account, and is reduced by reimbursements for eligible expenditures. Any unspent balance remaining in an employee's FSA at the end of each year is forfeited.

Employee (or employer) contributions to FSAs are made from an employee's salary prior to reductions for taxes, and reimbursements from FSAs are also tax exempt. As employee contributions to an FSA are made prior to reductions for income tax, Social Security, and Medicare, they offer employees with anticipated uninsured medical expenses the opportunity for significant tax savings. An employee in the 25 percent tax bracket, for example, who decides to deposit \$900 in a FSA and spends the entire balance on eligible medical expenses during the year would save about \$225 on federal income taxes and \$69 in Social Security and Medicare taxes.

In the 1995 bill, 2ESHB 1566, the Legislature authorized the Washington State Health Care Authority (HCA) to administer the benefits contribution plan, and, subject to the approval of the Office of Financial Management, expand the benefits to include a medical flexible spending arrangement.

Summary: A Medical Flexible Spending Account (MFSA) is created in the custody of the State Treasurer. Revenues from employing agencies associated with the cost of operating the medical FSA program and unclaimed FSA money left at the end of the plan year are deposited into the MFSA. Money may also be trans-

ferred from the MFSA to the Public Employees' and Retirees' Insurance Account, and from the Public Employees' and Retirees' Insurance Account to the MFSA to provide for reserves and start-up funding for the operation of the FSA program.

Every division, department, or agency and participating counties, municipalities, school districts, educational service districts, or other political subdivisions must fully cooperate with the HCA and carry out all actions necessary for the operation of the HCA-administered programs. These agencies must also report all data relating to employees eligible to participate in the HCA programs in a format designed by the HCA.

Votes on Final Passage:

House	96	0
Senate	48	0

Effective: July 24, 2005

HB 1287
C 195 L 05

Authorizing the health care authority to receive a federal employer subsidy for continuing to provide a pharmacy benefit to retirees.

By Representatives Cody, Morrell, Schual-Berke and Moeller; by request of Office of Financial Management.

House Committee on Appropriations
Senate Committee on Ways & Means

Background: Medicare is the federally funded and administered program providing health insurance primarily to those 65 and older. Enrollees who wish to do so may purchase a policy in the commercial market to supplement the benefits provided under Medicare. Although such policies are regulated by the Office of the Insurance Commissioner under state statute, those statutes must be consistent with the requirements of federal law.

The federal Medicare Prescription Drug Improvement Act of 2003 created a new prescription drug coverage program that begins January 1, 2006. The "Voluntary Prescription Drug Benefit Program" under a new Medicare Part D offers a benefit that individuals may purchase, but also offers employers who offer retiree prescription drug coverage an incentive to maintain that coverage after the Medicare Part D benefit becomes available, rather than shifting the coverage to Medicare.

The federal incentives are in the form of a special federal subsidy offered in the form of rebates for each retiree that remains covered, currently estimated at \$52 per retiree per month during 2006, and \$60 per retiree per month during 2007. An employer is only eligible for the subsidy if the prescription drug benefits provided to retired employees through their plan are equal to, or

greater than, the level of benefits provided by Medicare Part D coverage.

The state Health Care Authority (HCA), through the Public Employee Benefits Board (PEBB), offers retired or disabled employees at least two Medicare supplemental insurance policies, one of which is required to include a pharmacy benefit, and also offers comprehensive retiree health insurance policies that do not act as Medicare supplemental plans. The Legislature provides a subsidy for Medicare-eligible retirees that enroll in PEBB plans. The subsidy is limited to an amount no greater than 50 percent of the total premium that health care providers charge PEBB for enrolling retirees in health care insurance plans.

Summary: The HCA is authorized to participate in Medicare Part D to receive the federal subsidy for continuing to provide retirees health coverage that includes a pharmacy benefit. The premium reduction provided by the Legislature through the Medicare-eligible subsidy may exceed 50 percent of the total health care insurance premium if the HCA, in consultation with the Office of Financial Management, determines that it is necessary to meet the eligibility requirements of the Medicare Part D employer subsidy.

Votes on Final Passage:

House	93	0
Senate	41	0

Effective: July 1, 2005

E2SHB 1290
PARTIAL VETO
C 503 L 05

Modifying community mental health services provisions.

By House Committee on Appropriations (originally sponsored by Representatives Cody, Bailey, Schual-Berke, Campbell, Morrell, Hinkle, Green, Appleton, Moeller, Haigh, Linville, Kenney, Wood and Santos).

House Committee on Health Care
House Committee on Appropriations
Senate Committee on Human Services & Corrections

Background: Regional Support Networks (RSN) were established in 1989 to develop local systems of care for persons with a mental illness. Counties or groups of counties were authorized to become RSNs, contract with licensed service providers, and also deliver services directly. Fourteen RSNs were established to coordinate and deliver mental health services to persons with mental illness. Since 1993, the Department of Social and Health Services (Department) has financed community mental health services through a federal 1915(b) waiver that provides services through managed care programs. Through a recent wavier renewal process with the fed-

eral government, the Department and RSNs are required to comply with additional requirements related to the management, delivery, and expenditure of federal funds on community mental health services.

Summary: The procurement process to establish regional support networks will include a request for qualification process that existing regional support networks may response to. If an existing RSN meets all applicable requirements they will award the contract by the Department. If an existing RSN does not respond to the request for qualification, or is unable to comply with its requirements, the Department will utilize a request for proposal process to establish new regional support networks. Contracts between the Department and a regional support network will include provisions for monitoring performance and remedies for failure to comply with the provisions of the contract. The definition of a RSN is broadened to include counties or other entities. Community mental health services will include the concepts of recovery, resilience, and evidence-based practices. The Department will be responsible to assure the availability of an adequate amount of community-based residential services. If a tribal authority requests to be a party to a private entity serving as a RSN, the Department will determine the role and responsibilities of the RSN and the tribe.

County operated mental health programs may be licensed as service providers, even if they aren't designated as a RSN. The maximum reserve fund balance must be consistent with the amount required by federal regulation or waiver stipulation. The procurement process used to establish RSNs will preserve infrastructure and maximum funds for services. Local advisory boards must include consumers, their families, county elected officials, and law enforcement. RSNs will work to ensure persons with a mental illness are not shifted into state and local correctional facilities. They will also work with the Department to expedite the enrollment or re-enrollment of eligible persons leaving state or local correctional facilities and institutions for mental diseases. The Joint Legislative and Executive Task Force on Mental Health is extended to June 30, 2007, and given oversight responsibilities for the reorganization of the community mental health system.

The Department will utilize medical or psychiatric determinations made during a person's confinement when determining if the person is disabled or eligible. A definition of "likely to be eligible" is included. RSNs are required to develop interlocal agreements to facilitate the timely determination a person's eligibility for assistance.

There will be no fewer than eight or more than 14 RSNs.

Votes on Final Passage:

House	84	10	
Senate	45	0	(Senate amended)
House	94	4	(House concurred)

Effective: July 24, 2005

Partial Veto Summary: The Governor vetoed the requirement that there be no fewer than eight and no more than 14 RSNs.

VETO MESSAGE ON HB 1290-S2

May 17, 2005

To the Honorable Speaker and Members,
The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning, without my approval as to Section 5, Engrossed Second Substitute House Bill No. 1290 entitled:

“AN ACT Relating to community mental health services.”

Section 5 specifies that there should be a minimum of eight and a maximum of fourteen community mental health Regional Support Networks. This section is also included in Section 805 of Engrossed Second Substitute Senate Bill 5763. It is not necessary to include the same language in both bills.

Sections 12 and 13 of Engrossed Second Substitute House Bill No. 1290 require the Department of Social and Health Services (DSHS) to establish new rules and policies. Those rules and policies concern expediting new applications or reinstating Medicaid benefits for persons with mental health disorders discharged from an institutional setting such as jails, state correction facilities, or state hospitals. The 2005-2007 state operating budget passed by the Legislature may not have provided sufficient funding to implement sections 12 and 13. Rather than veto these sections due to insufficient funding, I am directing the DSHS to phase in the new procedures on a statewide basis and continue to evaluate the funding needs as the program is implemented.

For these reasons, I have vetoed Section 5 of Engrossed Second Substitute House Bill No. 1290. With the exception of Section 5, Engrossed Second Substitute House Bill No. 1290 is approved.

Respectfully submitted,



Christine O. Gregoire
Governor

HB 1294
C 144 L 05

Revising standards for antiharassment protection order hearings.

By Representatives Williams, Lovick, Priest, Flannigan and Serben.

House Committee on Judiciary
Senate Committee on Judiciary

Background: A person who is the victim of unlawful harassment may petition the court for a civil anti-harassment protection order against the alleged harasser. Unlawful harassment means a willful course of conduct directed at a specific person that seriously alarms, annoys, or harasses the person and that has no legitimate purpose. The course of conduct must be of a type that would cause a reasonable person to suffer substantial emotional distress and must actually cause the petitioner

to suffer substantial emotional distress.

A court may grant an ex parte temporary anti-harassment protection order and, after a full hearing, a longer-term anti-harassment protection order. Both orders require the respondent to refrain from engaging in harassment and may include provisions prohibiting the respondent from contacting the petitioner or from going within a certain distance of the petitioner's home or workplace. A respondent who knows of and willfully disobeys an anti-harassment protection order is guilty of a gross misdemeanor.

A petition for an anti-harassment protection order must be accompanied by an affidavit that states the specific facts and circumstances of the alleged harassment. The court must order a hearing within 14 days upon receipt of the petition for an anti-harassment protection order.

If the petitioner seeks an ex parte temporary anti-harassment protection order, the petitioner must file an affidavit that shows reasonable proof of unlawful harassment and irreparable harm if the temporary order is not granted.

Summary: A court may order a hearing on a petition for an anti-harassment protection order that does not allege a sex offense only if the petition shows a prima facie case of harassment. A petition that alleges a sex offense does not need to make this prima facie showing in order for the court to set a hearing on the petition.

Votes on Final Passage:

House	98	0
Senate	45	0

Effective: July 24, 2005

HB 1296
C 196 L 05

Granting the municipal courts jurisdiction for antiharassment protection orders.

By Representatives Lovick, Flannigan, Williams, Priest and Serben.

House Committee on Judiciary
Senate Committee on Judiciary

Background: A victim of unlawful harassment (the petitioner) may obtain a civil anti-harassment protection order if the petitioner fears violence or suffers substantial emotional distress from an unrelated person (the respondent) because the petitioner has been seriously alarmed, annoyed, or harassed by the respondent through conduct that serves no legitimate or lawful purpose. Anti-harassment protection orders are separate and distinct from domestic violence protection orders, restraining orders, and domestic violence no-contact orders.

The petitioner may request that a district court grant an anti-harassment protection order against the respon-

dent. If the court finds by a preponderance of the evidence that unlawful harassment exists, it must grant an order to the petitioner that prohibits the respondent from engaging in the harassment. A knowing violation of an anti-harassment protection order is a gross misdemeanor.

There are three types of trial courts in Washington: superior courts, district courts, and municipal courts. Each has differing levels of jurisdiction over the subject matter they have the authority to hear.

District courts have jurisdiction to grant anti-harassment protection orders, and superior courts have concurrent jurisdiction when a case is transferred from a district court. A transfer to superior court is required when the respondent is under eighteen years of age. In addition, the district court may transfer an action for an anti-harassment protection order to a superior court when a district court judge makes findings of fact and conclusions of law showing that meritorious reasons exist for the transfer. Municipal courts lack statutory jurisdiction over actions for anti-harassment protection orders.

Summary: Municipal courts may opt to exercise jurisdiction over actions for anti-harassment protection orders. A municipal court may adopt procedures to hear such protection orders through a local court rule. The municipal court must transfer the case to superior court when the respondent is under age 18. The action may be brought in the municipality where the harassment occurred, where any respondent resides, or where a respondent may be served if it is the same county or judicial district where a respondent resides.

Votes on Final Passage:

House	95	0
Senate	41	0

Effective: July 24, 2005

SHB 1299
C 443 L 05

Repealing outdated and unused tax preferences.

By House Committee on Finance (originally sponsored by Representatives McIntire, Simpson, Morrell, McCoy, Roberts, Moeller, Wood and Chase).

House Committee on Finance
Senate Committee on Ways & Means

Background: Tax exemptions, exclusions, deductions, credits, deferrals, and preferential rates are known as tax preferences. The Department of Revenue publishes a report on tax preferences every four years. The report covers more than 500 tax preferences and describes each preference, the year of enactment, the purpose of the preference, an indication of primary beneficiaries, and estimated fiscal impact.

The report shows several tax preferences for which no taxpayers have claimed relief in recent years. Some

of these tax preferences appear to be outdated or unnecessary.

Summary: Tax preferences for which no taxpayers have claimed relief in recent years, and that appear to be outdated or unnecessary, are repealed. The repealed tax preferences, year of enactment, and current status are as follows:

- Leased agricultural fair lands property tax exemption, 1973. This exemption is not being used. These lands are exempt under another statute.
- Steam generated electricity plant public utility district privilege tax exemption, 1957. This affected only the now retired Hanford N-Reactor.
- Preferential business and occupation (B&O) tax rate for nuclear fuel assembly manufacturing and sale, 1971. No one has reported under this classification in recent years.
- Sales and use tax exemptions for motor vehicle fuel used in aircraft testing, 1963. Motor vehicle fuel is not used for aircraft testing in Washington.
- B&O tax credit for cogeneration facilities, 1979. New applications were terminated by legislation in 1984. No firms are currently eligible for the credit.
- New manufacturers' sales and use tax deferral, 1985. No new sales tax deferrals have been granted since this program was terminated in 1995.
- Insurance premiums tax credit for international services job creation provided by insurance companies, 1998. No insurance company has used this credit.
- Health insurance pools B&O tax deduction, 1987. This deduction is no longer used because health insurers were shifted from the B&O tax to the insurance premiums tax in 1994.
- Sales tax exemptions for apparel used solely for display, 1967. Retailers now use inventory for display. Use of inventory for display is exempt from the use tax under another statute.
- Sales and use tax exemptions for sale/leaseback of food processing equipment, 1986. Only one firm used this exemption and it ceased operation in 1991.
- Naval aircraft training equipment use tax exemption, 1995. The exemption applies to equipment transfers under a federal statute, and all such transfers have now taken place. Thus, no future utilization of this exemption is possible.
- Waiver of delinquency penalties for failure to pay property taxes because of Y2K, 1999. The problems associated with Year 2000 computer problems were minimal and have been resolved by now.

Votes on Final Passage:

House	96	0	
Senate	44	0	(Senate amended)
House	95	0	(House concurred)

Effective: July 1, 2006

ESHB 1302

C 197 L 05

Modifying burn ban triggers.

By House Committee on Natural Resources, Ecology & Parks (originally sponsored by Representatives Kagi, Jarrett and B. Sullivan).

House Committee on Natural Resources, Ecology & Parks

Senate Committee on Water, Energy & Environment

Background: The Washington Clean Air Act (Act) regulates the use of wood stoves, fireplaces, and other solid fuel burning devices. The Act prohibits the sale of solid fuel burning devices that do not meet certain defined standards. Use of uncertified burning devices, which are those devices that do not meet these standards, may generally continue if the device was purchased prior to the sales prohibition.

The Act also establishes a two-stage burn ban. During a first stage burn ban, residential and commercial buildings are prohibited from burning wood in any stove or fireplace that is not certified. During a second stage burn ban, all buildings are prohibited from burning wood in both certified and uncertified solid fuel burning devices. Buildings that do not have an adequate source of heat without burning wood are allowed to burn wood during both first and second stage burn bans.

Both the Department of Ecology (Department) and local air agencies have the authority to declare first and second stage impaired air episodes. There are two triggers for a first stage impaired air episode. The first trigger is a recorded measurement of particulates in the air that are 10 microns or smaller at an average concentration of 60 micrograms per cubic meter over 24 hours. A first stage episode can also be triggered if carbon monoxide is measured at an average ambient level concentration of eight parts per million over an eight hour period. A second stage impaired air quality episode is triggered when the 24-hour average concentration for particulates that are 10 microns or smaller reach a concentration of 105 micrograms per cubic meter.

Summary: First Stage Burn Bans. The triggers for establishing a first and second stage burn ban are altered. The formula for declaring a first stage ban is changed from measuring particulates sized 10 microns or smaller at a concentration of greater than 60 micrograms per cubic meter, to measuring particulates sized 2.5 microns or smaller at a concentration of 35 micrograms per cubic meter. In addition to measuring the necessary concentration of fine particulates, a first state burn ban may not be called unless the meteorological forecast predicts that the conditions for the following 48 hours will not allow the levels of fine particulates to decline below a concentration of 35 micrograms per cubic meter.

The carbon monoxide standard for allowing a first

stage burn ban is removed. Only the fine particulate measurements may trigger a burn ban.

Second Stage Burn Bans. The formula for declaring a second stage ban is changed from measuring particulates sized 10 microns or smaller at a concentration of greater than 105 micrograms per cubic meter, to measuring particulates sized 2.5 microns or smaller at a concentration of 60 micrograms per cubic meter. In addition to the measurement of fine particulates, a second stage burn ban may not be given effect unless a first stage burn ban has been in force and proven insufficient to reduce the rate of increase in the concentration of fine particulates in the air. Also, the meteorological forecast must predict that the conditions for the following 48 hours will not allow the levels of fine particulates to decline below the necessary trigger level.

Votes on Final Passage:

House	64	32
Senate	35	7

Effective: July 24, 2005

HB 1303
C 226 L 05

Concerning metropolitan park districts.

By Representatives Appleton, Woods and B. Sullivan.

House Committee on Local Government

Senate Committee on Government Operations & Elections

Background: Metropolitan Park Districts. A metropolitan park district (MPD) is a type of special purpose district that may be created for the management, control, improvement, maintenance, and/or acquisition of parks, parkways, boulevards, and recreational facilities. A MPD may include territory located in portions or in all of one or more cities or counties.

To create a MPD, voters who live in the area proposed to be included in the MPD vote on a ballot proposition that authorizes the creation of a park district. The ballot proposition is initiated either (1) by a petition of 15 percent of the voters in the area to be, or (2) by resolution of the governing body of each city, in which all or a portion of the proposed park district is located, and each county, in which all or a portion of the proposed park district is located in the unincorporated portion of the county.

A MPD is authorized to acquire property from a city and/or county within its boundaries for the purpose of creating parks, playgrounds, or parkways. When a MPD acquires property from a city and/or county, it must assume responsibility for all indebtedness associated with such property and must pay off such debt through either taxes or bond issuance. A MPD is authorized to issue "refunding bonds" in order to meet this debt obliga-

tion. "Refunding bonds" are defined by statute to include those bonds "... issued for the purpose of paying the principal of or redemption premiums or interest on any outstanding bonds of the issuer, its predecessor, or related public body."

Park and Recreation Districts. A park and recreation district is another type of special purpose district that is created to provide leisure time activities, facilities, and recreational facilities as a public service to the residents of the area within its boundaries. Its area may include incorporated and unincorporated property. The process of creating a park and recreation district first requires the submission to the county of a petition signed by 15 percent of the registered voters within the area proposed to encompass the park and recreation district. The board of county commissioners fixes the boundaries and, together with any funding obligations, presents the matter to the voters in the form of a ballot proposition.

The park and recreation district is governed by a board of five elected commissioners with four-year staggered terms. The district may fund its operations by means of excess levies and regular property tax levies. Disposal of property must be by unanimous vote of the district commissioners. The dissolution of a park and recreation district must be conducted in the same manner as required of port districts.

Washington law does not explicitly permit a park and recreation district to transfer an interest in property to a MPD.

Summary: Transfer of property from a municipal corporation to a metropolitan park district. Any municipal corporation, including a park and recreation district, may transfer an interest in real or personal property interest to a MPD without requiring that consideration be received as a condition of such transfer. In turn, a MPD may accept real, personal, and other types of property interests from any municipal corporation.

Assumption of responsibility for indebtedness. A MPD may assume responsibility for all existing indebtedness associated with the receipt of a property interest from a county or other municipal corporation. The MPD must pay such indebtedness by either levying taxes or issuing bonds and must relieve the county or municipal corporation of liability for the debt.

A metropolitan park district's issuance of refunding bonds. An issuance of refunding bonds by a MPD to pay off existing voter approved indebtedness will itself be considered "voter approved indebtedness" provided the following conditions are met:

- the issuance of the refunding bonds is approved through the majority vote of the commissioners of the MPD;
- the boundaries of the MPD are identical to the boundaries of the taxing district in which the voter approval was first obtained;

- the MPD has been officially designated as the successor to the original taxing district in that district's formal resolution declaring its intent to dissolve; and
- the original assumption of indebtedness was properly approved by the requisite number of voters in the original taxing district.

Property taxes levied by a metropolitan park district.

A MPD may levy annual property taxes, in addition to the district's regular property tax levy, as necessary in order to pay any refunding bonds issued in relation to the assumption of the debt related to the receipt of property from a municipal corporation.

Authorization of a successor taxing district a park and recreation district during its dissolution. A park and recreation district is authorized to facilitate its own dissolution by designating a successor taxing district and then transferring its property, and the associated debt, to such taxing district.

Retroactivity. These provisions apply retroactively to MPD elections occurring on or after May 1, 2004.

Votes on Final Passage:

House	94	0	
Senate	39	0	(Senate amended)
House	95	0	(House concurred)

Effective: April 28, 2005

SHB 1304

C 481 L 05

Revising provisions relating to animal cruelty.

By House Committee on Judiciary (originally sponsored by Representatives Kessler, O'Brien, Lantz, Tom, Lovick, Pearson, Hunt, Moeller, Kirby, Kristiansen, Hunter, Condotta, Dunshee, Nixon, Springer, Jarrett, Simpson, Kilmer, Upthegrove, Williams, Linville, Kenney and Dickerson).

House Committee on Judiciary

Senate Committee on Judiciary

Background: The state's law for the prevention of cruelty to animals prohibits certain practices and activities involving animals. Among the law's prohibitions are transporting or confining animals in an unsafe manner, engaging animals in exhibition fighting with other animals, and poisoning animals. In addition, the law contains the crime of animal cruelty.

Animal cruelty in the first degree involves intentionally inflicting substantial pain on, causing physical injury to, or killing an animal by a means that causes undue suffering. Animal cruelty in the first degree is a class C felony.

Animal cruelty in the second degree is committed when a person knowingly, recklessly, or with criminal negligence inflicts unnecessary suffering or pain upon an animal. An owner may commit this crime by failing to

provide necessary food, water, shelter, rest, or medical attention, or by abandoning the animal. Animal cruelty in the second degree is a misdemeanor.

The crime of animal fighting occurs when an individual owns, possesses, keeps, or trains any animal with the intent that the animal will engage in fighting with another animal. Animal fighting also occurs when an individual causes animals to fight or injure each other for amusement or gain, or aids or abets any such act. Animal fighting is a gross misdemeanor offense. A person who is knowingly present as a spectator at an animal fighting exhibition or at the preparations for an animal fighting exhibition is guilty of a misdemeanor offense.

The animal cruelty law contains a number of exemptions, including: licensed research institutions; accepted husbandry practices in the commercial raising or slaughtering of livestock; the customary use of animals in rodeos or fairs; the killing of animals for food; and practices authorized under the "game laws."

Summary: The crime of first-degree animal cruelty is expanded to include a person who, with criminal negligence, starves, dehydrates, or suffocates an animal, and as a result causes the animal to suffer: (1) substantial and unjustifiable physical pain that extends for a period sufficient to cause considerable suffering; or (2) death.

The crime of second-degree animal cruelty is amended to remove "depriving an animal of necessary food, water, or ventilation" as a means of committing the crime.

The crime of animal fighting is raised from a gross misdemeanor to a class C felony and expanded to include a person who knowingly:

- breeds, buys, sells, advertises, or offers for sale any animal with the intent that the animal will be used for fighting;
- participates in, advertises, or performs any service in the furtherance of an animal fight;
- transports spectators to an animal fight or accepts payment for admission to an animal fight;
- keeps or uses a place for animal fighting or allows a place to be used for animal fighting;
- serves as a stakeholder for money wagered on an animal fight; and
- takes or receives a stray or pet animal with the intent of using the stray animal or pet animal for animal fighting or for training or baiting for animal fighting.

The provision making it a crime to be a spectator at an animal fight is removed, although participation in an animal fight remains a criminal offense. "Animal" is defined to mean a dog or a male chicken for purposes of this crime.

Votes on Final Passage:

House	96	0	
Senate	41	0	(Senate amended)
House	98	0	(House concurred)

Effective: July 24, 2005

HB 1307

C 251 L 05

Defining veteran for certain purposes.

By Representatives Haigh, Eickmeyer, Wallace, P. Sullivan, Morrell, Sells, Miloscia, Takko, Ormsby, McCoy, Conway, McDermott and Chase.

House Committee on State Government Operations & Accountability

Senate Committee on Government Operations & Elections

Background: There are two main definitions of "veteran" for purposes of state programs, services, and benefits for veterans. One definition, which contains mostly wartime veterans, governs eligibility for programs like pensions and retirement benefits.

The other definition, which contains both wartime and peacetime veterans, applies to the veterans' preference on civil service exams, free license plates, county aid to indigent veterans, restrictions on sending veterans to alms houses, and county burials. This definition also applies to the statute that requires a Washington drivers' license to be in full effect for the entire time a person serves in the military. This broader definition of veteran includes a person honorably discharged, or discharged for medical reasons with an honorable record, who has served in at least one of the following capacities:

- as a member of any branch of the armed forces of the United States as long as he or she has fulfilled his or her initial military service obligation;
- as a member of the Women Air Force Service Pilots;
- as a member of the armed forces reserves, National Guard, or Coast Guard, and has been called into federal service for at least 180 days;
- as a civil service crew member with service aboard a U.S. Army Transport Service or a U.S. Naval Transportation Service vessel in oceangoing service from December 7, 1941, through December 31, 1946; or
- as a member of the Philippine armed forces/scouts during the period of armed conflict from December 7, 1941, through August 15, 1945.

Summary: The broader definition of veteran is expanded to include a United States documented merchant mariner who received a military commendation and who served aboard an oceangoing vessel operated by the Department of Defense, or its agents, from June 25, 1950, through July 27, 1953, in Korean territorial waters and from August 5, 1964, through May 7, 1975, in Vietnamese territorial waters.

Votes on Final Passage:

House	95	0	
Senate	37	1	(Senate amended)
House	97	1	(House concurred)

Effective: July 24, 2005

SHB 1310

C 145 L 05

Requiring mandatory electronic data reporting under Title 51 RCW for workers' compensation self-insurers.

By House Committee on Commerce & Labor (originally sponsored by Representatives Hudgins, Conway, McCoy, Condotta, Wood and Chase; by request of Department of Labor & Industries).

House Committee on Commerce & Labor
Senate Committee on Labor, Commerce, Research & Development

Background: Industrial insurance is a no-fault state workers' compensation program that provides medical and partial wage replacement benefits to covered workers who are injured on the job or who develop an occupational disease. Employers must insure with the state fund administered by the Department of Labor and Industries (Department) or, if qualified, may self-insure.

Qualifying for Self-Insurance. To be certified as a self-insurer, the employer must meet certain criteria, including:

- be in business for at least three years;
- have a net worth of at least \$5 million;
- meet a specified surety requirement;
- have an approved, effective safety and accident prevention program; and
- have sufficient financial ability to ensure prompt payment of compensation to its injured workers.

Group self-insurance is also permitted for school districts and educational service districts, and for hospitals (one group for public hospitals, one group for other hospitals).

Benefits and Claims Administration under Self-Insurance. Self-insurers must provide their injured workers with the same benefits that are provided to injured workers in state fund claims, including medical and partial wage replacement benefits, permanent partial and total disability benefits, and death benefits. Self-insurers manage most aspects of their injured worker claims, including:

- paying time loss benefits directly to their injured workers;
- scheduling medical appointments required by the employer;
- referring injured workers to vocational rehabilitation counselors;
- closing certain undisputed claims; and
- determining and paying permanent partial disability benefits if the claimant has returned to work with the employer.

Self-insurers are required to report various claims actions and other information to the Department.

Confidentiality of Records. Generally, information obtained by the Department from employer records is confidential and not open to public inspection. Simi-

larly, information in injured workers' claim files is also confidential and not open to public inspection, although various interested parties may have access to certain records for purposes related to administering the Industrial Insurance Act.

Self-Insurance Assessments. Self-insurers pay assessments to the Department to cover the Department's administrative costs of regulating self-insurance and for an insolvency trust fund that covers the costs of self-insured employers who become unable to meet their workers' compensation obligations.

Self-Insurance Penalties. Self-insurers are subject to decertification or corrective action for failing to meet financial requirements and for specified prohibited actions against employees. They are also subject to various penalties for failure to make required reports to the Department or for violations of certain statutes or Department rules.

Summary: The Department must establish an electronic reporting system for self-insured employers to use when submitting specified industrial insurance claims data to the Department.

The claims data reported to the Department by self-insured employers using the electronic reporting system are confidential under applicable Industrial Insurance Act provisions. However, the Department may publish aggregated claims data that do not contain personal identifiers.

Beginning July 1, 2008:

- Self-insured employers will be required to submit claims data electronically as prescribed by the Department, and electronic submittal will be a requirement to maintain self-insurance status.
- A self-insurer that fails to comply with the electronic submittal requirement will be subject to penalties, including withdrawal of certification, under an escalating schedule of penalties developed by the Department.
- The statutory criteria to qualify for self-insurance will include a requirement to demonstrate the ability and commitment to submit claims data electronically.

Votes on Final Passage:

House	94	1
Senate	47	0

Effective: July 24, 2005

July 1, 2005 (Sections 2-3)

Modifying the boilers and unfired pressure vessel law.

By Representatives Wood, Condotta and Linville.

House Committee on Commerce & Labor
Senate Committee on Labor, Commerce, Research & Development

Background: Certain boilers and unfired pressure vessels are subject to regulation by the Board of Boiler Rules (Board) and inspection by the Department of Labor and Industries (Department). Other boilers and unfired pressure vessels are exempt from regulation and/or inspection, such as certain low pressure vessels not located in public places, certain small electric boilers, domestic hot water heaters, and pressure vessels containing water for domestic supply purposes.

The Board develops rules for the safe construction, installation and operation of boilers, as well as the safe installation of unfired pressure vessels. These standards are based on nationally or internationally accepted engineering standards applicable to boilers and unfired pressure vessels.

The Director of the Department approves rules developed by the Board, appoints a chief inspector and deputy inspectors, commissions authorized insurance ("special") inspectors, and assesses penalties against persons who violate safety standards for boilers and unfired pressure vessels.

The Chief Inspector's duties include conducting safety inspections of boilers and unfired pressure vessels, issuing operating certificates, and keeping records of internal inspections of boilers and unfired pressure vessels.

Special inspectors are required to file reports of internal inspections with the Chief Inspector within 30 days of conducting such inspections. They are not required to file reports of external inspections unless the boiler or unfired pressure vessel is in dangerous condition.

Persons may appeal actions of the Director of the Department and the Chief Inspector to the Board, and may appeal decisions of the Board to the Thurston County Superior Court.

Examinations for inspectors, including the Chief Inspector, must be held by the Board or by at least two members of the Board.

Summary: The following types of boilers and unfired pressure vessels are exempt from regulation:

- certain low pressure vessels, regardless of their location; and
- certain small electric boilers with a maximum allowable working pressure of 100 pounds per square inch.

The following types of boilers and unfired pressure vessels are exempt from inspection requirements:

- hot water storage tanks, hot water supply boilers, and hot water heating boilers; and
- certain unfired pressure vessels containing only water under pressure for domestic supply purposes, including those containing air, the compression of which serves as a cushion or airlift pumping system, when located in certain public water systems.

Authorized insurance ("special") inspectors are required to file reports of external inspections in the same manner as reports of internal inspections.

Persons are prohibited from installing or maintaining standards that violate safety standards governing boilers and unfired pressure vessels. In cases where the interpretation and application of the safety standards are in dispute, the Board must determine the methods of installation or maintenance to be used.

Persons may appeal the Board's decisions relating to safety standards, commissions, operating certificates, and penalties. The hearing and review procedures must be conducted in accordance with the Administrative Procedures Act. Other procedures are repealed.

Examinations for inspectors must be held by the Chief Inspector and a member of the Board, or by at least two national board commissioned inspectors.

Votes on Final Passage:

House	89	0
Senate	46	0

Effective: July 24, 2005

SHB 1313 C 373 L 05

Concerning background checks and fingerprint identification.

By House Committee on Natural Resources, Ecology & Parks (originally sponsored by Representatives O'Brien, Pearson and Darneille; by request of Parks and Recreation Commission).

House Committee on Natural Resources, Ecology & Parks

Senate Committee on Natural Resources, Ocean & Recreation

Senate Committee on Ways & Means

Background: The Parks and Recreation Commission (Commission) is responsible for the care and supervision of the state parks system. The Washington State Patrol (WSP) conducts background checks and fingerprinting for certain entities that hire persons for positions involving unsupervised access to children and vulnerable adults. The Commission does not have the express authority to require a record check or fingerprinting of prospective employees, volunteers, or contractors under

these circumstances.

The WSP is responsible for developing, maintaining and operating the statewide automatic fingerprint information system. Every local, county, and state law enforcement agency is required to obtain fingerprints of all adults and juveniles arrested for any felony or gross misdemeanor. These fingerprints must be transmitted electronically to the WSP within 72 hours of the suspect's arrest.

Local law enforcement agencies may establish or operate an automatic fingerprint identification system only if both the hardware and software of the local system are compatible with that of the state system. In addition, these local systems must be able to electronically transmit data to, and receive and answer inquiries from, the WSP's system. Any local or county law enforcement agency that purchased an automatic fingerprint identification system before January 1, 1987, is exempt from the compatibility requirements.

Any local or county law enforcement agency choosing to operate a fingerprint identification system must contract with the same vendor used by the WSP in order to meet the compatibility requirements. Fingerprints, also known as "ten prints," are prints taken from arrested or charged persons. "Latent" fingerprints include those fingerprints left at crime scenes.

Summary: The Commission is required to adopt rules that may require a criminal history record information search of job applicants, volunteers, and independent contractors who will work with children or vulnerable adults, or who will be responsible for collecting or disbursing money or processing credit card transactions. The background check will be conducted through the WSP criminal identification system and may include a national check from the Federal Bureau of Investigation. Permanent employees of the Commission who are employed upon the effective date of this act are exempt from the requirement.

Local law enforcement agencies may use an automatic fingerprint identification system which uses an interface for both its hardware and software that is compatible with the WSP statewide automatic fingerprint identification system. Local law enforcement agencies must be able to transmit "ten-print" fingerprint records to the state automatic fingerprint identification system, and the state must be able to accept these ten-print records. When industry transmission protocols change, the WSP must incorporate these new standards as long as funding and reasonable system engineering practices permit.

No later than January 1, 2007, the state fingerprint system must be able to accept electronic latent search records from any local law enforcement agency. If, by June 30, 2006, funding is not received for transmission of latent search records in the Omnibus Appropriations Act, or otherwise obtained from another source, the

ESHB 1314

latent search records transmission requirement is null and void.

Votes on Final Passage:

House	98	0	
Senate	49	0	(Senate amended)
House	95	0	(House concurred)

Effective: July 24, 2005

ESHB 1314

C 374 L 05

Creating the domestic violence prevention account.

By House Committee on Juvenile Justice & Family Law (originally sponsored by Representatives Dickerson, Darneille, Upthegrove, Lovick, Lantz, Simpson, Morrell, Williams, Conway, Roberts, Moeller, Kenney, Wood, Kagi, McDermott, Santos, Chase and Ormsby).

House Committee on Juvenile Justice & Family Law
House Committee on Appropriations
Senate Committee on Judiciary
Senate Committee on Ways & Means

Background: Dissolution Filing Fees. Filing fees in Washington for a petition for dissolution, legal separation, or declaration concerning the validity of marriage are established by statute. The statute requires the superior court clerk to collect a \$110 fee from the petitioner for the initial filing. In addition, in counties that provide a courthouse facilitator program, the filing fee may be as high as \$120. The filing fee may be waived upon showing financial hardship.

In 2003, there were approximately 29,500 petitions for dissolution, legal separation, or declaration concerning the validity of marriage.

Domestic Violence Services. The Department of Social and Health Services administers funds appropriated from the State General Fund and the Public Safety and Education Account for domestic violence services.

Summary: Superior court clerks must collect an additional \$30 from any party filing a petition for dissolution, legal separation, or declaration concerning the validity of marriage. The clerk must transmit monthly \$24 out of the \$30 fee for deposit in the Domestic Violence Prevention Account newly created in the state treasury. The remaining \$6 is retained by the county collecting the fee for the purpose of funding community-based services for victims of domestic violence within the county. In addition, the court may retain 5 percent of the \$6 (which equals 30 cents) for administrative purposes. Revenue transferred into the Domestic Violence Prevention Account must be used to fund nonshelter community-based services for domestic violence victims.

The Department of Social and Health Services administers the funds in the Domestic Violence Prevention Account and may establish minimum standards for

preventive, nonshelter community-based services receiving the funds. Preventive, nonshelter community-based services include services for victims of domestic violence from communities that have been traditionally underserved or unserved and services for children who have witnessed domestic violence.

Votes on Final Passage:

House	71	25	
Senate	38	9	(Senate amended)
House	80	18	(House concurred)

Effective: July 24, 2005

HB 1315

C 326 L 05

Authorizing the disclosure of information related to real estate excise taxes.

By Representatives Tom, Clibborn, Jarrett, Hunter, Priest, Lantz, Conway, Rodne, Orcutt and Linville.

House Committee on Finance
Senate Committee on Ways & Means

Background: The real estate excise tax is imposed on each sale of real property. The state tax rate is 1.28 percent. Additional local real estate excise taxes are allowed. The combined state and local rate in most areas is 1.78 percent or less. The highest rate is 2.78 percent in the City of Friday Harbor.

The real estate excise tax applies when a sale occurs. A sale is defined as any transfer of the ownership of or title to real property, or any transfer of a controlling interest in a corporation or other entity that owns real property. A controlling interest is 50 percent or more of the voting power of the stock of a corporation, or 50 percent or more of capital, profits, or beneficial interest in a partnership, association, trust, or other entity.

Several exemptions are allowed from the real estate excise tax, including gifts, inheritances, and transfers to a corporation or partnership that is wholly owned by the transferor, the transferor's spouse, or the transferor's children.

When real property is transferred by deed, the tax is collected by the county treasurer. The county treasurer distributes the tax revenue to the state and local jurisdictions imposing the tax. When the control of real property is transferred via a change in the controlling interest in a corporation or other entity, real estate excise tax is paid to the Department of Revenue, which distributes the local share of tax revenue to the appropriate jurisdictions.

When real estate excise tax is paid to the county treasurer, the amount of tax paid and information relating to the transaction are part of the public record. In contrast, excise tax information received from taxpayers by the Department of Revenue is generally protected by confi-

dentiality requirements. The information may not be disclosed to the public, except as part of statistical reports that do not reveal the identity of a particular taxpayer or transaction.

Most corporations organized under Washington law and operating in Washington are required to file annual reports with the Secretary of State. Annual reports must include: information regarding the registered office and registered agent of the corporation; the principal office of any foreign corporation; a statement of the character of the affairs in which the corporation is engaged; names and addresses of the directors and officers; and the unified business identifier number. Certain partnerships are also required to apprise the Secretary of State of changes in names and addresses of partners and offices.

Summary: Information in the possession of the Department of Revenue regarding real estate excise tax may be disclosed to the public.

The Secretary of State must adopt rules requiring entities which file annual reports to disclose any transfer of the controlling interest of the entity and also disclose any interest in real property. The Secretary of State must furnish this information to the Department of Revenue for the purpose of tracking the transfer of interests in real property and determining when real estate excise tax is due. If an entity does not disclose a transfer of a controlling interest which results in real estate excise tax becoming due, the entity is subject to interest and penalties for late payment as well as a penalty for evasion of the tax.

Votes on Final Passage:

House	97	0	
Senate	40	0	(Senate amended)
House	97	1	(House concurred)

Effective: July 24, 2005

HB 1319
C 62 L 05

Survivor benefits for ex spouses in the law enforcement officers' and fire fighters' retirement system, plan 1.

By Representatives Conway, Fromhold, Crouse, Simpson, Upthegrove and Campbell; by request of Select Committee on Pension Policy.

House Committee on Appropriations
Senate Committee on Ways & Means

Background: The Law Enforcement Officers' and Fire Fighters Retirement System Plan 1 (LEOFF 1) provides retirement benefits to full-time, fully-compensated law enforcement officers and fire fighters employed by the state, cities, counties, and special districts and who were first employed by the state before October 1, 1977. The LEOFF 1 provides comprehensive pension, disability, and medical benefits to about 8,000 retirees and 1,000

active members.

The spouse of a retiree of the LEOFF 1 is eligible, upon the retiree's death, to receive a survivor benefit for life equal to the retirement allowance received by the retiree. In order to be eligible for this automatic benefit, the spouse must have been married to the LEOFF 1 member for one year prior to retirement. An ex-spouse of a LEOFF 1 member is not eligible for this survivor benefit except in the rare situation where the ex-spouse had been married to the LEOFF 1 member for at least 30 years, including at least 20 years prior to retirement, and where there was a court order prior to 1980 providing the survivor benefit to the ex-spouse.

A person who divorces a LEOFF 1 member may be awarded a portion of the member's benefit, but only for the life of the member. When the member dies, the portion of the member's benefit being paid to the ex-spouse ceases. There is a narrow exception to this rule for ex-spouses who divorced an active LEOFF 1 member after January 1, 1997, and before July 1, 2003, and specified in their court-approved property settlement that the divorcing spouse is also entitled to a portion of any spousal survivor benefit the member receives in association with a future marriage.

Summary: The ex-spouse of a LEOFF 1 member who was awarded part of the member's monthly benefit payment in a divorce decree will continue to receive that portion of the member's benefit for the life of the ex-spouse as if the member were still alive. Divided benefits that have ceased being paid to the ex-spouse of a deceased LEOFF 1 member resume, but will not be adjusted by the LEOFF 1 cost-of-living adjustment for that period that they were not being paid, nor be paid retroactively for the period of nonpayment under prior law. The change in benefits applies retroactively.

Votes on Final Passage:

House	94	0
Senate	49	0

Effective: July 24, 2005

HB 1321
C 23 L 05

Allowing members of the teachers' retirement system plan 1 who are employed less than full time as psychologists, social workers, nurses, physical therapists, occupational therapists, or speech language pathologists or audiologists to annualize their salaries when calculating their average final compensation.

By Representatives Fromhold, Conway, Crouse, Simpson, Morrell, Upthegrove, Linville, Kenney and McDermott; by request of Select Committee on Pension Policy.

House Committee on Appropriations

Senate Committee on Ways & Means

Background: The Teachers' Retirement System Plan 1 (TRS 1) permits members who work less than full-time as classroom instructors, librarians, or counselors to annualize their salaries upon retirement so as to receive benefits in proportion with the amount of a full-time position that they work. The TRS 1 members who work as Certified Educational Staff Associates (ESAs) in other positions such as psychologists, social workers, nurses, physical therapists, occupational therapists, speech pathologists, and audiologists are not permitted to annualize their salaries.

At retirement, a TRS 1 member receives 2 percent of average final compensation for each year of service credit earned. Average final compensation in TRS 1 is based on a retiring member's two highest compensated consecutive school years.

Without the ability to annualize salary, a part-time member of TRS 1 could receive a benefit based both upon a part-time salary, and on less than a full year of service for each school year worked. For example, a half-time ESA nurse earning both half the service credit and half the salary of a full-time ESA would receive one quarter of the retirement allowance of the full-time ESA.

Illustration of the effect of annualizing salary for part-time Educational Service Associates (ESAs).

	Full-time ESA	Half-time counselor (can annualize)	Half-time nurse (cannot annualize)
Salary	\$50,000	\$25,000	\$25,000
Annual Contributions	\$3,000	\$1,500	\$1,500
Retirement Benefit	\$30,000	\$15,000	\$7,500

The State Actuary estimates that 30 out of a total of 11,175 active members of TRS are TRS Plan 1 part-time ESAs not currently permitted to annualize their salary when calculating average final compensation.

Summary: The list of TRS 1 part-time Educational Service Associates who earn less than a full year of service credit each year that are permitted to annualize salaries in computing average final compensation is expanded to include psychologists, social workers, nurses, physical therapists, occupational therapists, speech language pathologists, and audiologists.

Votes on Final Passage:

House 95 0
Senate 41 0

Effective: July 24, 2005

Changing the membership of the executive committee of the select committee on pension policy.

By Representatives Conway, Fromhold, Crouse, Simpson, Linville and Chase; by request of Select Committee on Pension Policy.

House Committee on Appropriations
Senate Committee on Ways & Means

Background: Prior to 1976, the major state retirement systems were under the oversight of boards of trustees that had such functions as the investment of the retirement funds, hiring the executive director, contracting for actuarial services, and proposing legislation to improve benefits for members and retirees.

In 1976, following a period of rapid increases in pension benefits and costs, the Legislature created the Department of Retirement Systems (DRS), with a director appointed by the Governor, to assume most of the oversight duties of the various retirement boards. The Office of the State Actuary (OSA) was also created in 1976 to provide all retirement system actuarial services for both DRS and the Legislature, including all studies used for setting contribution rates and determining the cost of proposed legislation. The OSA was established as an office in the legislative branch.

In 1981, the State Investment Board (SIB) was created to manage the investment of the assets of the state retirement systems. The SIB has nine voting members and four non-voting members who are investment professionals.

In 1987, the Joint Committee on Pension Policy (JCPP) was created to study pension benefit and funding policies and issues, and to appoint or remove the State Actuary by a two-thirds vote. The JCPP consisted of eight members of the Senate and eight members of the House of Representatives, split evenly between the two largest caucuses of each body. The OSA provided staffing to the JCPP.

In 1998, the Pension Funding Council (PFC) was created to adopt the long-term economic assumptions and employer contribution rate for most of the state's retirement systems. The PFC also administers audits of the actuarial analysis produced for the PFC by the State Actuary.

In 2002, the voters passed Initiative 790, creating a Law Enforcement Officers' and Fire Fighters' Retirement System Plan 2 (LEOFF 2) board of trustees. The LEOFF 2 Board replaced the functions of the JCPP and the PFC with respect to LEOFF 2.

The 2003 Legislature changed the JCPP to the Select Committee on Pension Policy (SCPP), and changed its makeup to one-half legislative representatives, and one-half employer, employee, and retiree representatives. The SCPP retained all of the functions of the JCPP,

except those relating to the appointing and removing of the State Actuary - those functions were vested in a State Actuary Appointment Committee, which convenes upon the request of the chairs of the House Appropriations Committee and the Senate Ways and Means Committee whenever there is a vacancy or on request of four members of the Appointment Committee.

The SCPP has a statutorily-created executive committee that is composed of five members of the SCPP; the chair and co-chair of the SCPP, who are members of the House and Senate; one member representing active members of the state retirement systems; one member representing state retirement system employers; and either the Director of the Office of Financial Management or the Director of the DRS, who serve in alternate years.

Summary: A sixth member is added to the executive committee of the SCPP from among the committee members representing retired members of the state retirement systems. The Director of the Office of Financial Management no longer serves on the executive committee in alternate years, instead the Director of the DRS serves on the SCPP executive committee every year.

Votes on Final Passage:

House	85	0
Senate	42	0

Effective: July 24, 2005

HB 1325

C 64 L 05

Authorizing interruptive military service credit.

By Representatives Conway, Fromhold, Crouse, Simpson, Morrell, Moeller, Sells, Chase and Campbell; by request of Select Committee on Pension Policy and LEOFF Plan 2 Retirement Board.

House Committee on Appropriations
Senate Committee on Ways & Means

Background: A member of the Law Enforcement Officers' and Fire Fighters' Retirement System Plan 2 (LEOFF 2), Public Employees' Retirement System Plan 2 or 3 (PERS 2/3), Public Safety Employees' Retirement System Plan 2 (PSERS 2), School Employees' Retirement System Plan 2 or 3 (SERS 2/3), Teachers' Retirement System Plan 2 or 3 (TRS 2/3), or the Washington State Patrol Retirement System Plan 2 (WSPRS 2) who leaves employment to enter the armed forces of the United States may receive up to five years of retirement system service credit.

To receive this service credit, the member must resume retirement system-covered service within one year of the end of his or her service in the armed forces. If a member applies but is refused reemployment within one year, then the member must resume retirement sys-

tem-covered employment within 10 years.

Following re-employment in a retirement system-covered position, a member may have up to five years of their military service credited to his or her retirement system if they pay the employee contributions plus interest. The contributions are based on the average of the member's compensation at the time the member left employment to join the armed forces and at the time the member resumed employment, and payment must be completed within five years following either the first resumption of state employment or accumulation of 25 years of service credit.

In the event that a member is not reemployed in a retirement system-covered position following his or her military service, the member cannot elect to pay the required employee contributions and interest and receive retirement system service credit for service in the armed forces.

Summary: The surviving spouse or children of a member of LEOFF 2, PERS 2/3, PSERS 2, SERS 2/3, TRS 2/3, or WSPRS 2 who dies while serving in the uniformed services may, on behalf of the deceased member, apply for retirement system service credit for the member up until the date of the member's death. The survivors will provide the Director of the Department of Retirement Systems (Director) with proof of the member's death while in the uniformed services, and proof of the member's honorable service prior to the date of death.

A member of LEOFF 2, PERS 2/3, PSERS 2, SERS 2/3, TRS 2/3, or WSPRS 2 who is totally incapacitated for continued employment due to conditions or events that occurred while in the uniformed services and who provides the Director with proof of an honorable discharge is entitled to purchase service credit for the period up to the date of his or her discharge.

Votes on Final Passage:

House	91	0
Senate	49	0

Effective: July 24, 2005

July 1, 2006 (Section 11)

HB 1327

C 65 L 05

Permitting members of the teachers' retirement system plan 2 and plan 3 who qualify for early retirement or alternate early retirement to make a one-time purchase of additional service credit.

By Representatives Alexander, Conway, Crouse, Simpson, Linville and Chase; by request of Select Committee on Pension Policy.

House Committee on Appropriations
Senate Committee on Ways & Means

Background: A vested member of the Teachers' Retirement System Plans 2 or 3 (TRS 2/3) may retire with an unreduced defined benefit at age 65. At retirement in Plan 2 a member receives 2 percent of the member's final average salary for each year of credited service. In Plan 3, a member receives 1 percent of the member's final average salary for each year of credited service and may withdraw his or her accumulated member contributions and earnings.

Beginning at age 55, a member of TRS 2 may apply for early retirement after 20 years of credited service. Beginning at age 55, a member of TRS 3 may apply for early retirement after 10 years of credited service. If a member in TRS 2/3 applies for early retirement with fewer than 30 years of service, his or her benefit is actuarially reduced for the difference between the member's age difference at retirement and age 65. This actuarial reduction typically averages about 8 percent per year. A member who applies for early retirement with 30 or more years of service has his or her benefit reduced instead by 3 percent per year.

Members of the TRS generally have the opportunity to participate in deferred compensation plans. These plans permit an individual to place a portion of salary into a special account prior to being subject to payroll tax reductions. The Department of Retirement Systems (DRS) operates a deferred compensation program consistent with the federal tax requirements of 26 United States Code section 457, commonly called a "457 Plan," in which employees of the state, counties, municipalities, and other political subdivisions may participate. Some school districts and local governments may also participate in other deferred compensation-type plans commonly referred to as "403(b)" or "401(k)" plans. Individuals may also be able to deposit funds into accounts with preferential tax treatment such as Individual Retirement Accounts (IRAs).

In recent years, changes in federal law have liberalized the rules on the transfer of funds between tax-deferred accounts, including government defined benefit pension plans like the TRS 2/3, and deferred compensation accounts such as 457, 403(b), and 401(k) plans. Many state and local government pension plans have subsequently provided the opportunity for members to transfer funds, including funds from tax-deferred accounts, into these plans to add up to five years of service credit to a member's defined benefit.

The 2004 Legislature enacted House Bill 2535, which provided the opportunity for members of the Public Employees' Retirement System and the School Employees' Retirement Systems Plans 2 and 3 to purchase up to five years of additional service credit at the time of retirement. The cost of the additional service credit is the actuarial equivalent value of the resulting increase in the members' benefit.

Summary: A member who applies for early retirement in TRS 2/3 may, at the time of retirement, file an application with the DRS to purchase up to five years of additional service credit. The cost of the additional service credit is the actuarial equivalent value of the resulting increase in the member's benefit.

The member may pay all or part of the cost of the additional service credit with an eligible transfer from a qualified retirement plan. The DRS must adopt rules to ensure that all purchases and transfers comply with the requirements of the federal Internal Revenue Code and regulations.

Additional purchased service credit is not regular membership service credit and may not be used to qualify a member for the 3 percent per year early retirement reduction available to members of TRS 2/3 with 30 years of service.

Votes on Final Passage:

House	91	0
Senate	46	0

Effective: July 1, 2006

HB 1328

C 66 L 05

Establishing the composition and jurisdiction of city and county disability boards.

By Representatives Conway, Crouse, Simpson and Chase; by request of Select Committee on Pension Policy.

House Committee on Appropriations
Senate Committee on Ways & Means

Background: The Law Enforcement Officers' and Fire Fighters' Retirement System Plan 1 (LEOFF 1) provides retirement and disability benefits to law enforcement officers and fire fighters who entered eligible employment between 1969 and 1977. Since 1977 eligible law enforcement officers and fire fighters have entered LEOFF 2.

Decisions on eligibility for LEOFF 1 disability and medical benefits are made by city and county LEOFF 1 disability boards. Disability benefits may be granted by LEOFF 1 disability boards to members in LEOFF 1 for both duty and non duty-related causes. In addition to disability benefits, LEOFF 1 is unique among state retirement system benefits in that retiree benefits include coverage for all necessary medical services.

Each city with a population of 20,000 or more has a LEOFF 1 disability board and each county also has a disability board, and these county boards have jurisdiction over LEOFF 1 members who are not employed in a city that has its own disability board. The LEOFF 1 disability boards have five members. Under current law, one of the members of a county board must be a member of the

legislative body of a city or town in the county that does not have its own board. This member must be chosen by a majority of the mayors of the affected cities or towns. The LEOFF 1 disability boards also have one member of the public appointed by the other members of the disability board, one active or retired fire fighter member representing fire fighters, and one active or retired law enforcement officer representing law enforcement officers. Elections are held for fire fighter and law enforcement officer-designated LEOFF 1 disability board positions. Only members of LEOFF 1 who are subject to the jurisdiction of a board are entitled to vote for board members, though LEOFF 2 members may serve on the board. In the event that there are no eligible law enforcement officers or no fire fighters to vote in a LEOFF 1 disability board election, then no representative of those members and retirees serve on the board, potentially reducing the total membership on the board to four.

Summary: To vote in a LEOFF 1 county disability board election, an active or retired member of LEOFF 1 must be employed or retired from an employer within the county. In the event that there are either no active or retired law enforcement officers or active or retired fire fighters eligible to vote in a LEOFF 1 disability board election, the active and retired LEOFF 1 members may vote for a second law enforcement officer or fire fighter representative, maintaining the total board membership at five.

Votes on Final Passage:

House	89	0
Senate	46	0

Effective: April 15, 2005

HB 1329
C 67 L 05

Choosing a reduced retirement allowance under the law enforcement officers' and fire fighters' retirement system, plan 1.

By Representatives Conway, Crouse, Simpson and Chase; by request of Select Committee on Pension Policy.

House Committee on Appropriations
Senate Committee on Ways & Means

Background: The Law Enforcement Officers' and Fire Fighters Retirement System Plan 1 (LEOFF 1) provides retirement benefits to full-time, fully-compensated law enforcement officers and fire fighters employed by the state, cities, counties, and special districts and who were first employed by the state before October 1, 1977. LEOFF 1 provides comprehensive pension, disability, and medical benefits to about 8,000 retirees and 1,000 active members.

The spouse of a retiree of LEOFF 1 is eligible, upon

the retiree's death, to receive a survivor benefit for life equal to the retirement allowance received by the retiree. In order to be eligible for this automatic benefit, the spouse must have been married to the LEOFF 1 member for one year prior to retirement. An ex-spouse of a LEOFF 1 member is not eligible for this survivor benefit except in the rare situation where the ex-spouse had been married to the LEOFF 1 member for at least 30 years, including at least 20 years prior to retirement, and where there was a court order prior to 1980 providing the survivor benefit to the ex-spouse.

A spouse that a LEOFF 1 member marries after retirement is also not eligible for the automatic survivor benefit. If a LEOFF 1 member marries after retirement, a member may instead choose to actuarially reduce their retirement benefit and have a portion of their benefit continue for the lifetime of their spouse after they die. This optional, actuarially-reduced survivor benefit is not available to LEOFF 1 members if their retirement benefit is already divided due to a property division order from a previous divorce.

Summary: LEOFF 1 members may choose a reduced benefit plus a survivor benefit for their post-retirement marriage spouse if their benefits are already subject to a property division obligation. The Department of Retirement Systems must adopt rules to permit members to select this survivor benefit option no later than July 1, 2005. A member must select this option within one year of the rules being adopted, if married prior to the effective date of the rules, or within one year of his or her marriage.

Votes on Final Passage:

House	94	0
Senate	48	0

Effective: April 15, 2005

HB 1330
C 327 L 05

Making technical corrections in the general retirement provisions estoppel section, teachers' retirement system, public safety employees' retirement system, the school employees' retirement system, the public employees' retirement system, and the actuarial funding chapter.

By Representatives Conway, Fromhold, Crouse and Chase; by request of Select Committee on Pension Policy.

House Committee on Appropriations
Senate Committee on Ways & Means

Background: General retirement provision on retiree membership in a subsequent system. Members of the Judicial, Judges, Law Enforcement Officers' and Fire Fighters', First Class Cities, Teachers' (TRS), School Employees' (SERS), Public Employees' (PERS) and

Washington State Patrol Retirement Systems who are either receiving or eligible to receive a retirement benefit are prohibited from joining a subsequent state retirement plan. The law prohibiting a subsequent plan membership applies "notwithstanding any provision" of the applicable retirement plan. Provisions in several of the state plans permit members to join a subsequent retirement plan under specific circumstances, and the "notwithstanding" phrase has been consistently interpreted not to bar the operation of these plan-specific provisions.

Cross-references to the Public Safety Employees Retirement System. The Public Safety Employees' Retirement System (PSERS) was created by the 2004 Legislature, and comes into effect on July 1, 2006. The Department of Retirement Systems (DRS) and the Office of the State Actuary (Actuary) have identified a number of cross-references in other plans that should also refer to PSERS, including post-retirement employment restrictions.

Payment of a Plan 3 defined contribution account balance to a deceased member's estate. No statutory authority is provided to the Director of the DRS to pay the balance of a member account to the member's estate upon the member's death in the event that the member did not have a spouse or designate a beneficiary of the account.

PSERS members who are elected to state office. The PSERS does not permit members elected to state office to continue membership in PSERS, as the retirement plan does not recognize a state elective office holder as working for a PSERS employer, or provide PSERS-eligible members the opportunity to continue membership while working in a statewide elective office, rather than in their public safety position.

PSERS retirees who reenter employment in state retirement system covered jobs. The PSERS specifies that retirees must wait for 30 days before re-entering PSERS covered employment before being eligible to work as a retiree for up to 867 hours per year without suspension of their retirement benefits. The PERS, TRS, and SERS specify that the reemployment restrictions also apply to positions covered by the other state retirement systems.

PSERS unreduced benefits for members killed in the course of employment. The survivors of PSERS members killed in the course of employment are entitled to receive the survivor benefits without actuarial reduction. The PSERS law related to unreduced duty death benefits refers to "actuarial" reductions to benefits along with a cross reference to the PSERS early retirement law. The PSERS members who have earned 20 or more years of service are eligible for early retirement with a 3 percent per year reduction, rather than an actuarial reduction for those with fewer than 20 years. The death benefit provision could be interpreted to exempt the duty death benefit only from the actuarially-reduced early retirement

benefit provided to members with fewer than 20 years of service.

Multiple amendments to the supplemental contribution rate provision in 2003. The law requiring the Actuary to establish a supplemental contribution rate for new benefits was amended twice by the 2003 Legislature, each without reference to the other act. Two different versions of the law now exist.

Repeal of sections requiring written information to be provided by employers to the DRS. Employers of PERS, SERS, and TRS members are required to submit written information to the DRS related to new employees and membership, though the information is now being submitted electronically.

Summary: General retirement provision on retiree membership in a subsequent system. The "notwithstanding" language is changed to "except as provided" to clarify, consistent with current interpretation, that plan-specific exceptions prevail over the general prohibition on membership in subsequent retirement plans.

Cross-references to PSERS. Cross-references to PSERS are added to the PERS Plans 2/3, and TRS Plans 2/3 statutes to specify that no retiree is eligible to receive a retirement allowance if they are employed in an eligible position in PSERS.

Payment of a Plan 3 defined contribution account balance to a deceased member's estate. The Director of the DRS is authorized to pay the balance of a member's defined contribution account to a member's legal representative if the member has no surviving spouse or designated beneficiary.

PSERS members who are elected to state office. The PSERS members elected to statewide elective offices may continue membership in PSERS.

PSERS retirees who reenter employment in state retirement system covered jobs. The 30-day reemployment restrictions in PSERS are expanded to apply to PERS, SERS, and TRS covered positions, as well as PSERS covered positions.

PSERS death benefits not subject to early retirement reductions. Clarifies the PSERS unreduced death benefit law to ensure that members eligible for the 3 percent per year reduction at time of death receive the 3 percent reduction, rather than the actuarial reduction referred to with a cross-reference to the early retirement provisions.

PERS cross-reference to repealed statutes. References to two repealed sections of law are removed from a section of PERS Plan 1 relating to the annual increase amount.

Multiple amendments to the supplemental contribution rate provision in 2003. The two versions of the supplemental contribution rate law are combined into a single version.

Repeal of sections requiring written information to be provided by employers to the DRS. Sections of PERS, SERS, and TRS requiring employers to submit

written employment and membership information to the DRS are repealed.

Plan 3 annuities. The Employee Retirement Benefits Board shall make optional actuarially equivalent life annuity benefits available for purchase by Plan 3 members from the Plan 2-3 funds subject to favorable tax determination by the Internal Revenue Service.

Votes on Final Passage:

House	92	0	
Senate	48	0	(Senate amended)
House	98	0	(House concurred)

Effective: July 24, 2005

July 1, 2006 (Sections 4-7)

SHB 1337

C 227 L 05

Regulating storage of sex offender records.

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives O'Brien, Pearson and Darneille).

House Committee on Criminal Justice & Corrections
Senate Committee on Human Services & Corrections

Background: Records of investigative reports prepared by law enforcement pertaining to sex offenders are transferred to the Washington Association of Sheriffs and Police Chiefs (WASPC) for permanent electronic retention and retrieval once the records are no longer needed by law enforcement or for judicial proceedings. The WASPC is permitted to destroy the paper record if an electronic copy is made. Once a record is transferred in this manner, the record is no longer considered a public record and is exempt from public disclosure. Such records may only be disclosed to criminal justice agencies to determine if a sex offender meets the criteria of a sexually violent predator.

Summary: If a record transferred to the WASPC for permanent retention is sealed at the time of transfer or becomes sealed after the transfer, it must be retained in a way that ensures the record is clearly marked as sealed. Records marked as sealed are only accessible to: (1) criminal justice agencies that would otherwise have access to a sealed copy of the document; (2) the end-of-sentence review committee for the purpose of end-of-sentence review for sex offenders; and (3) system administrators for the purpose of system administration and maintenance. The WASPC is permitted to destroy paper and electronic records of any offender verified as deceased.

Votes on Final Passage:

House	89	0
Senate	41	0

Effective: July 24, 2005

HB 1338

C 228 L 05

Adding kidnapping to the statewide registered sex offender web site.

By Representatives O'Brien, Pearson, Darneille, Simpson and Ormsby.

House Committee on Criminal Justice & Corrections
Senate Committee on Human Services & Corrections

Background: The Washington Association of Sheriffs and Police Chiefs (WASPC) administers a web site available to the public, which provides electronic links to county operated web sites that offer sex offender registration information.

The WASPC has also developed, using federal grants and other resources, a public accessible web site with information on all level II and level III sex offenders in the state. The web site has mapping capabilities that can show, among other items, the offender's address, name, and type of conviction.

Summary: Information on kidnapping offenders, as allowed by law, is included on the WASPC web site. The web site allows citizens to search for registered kidnapers in Washington by county, city, zip code, last name, conviction, and address by hundredth block. The WASPC is authorized to use funding from federal or other sources to operate the web site containing the kidnapping offender information.

Votes on Final Passage:

House	93	0
Senate	44	0

Effective: July 24, 2005

SHB 1345

C 229 L 05

Allowing state financial aid for part-time students.

By House Committee on Appropriations (originally sponsored by Representatives Hasegawa, Kenney, Takko, Sells, Jarrett, Roberts, Ericks, Haler, Williams, Moeller, Appleton, Morrell, McCoy, Dunn, Kagi, McDermott, Santos and Chase).

House Committee on Higher Education
House Committee on Appropriations
Senate Committee on Early Learning, K-12 & Higher Education
Senate Committee on Ways & Means

Background: For nearly every state and federal financial aid program, students must be enrolled at least half-time to be eligible for aid. Federal guidelines permit higher education institutions to define what "half-time" means. In Washington, it means students are enrolled for at least six credits per quarter or semester.

This standard is contained in federal guidelines for subsidized loans and in rules adopted by the Higher Education Coordinating Board (HECB) for the State Need Grant, Educational Opportunity Grant, Promise Scholarship, and Work Study financial aid programs. Only the federal Pell Grant provides aid for students attending less than half-time. However, there is a special calculation for these students that further reduces the amount of the award.

During the 2003-04 academic year, nearly 48,000 resident undergraduate students in community and technical colleges and an additional 3,200 students at public four-year institutions were enrolled on less than a half-time basis.

The State Need Grant is the largest state-funded financial aid program. For the 2004-05 academic year, \$125 million supports about 55,500 students attending public and independent higher education institutions. In addition to at least half-time attendance, students must have a family income of no more than 55 percent of the state median family income (\$36,500 for a family of four in 2004) and be enrolled in a degree or certificate program.

Summary: For the 2005-07 biennium, the HECB will develop a pilot project to assess the need for and funding requirements necessary to allow students enrolled for at least four credit hours per quarter to be eligible for the State Need Grant. Under the pilot project, students attending participating higher education institutions and enrolled for four or five credit hours are eligible for a grant award as long as they also meet the other eligibility criteria for the program.

The HECB will select up to 10 colleges and universities to participate in the pilot project. By December of 2006, the HECB will report to the Higher Education Committees on the results of the project, including the amounts disbursed, a description of student participants, and an assessment of the need for the program.

Votes on Final Passage:

House	96	0	
Senate	42	2	(Senate amended)
House	95	0	(House concurred)

Effective: July 24, 2005

2SHB 1346
C 146 L 05

Improving the efficiency and predictability of the hydraulic project approval program.

By House Committee on Appropriations (originally sponsored by Representatives Buck, B. Sullivan, Kretz, DeBolt, Blake, Eickmeyer and Takko).

House Committee on Natural Resources, Ecology & Parks

House Committee on Appropriations
Senate Committee on Natural Resources, Ocean & Recreation

Background: A person must obtain a hydraulic project approval (HPA) for any project that will use, divert, obstruct, or change the natural flow or bed of any of the salt or fresh waters of the state before beginning construction. The HPAs are issued by the Department of Fish and Wildlife (WDFW) to ensure the proper protection of fish life. The state statute governing construction projects in state waters authorizes the WDFW to implement the HPA program, and also contains provisions regulating fish passage, water flows, and fish screening.

Summary: The state statute governing construction projects in state waters is reorganized and certain sections are repealed and rewritten as new sections. A definition section is established, and a new chapter is created for sections relating to fishways, flow, and screening. An obsolete condition limiting the ability of the WDFW to require mitigation for certain filled wetlands is repealed.

Votes on Final Passage:

House	94	0
Senate	43	0

Effective: July 24, 2005

SHB 1347
C 277 L 05

Changing provisions relating to dishonored checks.

By House Committee on Judiciary (originally sponsored by Representatives Lantz, Williams and Newhouse).

House Committee on Judiciary
Senate Committee on Financial Institutions, Housing & Consumer Protection

Background: Collection of Dishonored Checks. If a check is dishonored by nonacceptance or nonpayment, the payee or the person entitled to enforce the check may collect a reasonable handling fee for each dishonored check. If the payee sends a statutory notice of dishonor to the payor and the payor does not pay the check within 15 days of mailing the notice, then, unless the instrument provides otherwise, the payor is liable for:

- interest at the rate of 12 percent from the date of dishonor; and
- collection costs equal to the face amount of the check or \$40, whichever is less.

In addition, if the payee institutes a lawsuit to collect on the check, he or she is entitled to a reasonable attorneys' fee plus three times the face amount of the check or \$300, whichever is less, as part of the damages awarded in the action.

After a lawsuit has begun but prior to the hearing, the payor may satisfy the claim by paying an amount

equal to the amount of the check, the reasonable handling fee, interest, collection costs equal to the face amount of the check or \$40 (whichever is less), court costs, service costs, and a statutory attorneys' fee.

A payee may not collect interest, collection costs, and attorney's fees if the payee demanded:

- interest or collection costs in excess of those allowed in the statute;
- interest or collection costs prior to the expiration of the 15 days after mailing the notice; or
- attorneys' fees that have not been set by the court or that have been demanded prior to the expiration of the 15 days after mailing the notice.

Statutory Notice of Dishonor. The statutory notice of dishonor must be sent by mail to the payor at his or her last known address and must substantially follow the form provided in the statute. The payee must file an affidavit of mailing with the court.

The statutory notice includes a cautionary warning that law enforcement agencies may be provided with a copy of the notice of dishonor for the possibility of criminal charges.

Statutes regulating collection agency practices prohibit an agency from threatening a debtor with criminal prosecution. A 1992 Washington Attorney General opinion stated that a collection agency may use the cautionary statement provided in the statutory notice without violating the state law prohibiting threats by collection agencies.

Washington Financial Literacy Public-Private Partnership. Financial literacy has been defined as the understanding of basic concepts of money and the skills needed to manage personal finances. In 2004, the Legislature created the Washington Financial Literacy Public-Private Partnership (Partnership). The Partnership is charged with, among other things, identifying strategies to promote the use of financial literacy curricula in schools. The Partnership is directed to complete this task by June 30, 2005.

Summary: Procedures for enforcing dishonored checks are created specifically for collection agencies. These procedures are very similar to the current statutes, with changes made to the grace period allowed for payment and the statutory notice.

Collection of Dishonored Checks. The time period in which a payor has to remit payment after the statutory notice is sent and before interest and collection costs are incurred is expanded to 33 days when a collection agency is enforcing a dishonored check. If a collection agency sends the required statutory notice of dishonor to the payor, and the payor does not pay the face amount of the check plus the handling fee within 33 days after notice is given, then, unless the instrument provides otherwise, the payor is liable for:

- interest at 12 percent from the date of dishonor; and

- cost of collection of \$40 or the face amount of the check, whichever is less.

If the collection agency brings a lawsuit, then, after 33 days of giving notice, the court must award reasonable attorneys' fees plus three times the face amount of the check or \$300, whichever is less, as part of the damages payable to the collection agency.

Statutory Notice of Dishonor. The collection agency may send the notice of dishonor to the payor by mail to the payor's last known address. The collection agency must file the affidavit of mailing with the court.

The cautionary statement regarding law enforcement action does not need to be included in the notice of dishonor sent by a collection agency. If it is included, the cautionary statement shall not be construed as a threat to take any action not intended to be taken and shall not be construed to be false or deceptive or violating any law.

A collection agency may not recover interest, collection costs, and attorneys' fees on a dishonored check if the collection agency demanded:

- interest or collection costs in excess of that provided by statute;
- interest or collection costs before the 33 days have passed since service of the notice; or
- attorneys' fees (other than statutory attorneys' fees) without having the fees set by the court, or any attorneys' fees (including statutory attorneys' fees) before the 33 days have passed since serving the notice.

Washington Financial Literacy Public-Private Partnership. The completion date for the Partnership is extended from June 30, 2005, to the same date in 2006.

Votes on Final Passage:

House	94	0	
Senate	46	0	(Senate amended)
House	95	1	(House concurred)

Effective: July 24, 2005

HB 1356

C 147 L 05

Expanding local government insurance options.

By Representatives Pettigrew, Holmquist and Ormsby.

House Committee on Housing

Senate Committee on Financial Institutions, Housing & Consumer Protection

Background: Local government entities, including local housing authorities, have the authority to individually or jointly self-insure against risks, jointly purchase insurance or reinsurance, and contract for risk management, claims, and administrative services. Subject to specified conditions, local government entities may enter into joint self-insurance pools with similar entities from other states. The Risk Management Division within the Office of Financial Management (OFM) is responsible

for the regulation of these pools.

There are 16 property/liability risk pools approved and regulated by the OFM, including the Housing Authorities Risk Retention Pool (HARRP). The HARRP is an intergovernmental joint risk pool formed by housing authorities in Washington, Oregon, California, and Nevada.

Joint risk pools may self-insure, purchase insurance or reinsurance, or both self-insure to a certain dollar amount and purchase reinsurance to cover the excess. The cost of insurance and reinsurance is rising and some insurers and reinsurers have left the market, causing the HARRP to contemplate increasing the extent to which it is self-insured. This would require a bigger reserve fund.

Individual local government entities in Washington, including housing authorities, are authorized to issue bonds and short-term obligations. Joint self-insurance risk pools are not specifically authorized to issue bonds and short term obligations.

Summary: Local government joint self-insurance risk pools are authorized to create and delegate powers to a separate legal or administrative entity, and to obligate the pool's participants to pledge revenues or contribute money to secure the obligations or pay the expenses of the pool, including the establishment of a reserve or fund for coverage.

To carry out its program, these joint self-insurance pools may:

- contract indebtedness and issue revenue bonds or establish lines of credit in the manner provided for local governments;
- contract indebtedness and issue short-term obligations in the manner provided for municipal corporations; and
- contract indebtedness and issue refunding bonds in the manner provided for public bodies.

Joint self-insurance pools may also make loans of the proceeds of the revenue bonds to a joint self-insurance pool or a local government entity that has joined or formed a joint self-insurance pool and accept loans of the proceeds of revenue bonds.

Votes on Final Passage:

House	97	0
Senate	44	0

Effective: July 24, 2005

Requiring the department of social and health services to defend temporary managers in nursing homes.

By Representatives Green, Bailey and Cody; by request of Department of Social and Health Services.

House Committee on Judiciary

Senate Committee on Health & Long-Term Care

Background: The Department of Social and Health Services (DSHS) licenses nursing homes and monitors their compliance with state and federal regulations. If a nursing home is not in compliance with regulations, the DSHS may impose penalties and use other remedies to force compliance.

The DSHS may appoint a temporary manager to oversee the operation of the nursing home when the nursing home has a history of noncompliance, has a certain number of deficiencies during one inspection, or has been unable to provide an acceptable plan to correct deficiencies.

When the DSHS appoints a temporary manager, the licensee must immediately turn over the operation of the nursing home to the temporary manager. The temporary manager must protect the health, security, and welfare of the residents, and may perform such acts as overseeing facility closure, temporarily relocating residents, managing employees, entering into contracts, and making expenditures.

The DSHS must terminate the temporary management after three months unless there is good cause to continue it.

A person or entity with experience in providing long-term care and a history of nursing home operation may apply to become a temporary manager.

An intentional tort generally requires that the person act with purpose or intent to achieve the result or that the person believed the consequences were substantially certain to result from the person's act. Intentional torts do not include acts that are considered negligent, grossly negligent, or reckless.

Summary: The DSHS shall indemnify, defend, and hold harmless a temporary manager of a nursing home against claims made against the temporary manager for the temporary manager's or its agent's actions that are not intentional torts or criminal behavior.

Votes on Final Passage:

House	95	0
Senate	46	0

Effective: July 24, 2005

SHB 1366

C 230 L 05

Requiring video game retailers to inform consumers about video game rating systems.

By House Committee on Juvenile Justice & Family Law (originally sponsored by Representatives Roberts, McDonald, B. Sullivan, Dickerson, Morrell, Skinner, Appleton, Hinkle, Moeller, Hasegawa, McCune, Sells, Walsh, Ormsby, Kenney, Kagi and McDermott).

House Committee on Juvenile Justice & Family Law
Senate Committee on Human Services & Corrections

Background: Video games may include store-bought games, computer games downloaded from the internet, and hand-held game players. Since their inception, video games have become increasingly realistic and interactive. The subject matter of the video games varies greatly, ranging from animated and educational games for children to more sophisticated action games. Some video games have been criticized for their use of violence.

Video games are rated by the Entertainment Software Rating Board (ESRB). The ESRB is an independent, self-regulatory entity supported by the entertainment industry, which provides ratings for software titles, websites, and on-line games. The ratings are located on the front of the game packaging. There are six ratings: "Early Childhood," "Everyone," "Teen," "Mature," "Adults Only," and "Rating Pending."

According to the rating system, games rated "Early Childhood" and "Everyone" are suitable for younger audiences. "Teen" rated games contain content that may be suitable for persons ages 13 and older. A rating of "Mature" indicates that the content may be suitable for persons age 17 and older. "Mature" rated games may include more intense violence, language, or mature sexual themes than the "Teen" rated games. A title rated "Adults Only" has content suitable only for adults and is not intended for persons under the age of 18; the game may include graphic depictions of sex or violence.

Summary: Video game retailers are required to post signs providing information to consumers about the existence of a nationally recognized video game rating system, or notifying the consumers that such a system exists.

The signs must be placed in prominent locations near the video game displays and points of sale. The signs and lettering must be clearly visible to consumers.

The retailer is required to provide information explaining the rating system to any person who requests the information.

Votes on Final Passage:

House	95	3	
Senate	46	0	(Senate amended)
House			(House refused to concur)
Senate			(Senate receded)
Senate	45	0	

Effective: July 24, 2005

SHB 1379

C 231 L 05

Requiring the liquor control board to implement a retail business plan to improve efficiency and increase revenue.

By House Committee on Appropriations (originally sponsored by Representatives Grant, Armstrong, Springer, Hinkle, Fromhold, Walsh, Upthegrove, Bailey, Clibborn, Chase and Simpson).

House Committee on Commerce & Labor
House Committee on Appropriations
Senate Committee on Labor, Commerce, Research & Development

Senate Committee on Ways & Means

Background: Washington is one of 14 states that controls the retail sale of alcohol by using state-owned and contract liquor stores to sell spirits, wine, and beer. The Liquor Control Board (Board) determines the number of liquor stores and their hours of operation. There are 163 state-owned liquor stores and 154 contract liquor stores. The Board determines the hours of operation for liquor stores based on the cost of operations and available funds.

State law provides that state-owned and contract liquor stores may not be open on Sunday, and that the Board may not advertise liquor.

State liquor stores generate over \$612 million a year in sales. State and local governments receive revenue from liquor store profits and liquor taxes. In Fiscal Year 2004, the Board contributed \$250 million to state and local governments.

Summary: The Liquor Control Board (Board) is directed: (1) to expand store operations to include Sunday sales in selected liquor stores; and (2) to implement a plan of in-store liquor merchandising.

Sunday Sales. The prohibition on Sunday sales is eliminated.

The Board is required to expand store operations to include the Sunday opening of at least 20 state-operated liquor stores by September 1, 2005. The Board must select stores expected to gross the most revenues on Sunday. The stores must be open a minimum of five hours on Sundays. Contract liquor stores are permitted, but not required to open on Sunday.

The Board may retain a consultant to help determine

appropriate stores for the program and monitor the results of the program. The Board must track sales and expenses at stores open on Sunday in comparison to before opening on Sunday, as well as the impact on sales at nearby liquor stores. The Board must report this information to the Legislature by January 31, 2007.

Before determining which state liquor stores will open on Sunday and before permitting contract liquor stores to open on Sunday, the Board must give consideration to the location of the stores with respect to the proximity of places of worship, schools, and public institutions. The Board also must give notice to places of worship, schools, and public institutions within 500 feet of such stores. The Board must give due consideration to motor vehicle accident data in the proximity of the liquor store.

Employees at liquor stores, including contract stores, may not be required to work on their Sabbath for the purpose of selling liquor, if doing so would violate their religious beliefs.

Merchandising. The prohibition on liquor advertising by the Board is modified. The prohibition does not apply to in-store liquor merchandising.

The Board must implement an in-store liquor merchandising plan, including point-of-sale advertising and promotional displays. The Board is also directed to implement a plan for in-store merchandising of brands, which may not include provisions for selling liquor-related items not previously authorized.

Votes on Final Passage:

House	62	34	
Senate	31	17	(Senate amended)
House	66	32	(House concurred)

Effective: July 24, 2005

SHB 1381
FULL VETO

Allows vehicles with hydraulics to operate on public roadway under certain conditions.

By House Committee on Transportation (originally sponsored by Representatives Clements, Kenney and Skinner).

House Committee on Transportation
Senate Committee on Transportation

Background: Vehicle hydraulic systems may be installed on cars that have been lowered and have limited ground clearance. Hydraulics are used to temporarily raise the car to drive over speed bumps or rough roads, or for recreation or show.

The Washington Administrative Code prohibits vehicle hydraulic systems from being activated while the vehicle is driven on a public roadway. Safety concerns

include the vehicle losing control due to system or brake failure and distraction of other drivers.

Summary: Vehicles with aftermarket hydraulic systems are allowed on public roads under the following conditions:

- the posted speed limit on the road is less than 25 miles per hour;
- the vehicle is traveling less than 15 miles per hour;
- no portion of the tire leaves the surface of the roadway; and
- the hydraulic system does not cause or emit sparks.

An exception to the speed limit restrictions is granted when the vehicle is lawfully participating in a permitted parade.

If a driver receives three or more citations for a violation of this provision, he or she must remove all hydraulics from the vehicle.

Local jurisdictions may enact stricter regulations for aftermarket vehicle hydraulics on a public road.

Votes on Final Passage:

House	94	0	
Senate	42	2	(Senate amended)
House	95	0	(House concurred)

VETO MESSAGE ON 1381-S

May 13, 2005

To the Honorable Speaker and Members,

The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning, without my approval, Substitute House Bill No. 1381 entitled:

“AN ACT Relating to allowing vehicles with hydraulics to operate on public roadways.”

As drafted, Substitute House Bill 1381 would completely prohibit vehicles having aftermarket hydraulic or mechanical systems that raise or lower the height of the vehicle from use on public roadway except when:

²The posted speed limit is twenty five miles per hour or less, and;

²The vehicle speed is fifteen miles per hour or less, or;


²When participating in a parade permitted by a local jurisdiction.

This is not what the legislature intended. I agree with the intended purpose of the bill; that is, to allow the activation of hydraulic or mechanical systems in limited circumstances. The bill, however, does not accomplish this by what amounts to a complete prohibition.

While I am vetoing this bill, I am directing the Chief of the Washington State Patrol, pursuant to the State Patrol’s rule-making authority, to examine this issue and to modify WAC 204-90-120 to implement the intent of this legislation.

For these reasons, I have vetoed Substitute House Bill No. 1381 in its entirety.

Respectfully submitted,



Christine O. Gregoire
Governor

HB 1385

C 134 L 05

Restricting the information on recorded documents.

By Representatives Takko, Haigh, Roberts, Hankins, Ericks, Haler, Lovick, McCoy and Chase.

House Committee on Local Government
Senate Committee on Government Operations & Elections

Background: Statute specifies numerous duties and responsibilities for the county auditor, including directives pertaining to financial and election administration. Among other duties, the auditor is the recorder of deeds and other instruments in writing that must be filed and recorded in and for the county for which he or she is elected.

Counties operating under a charter form of government may provide for an official other than the auditor to record instruments in the county records. This official may be a "recording officer."

Instruments presented to the county auditor or recording officer for recording must satisfy statutory requirements. These include requirements pertaining to document margins, applicable names, addresses, and reference information. Additionally, auditors and recording officers must satisfy specific requirements when instruments for filing or recording are received.

Summary: When any instrument, except those generated by governmental agencies, is presented to a county auditor or recording officer for recording, the document may not contain the following information: a social security number; a date of birth identified with a particular person; or the maiden name of a person's parent so as to be identified with a particular person.

Votes on Final Passage:

House	94	0
Senate	49	0

Effective: July 24, 2005

HB 1386

C 442 L 05

Increasing the surcharge for the preservation of historical documents.

By Representatives Takko, Haler, Haigh, Ericks, Hankins, McCoy and Chase.

House Committee on Local Government
House Committee on Finance
Senate Committee on Government Operations & Elections

Background: Statute specifies numerous duties and responsibilities for the county auditor, including directives pertaining to financial and election administration.

Among other duties, the auditor is the recorder of deeds and other instruments in writing that must be filed and recorded in and for the county for which he or she is elected.

In addition to other charges authorized by law, a surcharge of \$2 per instrument must be charged by the auditor for each document recorded. Fifty percent of the revenue generated from this surcharge must be transmitted monthly to the state treasurer for annual distribution to each county treasurer according to a statutory formula. The county treasurer must place these received funds into a special centennial document preservation and modernization account whereby the funds may only be used for the ongoing preservation of historical documents of county offices and departments. The received funds may not be added to the county current expense fund.

The remaining 50 percent of the revenue generated by the surcharge must be retained by the county and deposited in the auditor's operation and maintenance fund for the ongoing preservation of historical documents of county offices and departments.

Summary: Except as otherwise provided, the mandatory per instrument recording surcharge that county auditors must charge for the preservation of historical documents is increased from \$2 to \$5. One dollar of this \$5 surcharge must be deposited in the county general fund to be used at the discretion of the county commissioners to promote historical preservation or historical programs. The surcharge for each document presented for recording by the Employment Security Department is \$2. Excluding funds deposited in the county general fund for historical preservation or programs, the remaining revenue generated from the surcharges must be transmitted to the state treasurer or retained by the county, subject to statutory provisions.

Votes on Final Passage:

House	57	37	
Senate	28	16	(Senate amended)
House	68	27	(House concurred)

Effective: July 24, 2005

SHB 1387

C 27 L 05

Providing investigative and corrective action procedures for state patrol officers involved in vehicle accidents.

By House Committee on Transportation (originally sponsored by Representatives Nixon, Flannigan, Dickerson, Shabro, Wood, Springer, Appleton, Murray, Hudgins, Upthegrove, Schual-Berke, Moeller, Campbell, Hunter, Kagi, Clibborn and Darneille).

House Committee on Transportation
Senate Committee on Transportation

Background: The Washington State Patrol (WSP) has approximately 1,000 commissioned officers that perform various duties, which include but are not limited to the policing of the state's highways and the investigation of vehicle accidents. Under current law, the WSP Chief is responsible for the appointment of WSP officers, may remove them for cause, make promotional appointments, determine their compensation, and define their ranks and duties.

A law enforcement officer investigating the scene of a motor vehicle accident may arrest the driver of a motor vehicle involved in the accident if the officer has probable cause to believe that the driver has committed a violation of any traffic law or regulation. An officer may act upon the request of a law enforcement officer in whose presence a traffic infraction was committed to stop, detain, arrest, or issue a notice of traffic infraction to the driver who is believed to have committed the infraction. Accident reports must be filed within four days of an accident resulting in injury, death, or property damage. Any law enforcement officer present at the scene of an accident or in possession of any facts concerning an accident, whether by official investigation or otherwise, must make a police report of the accident.

Traffic infractions are sent to the Department of Licensing to update driving records. Law enforcement officers' records are flagged with an "EX" if the infraction occurred in the line-of-duty. By statute, traffic infractions occurring in the line-of-duty are not disclosed to insurance companies. Such infractions are disclosed to courts, law enforcement, and employers and are maintained in the records at the Department of Licensing.

Summary: The WSP shall develop agency policies and procedures regarding WSP officers involved in vehicle accidents. The WSP shall include as part of the terms of their collective bargaining agreements, a progressive corrective process for officers involved in vehicle accidents. Annually, a collision data report shall be produced designating each vehicle accident during the year as minor or severe. The report shall be available for review by the Legislature. The WSP shall implement communication procedures for the persons involved in the vehicle accident from the time the accident occurs until the investigative process has been included. Policies shall also provide for outside supervision of accident investigations under certain circumstances.

Prior to Legislative Committee Assembly in September 2005, the WSP will arrange for an outside entity with a reputation in law enforcement management and reviews to review the policies and procedures. The WSP will present the proposed policies and procedures to the Legislature and finalize them based on input from the Legislature. The WSP shall report to the House of Representatives and Senate Transportation Committees by November 30, 2005, on the updates to the policies and procedures. Other law enforcement agencies may also

adopt the policies and procedures. This act may be known and cited as the "Brock Loshbaugh Act."

Votes on Final Passage:

House 95 0
Senate 49 0

Effective: April 13, 2005

SHB 1393

C 399 L 05

Regulating movement of older mobile homes.

By House Committee on Housing (originally sponsored by Representatives Buri, Grant, Cox, B. Sullivan, Condotta, Dunshee and Chase).

House Committee on Housing
House Committee on Appropriations
Senate Committee on Financial Institutions, Housing & Consumer Protection

Background: Before moving any mobile home on a public highway, a person is required to obtain a special permit from the Department of Transportation and local authorities. No permit or certification is required from the Department of Labor and Industries (Department) in connection with the movement of a mobile home.

The Department has adopted safety rules for mobile homes. Compliance with Department safety rules is deemed compliance with county or city ordinances. The Department is also responsible for establishing uniform installation standards for mobile homes. An installation inspection, by its nature, occurs after the mobile home has been moved to a new location and has been installed.

If, during an installation inspection, a mobile home does not meet the Department rules and standards, the local jurisdiction will not permit occupancy. Mobile homes which do not meet the safety rules are sometimes abandoned by their owners at the new location, leaving landowners and local jurisdictions to arrange for disposal.

Low-income owners of mobile homes that are located in mobile home parks scheduled for closure or conversion to another use are eligible for relocation reimbursement assistance. The assistance is limited to actual costs submitted by the mobile homeowner minus any assistance received from other sources. There is a statutory assistance cap of \$3,500 for a single-wide home and \$7,000 for a double-wide home.

Summary: A certificate from the Department that a mobile home constructed before June 15, 1976, meets Department safety rules is required before movement of the mobile home on public highways. An exception to this requirement, in the form of an affidavit signed under penalty of perjury by the owner, is made for mobile homes being transferred for disposal. Homes subject to disposal must be removed from the assessment rolls of

the county and outstanding taxes must be removed by the county treasurer. An exception is also made for owners who sign an affidavit at the county treasurer's office at the time of the application for the moving permit stating that they are moving the home for their continued occupation or use. By January 1, 2006, the Department must adopt procedures to notify destination local jurisdictions about the arrival of mobile homes that failed safety inspections.

In the case of homes manufactured prior to June 15, 1976, the registered owner of a home must provide notice to a purchaser that failure of the mobile home to meet U.S. Department of Housing and Urban Development or Department standards may result in denial of a local jurisdiction to site the home.

The relocation assistance cap available from the Department of Community, Trade and Economic Development to mobile home owners who are forced to move their homes due to park closure or conversion to another use is \$12,000 for a double-wide home to \$7,500 for a single-wide home.

Votes on Final Passage:

House	96	0	
Senate	48	0	(Senate amended)
House	95	0	(House concurred)

Effective: July 24, 2005

SHB 1394

C 25 L 05

Creating the business and professions account.

By House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Wood, Condotta and Kenney; by request of Department of Licensing).

House Committee on Commerce & Labor
 House Committee on Appropriations
 Senate Committee on Ways & Means

Background: The Department of Licensing, Business and Professions Division (Department) oversees the conduct of many businesses and professions, nearly all of which are required to pay fees sufficient to cover the cost of their regulation. For some businesses and professions, regulatory fees are deposited into dedicated accounts. For others, regulatory fees are deposited into the State General Fund. Appropriation authority for the State General Fund lapses at the end of each fiscal year, while dedicated funds are typically appropriated for an entire biennium.

Under Initiative 601 (I-601), fees may not increase by a percentage greater than the fiscal growth factor for that year without prior legislative approval. In the last two biennia, the Department has received exemptions from this provision of I-601 for fees from businesses and

professions whose regulation is required to be self-supporting.

Summary: The Business and Professions Account (Account) is created in the state treasury. Fees for licenses and examinations, and penalties associated with regulating the following businesses and professions are deposited into the Account:

- auctioneers;
- landscape architects;
- private investigators;
- bail bond agents;
- employment agencies;
- sellers of travel;
- timeshares;
- cosmetologists, barbers, and manicurists;
- court reporters;
- security guards;
- collection agencies;
- camping resorts; and
- notaries public.

Funds in the Account:

- are to be spent only for the purpose of regulating the businesses and professions from which the fees derive;
- accumulate rather than revert to the general fund at the end of the biennium; and
- must be appropriated before they may be spent.

Any legal or administrative costs incurred against an individual for action taken under various business and professions licensing statutes shall be reimbursed to the Account, instead of the State General Fund.

Votes on Final Passage:

House	95	0
Senate	48	0

Effective: July 1, 2005

HB 1396

C 29 L 05

Requiring continuing education for land surveyors.

By Representatives Williams, Alexander, Springer, DeBolt, Conway, Wood, McCoy, Condotta and Armstrong.

House Committee on Commerce & Labor
 Senate Committee on Labor, Commerce, Research & Development

Background: Land surveyors must be registered in order to practice land surveying in Washington. The Washington State Board of Registration for Engineers and Land Surveyors (Board), through the Department of Licensing, Business and Professions Division, regulates the practice of land surveying in Washington. Candidates for registration must have graduated from an approved program, have eight years of work experience,

and have passed the required examinations. There are approximately 1,113 registered land surveyors and 174 land surveyors in training in Washington.

The National Council of Examiners for Engineering and Surveying (NCEES) is an organization composed of the professional regulatory boards of all states. This organization has drafted model rules requiring that licensees complete 15 hours of continuing professional development each year. Seminars, workshops, college courses, professional or technical presentations, publication of papers, and various types of video and correspondence courses may all be used to meet this requirement. Most states have adopted these model rules and require continuing professional development hours (PDH) for land surveyors. Twenty-three states require at least 15 hours, and five states require eight to 10 hours.

Summary: By July 1, 2006, the Board of Registration for Engineers and Land Surveyors (Board) must adopt rules "governing continuing professional development for land surveyors that are generally patterned after the model rules" of the National Council of Examiners for Engineering and Surveying. Beginning July 1, 2007, land surveyors renewing their registration certificates must verify to the Board that they have completed 15 professional development hours per year.

Votes on Final Passage:

House 87 10
Senate 48 1

Effective: July 24, 2005

ESHB 1397

C 295 L 05

Changing vehicle emission standards provisions.

By House Committee on Transportation (originally sponsored by Representatives Murray, Jarrett, Morris, B. Sullivan, Anderson, Appleton, Wallace, P. Sullivan, Kenney, Campbell, Rodne, Hunt, Priest, Springer, Tom, Lovick, Quall, Pettigrew, Kirby, Clibborn, Kilmer, Dunshee, Dickerson, Ericks, Green, Sells, Hasegawa, Upthegrove, Williams, Moeller, McIntire, Chase, Simpson, McDermott, Hudgins and Wood).

House Committee on Transportation
Senate Committee on Water, Energy & Environment

Background: Under the federal Clean Air Act, the states have the option to implement either federal motor vehicle emission standards or California motor vehicle emissions standards for passenger cars, light duty trucks and medium duty passenger vehicles.

The Washington State Clean Air Act amendments passed in 1991 require engine manufacturers to conform with the exhaust emission standards of the federal Environmental Protection Agency (EPA). They also prohibit the Department of Ecology (DOE) from adopting the

California vehicle emissions standards unless authorized by the Legislature.

California's low emission vehicle standards (called "LEV II") are being phased in over the 2004 through 2010 model years. The program reduces nitrogen oxides and hydrocarbons. The rules require that 90 percent of new cars and light duty trucks meet low emission standards and 10 percent of vehicles meet zero emission standards. Manufacturers may receive partial credits toward meeting the zero emissions requirements through the production of partial zero emission vehicles (PZEVs).

In 2002, the California Legislature approved Assembly Bill 1493 (Rep. Pavley) which would extend emissions controls to greenhouse gases, beginning with the 2009 model year. The California Air Resources Board has submitted proposed implementing rules to the 2005 California Legislature for approval. These changes have not yet been approved by the EPA and are under litigation in California.

A portion of the money in the Air Pollution Control Account has been appropriated to the DOE to retrofit school buses with exhaust emission control devices as well as fueling infrastructure necessary to allow school bus fleets to use alternative, cleaner fuels.

State law requires the DOE to administer a program to test vehicle emissions in those areas that violate or are likely to violate federal air quality standards. Vehicle emission tests are required in the urban areas of Clark, King, Pierce, Snohomish, and Spokane counties. Motor vehicles in these areas must be inspected every two years. Vehicles which are 25 years or older are exempt from emissions testing. The inspection stations are operated under contract with the DOE. No person contracted to inspect motor vehicles may perform repairs for compensation.

Summary: The Legislature adopts the California motor vehicle emission standards, excluding zero emission vehicle program regulations, in effect on January 1, 2005. The rules will be effective only for those model years for which Oregon has adopted the California vehicle emission standards.

Beginning with the first applicable model year, no vehicle will be registered, leased, rented, or sold for use in the state unless the vehicle: (1) (a) is consistent with the vehicle emission standards as adopted by the DOE; (b) is consistent with the carbon dioxide equivalent emission standards as adopted by the DOE; and (c) has a California certification label for (i) all emission standards; and (ii) carbon dioxide equivalent emission standards necessary to meet fleet average requirements; or (2) has 7,500 miles or more. Starting with the first applicable model year, new vehicles are exempt from emission inspections.

The Department of Licensing and the DOE are granted rulemaking authority and may provide for rea-

sonable exemptions to those requirements. In particular, the DOE may exempt public safety vehicles if the DOE finds that public safety vehicles are not reasonably available. For final adoption of the rules, the order of adoption must include the Governor's signature.

In its rulemaking, the DOE may provide for a system of awarding partial credits toward zero emission vehicle requirements. These credits will be awarded for partial zero emissions vehicles produced and sold prior to the first applicable model year. At the choice of the manufacturers, the early credits may reflect the Washington market, recognizing that there may be more early sales of partial zero emission vehicles in Washington.

Independent repair shops may be certified to perform warranty service. Manufacturers must compensate independent repair shops at the same rates as franchised dealers for covered warranty services.

In order to prevent tampering with odometers to avoid compliance with the new emissions standards, the bill makes it a gross misdemeanor to turn forward the odometer of any vehicle.

The Office of Financial Management, in conjunction with the Departments of Licensing, Revenue, and Ecology, must report annually on the availability of vehicles meeting the standards, the progress of automobile industries in meeting the requirements, and other relevant matters to the success of the industry in implementing these requirements.

Two 1991 statutes are repealed: (1) requiring engine manufacturers to certify that new engines conform with current exhaust emission standards of the EPA; and (2) prohibiting the DOE from adopting the California vehicle emission standards.

Monies formerly dedicated to retrofit school buses would also be used for other publicly-owned diesel equipment upon a finding of a public health benefit. The remaining monies may be used to reduce any transportation-related air contaminant emissions in addition to the other uses.

Beginning in 2012, the DOE may authorize businesses other than the emissions inspection contractor to conduct emission inspections. Authorized businesses may also perform repairs on any vehicles. The emission inspections program terminates in 2020.

Votes on Final Passage:

House	53	42	
Senate	29	19	(Senate amended)
House	55	42	(House concurred)

Effective: May 6, 2005
 July 1, 2005 (Sections 5, 6, and 10)

ESHB 1401

C 148 L 05

Regulating fire safety.

By House Committee on Local Government (originally sponsored by Representatives Simpson, Hankins, O'Brien, Ormsby and Chase).

House Committee on Local Government
 Senate Committee on Government Operations & Elections
 Senate Committee on Labor, Commerce, Research & Development

Background: The State Building Code Council (SBCC) is responsible for the adoption and maintenance of the building, residential, mechanical, fire, and plumbing model codes that comprise the state building code (SBC). The SBCC is required to regularly review updated versions of the Uniform Model Codes and amend these codes as appropriate. The SBC, which includes provisions describing the powers and duties of fire code officials and building officials, must be enforced by counties and cities. However, these local governments may amend the SBC as it applies within their jurisdiction, subject to limitations prescribed in law.

The State Fire Protection Policy Board (SFPPB) is an eight member board appointed by the Governor to develop a comprehensive state policy regarding fire protection services. Among other duties, the SFPPB must adopt a state fire training and education master plan and a state fire protection master plan.

Property taxes are imposed by state and local governments and apply to the assessed value of all taxable property, which includes all real and personal property located within the state, unless specifically exempted. Real property includes land, structures, and certain equipment that is affixed to the structure. Personal property includes machinery, supplies, certain utility property, and items which are generally movable. The assessed value of most real property is determined by the county assessor.

Summary: The SBCC must adopt rules by December 1, 2005 requiring that all nightclubs be provided with an automatic sprinkler system. In adopting the rules, the SBCC must consider certain fire and building code standards, as well as local conditions. The rules become effective December 1, 2007.

"Nightclub" is defined as an establishment, other than a theater with fixed seating, that:

- provides live entertainment by paid performing artists or by way of recorded music conducted by a person employed or engaged to do so;
- has as its primary source of revenue the sale of beverages of any kind for consumption on the premises, cover charges, or both; and

- has an occupant load of 100 or more where the occupant load for any portion of the occupancy is calculated at one person per 10 square feet or less, excluding the entry foyer.

The SBCC must transmit copies of the adopted rules to the SFPPB by December 12, 2005. The SBCC must consider any changes recommended by the SFPPB.

The construction, use, conversion, or occupancy of a building as a nightclub is prohibited except in accordance with the provisions of the State Building Code.

Prior to the installation of an automatic sprinkler system under the act, a property owner may apply for a special tax exemption. The application must be made to the appropriate county assessor and in accordance with specified requirements. "Special tax exemption" means the determination of the assessed value of the property subtracting, for 10 years, the increase in value attributable to the installation of the automatic sprinkler system. If the exemption is granted, the assessor must place a special property tax exemption on eligible property for 10 consecutive assessment years following the calendar year in which application is made.

Votes on Final Passage:

House	96	0
Senate	44	3

Effective: July 24, 2005

ESHB 1402
C 400 L 05

Regulating supervision of offenders who travel or transfer to or from another state.

By House Committee on Criminal Justice & Corrections (originally sponsored by Representative O'Brien; by request of Sentencing Guidelines Commission).

House Committee on Criminal Justice & Corrections
House Committee on Appropriations
Senate Committee on Human Services & Corrections
Senate Committee on Ways & Means

Background: Under Washington and other states' laws, criminal sentences commonly require a period of supervision after release from jail or prison. In Washington, the supervision of all adult felony and some nonfelony offenders is the responsibility of the Department of Corrections (DOC).

Offenders under supervision sometimes request to move from one state to another. For example, an offender may have family ties, job opportunities, or may have a residence in another state. For many years, states have recognized the desirability of permitting this movement while continuing to supervise these offenders.

In 1937, the Legislature enacted the original Interstate Compact for the Supervision of Parolees and Probationers (Compact) and joined with 49 other states

including the District of Columbia, Puerto Rico, and the Virgin Islands to create a system of reciprocity in supervising offenders who move from one state to another. After years of working with the national Compact, it was found that there were many problems and that the Compact needed to be amended. As a result, nearly 60 years later, a new national Compact was adopted. The Washington Legislature amended its statutory language in 2001, and consequently joined 35 other states in the new Compact. As of the end of 2004, all 50 states had joined the new Compact in order to take on the responsibility for the supervision of adult offenders in the community who are authorized to travel across state lines both to and from compacting states.

The authority for Compact monitoring in Washington is under the Sentencing Guidelines Commission (SGC). The SGC's duties include reviewing the DOC's policies, recommending policies for the Compact administrator, and reporting annually to the Legislature about the Compact operations. In addition, each state has a Compact administrator, who maintains contact with counterparts in other states and handles requests for supervision, violation reports, and other business related to the Compact. (Washington's Compact administrator is located within the DOC.)

The Compact requires compacting states to supervise all felony and nonfelony offenders transferred to their state. The Compact permits each state (as a "sending state") to authorize offenders under supervision to move to other states when appropriate, after notifying the other state and securing its approval. It also requires each state (as a "receiving state") to approve such moves for appropriate reasons and to supervise the offenders on behalf of the states where they were sentenced. A receiving compacting state must accept an offender if the offender meets the criteria under the Compact. However, there are some very rare occasions when a "receiving" state can deny an application for supervision of an adult offender.

The Compact requires receiving states to notify sending states when offenders violate conditions of supervision and it also permits the sending states to bring offenders back for sanctions authorized under the sending state's law, subject to the receiving state's right to prosecute any new crimes they may have committed.

Compacting states are authorized to charge an application processing fee to offenders wishing to transfer his or her residence and supervision requirements to another state. In Washington, the DOC also charges offenders under the Compact a supervision fee to help recoup a portion of the cost of supervision. The supervision fee that is normally charged to offenders ranges from \$3 per month for risk level D (low-level felony) offenders to \$40 per month for misdemeanants offenders.

At the end of 2004, the DOC was supervising 2,500 felony offenders on behalf of other states under the Com-

pact, while other states were supervising approximately 1,000 offenders on Washington's behalf. The DOC does not have the statutory authority to supervise nonfelony misdemeanor offenders on behalf of other states.

Summary: The provisions relating to supervising offenders under the Compact are expanded. The DOC is authorized to supervise nonfelony as well as felony offenders transferring to Washington under the Compact.

The DOC must process applications for any felony or nonfelony offender wishing to transfer to or from Washington and may charge that offender a reasonable fee for processing the application. If a misdemeanor offender whose sentence has been deferred, requests permission to transfer to another state, the probation department must determine whether the transfer request falls under the realm of the Compact. If the request is subject to the Interstate Compact for Adult Supervision and the offender has been placed on probation for one year or more, the probation department designated to supervise the offender must:

- notify the DOC of the offender's request;
- provide the DOC with supporting documentation it requests for processing the offender's application;
- notify the offender of any fee due to the DOC for processing his or her application;
- cease supervision of the offender while the other state resumes supervision of the offender pursuant to the Compact; and
- resume supervision if the offender returns to Washington before his or her term of supervision has expired.

Any probationer or defendant that transfers to another state under the Compact must receive credit for any time served while being supervised by the other state.

If a probationer or defendant is returned to Washington at the request of the receiving state under the rules of the Compact, the DOC must be responsible for the cost of returning the person.

The State of Washington, the DOC, any city, and any county, are not liable for civil damages resulting from any act or omission authorized or required unless the act or omission constitutes gross negligence.

Votes on Final Passage:

House	97	0	
Senate	45	0	(Senate amended)
House	95	0	(House concurred)

Effective: July 1, 2005

HB 1405

C 149 L 05

Extending the term of the disabled hunter and fishers advisory committee.

By Representatives Kretz, Blake, Kristiansen, Sump, B. Sullivan, Holmquist, Buri, Serben, Pearson, Hasegawa, McCune, Grant, P. Sullivan, Campbell, Ahern and Haigh.

House Committee on Natural Resources, Ecology & Parks

Senate Committee on Natural Resources, Ocean & Recreation

Background: The 2001 Legislature created a temporary advisory committee to the Fish and Wildlife Commission (Commission) that generally represents the interests of disabled hunters and fishers. These interests include special hunts, sporting equipment modifications, access to public lands, and increased hunting and fishing opportunities. The seven members of the advisory committee were appointed by the Commission and are comprised of disabled individuals representing the six Department of Fish and Wildlife administrative units, and one member appointed at large.

The advisory committee is set to terminate on July 1, 2005. The Commission was required to submit a report to the Legislature in 2004 that detailed the effectiveness of the advisory committee, and recommend if the advisory committee should be continued or modified.

In its report to the Legislature, the Commission stated that the advisory committee presented information that led to rule making decisions that benefitted the community of disabled hunters, fishers, and wildlife viewers. The Commission concluded that their recommendation was for the advisory committee to be extended until July 1, 2008.

Summary: The termination date for the Fish and Wildlife Commission's Advisory Committee for Persons with Disabilities is extended from July 1, 2005, until July 1, 2008.

Votes on Final Passage:

House	97	0
Senate	48	0

Effective: July 24, 2005

SHB 1406

C 401 L 05

Concerning specialized forest products.

By House Committee on Natural Resources, Ecology & Parks (originally sponsored by Representatives Buck, B. Sullivan, Orcutt, Takko, Kretz, Alexander, Grant, Shabro, Linville and Skinner).

House Committee on Natural Resources, Ecology & Parks

Senate Committee on Natural Resources, Ocean & Recreation

Senate Committee on Ways & Means

Background: It is unlawful for a person to harvest certain amounts of specialized forest products without first obtaining a validated specialized forest products permit (permit). Specialized forest products include Christmas trees, native ornamental trees and shrubs, evergreen foliage, cedar products, cascara bark, and wild edible mushrooms. A permit is required prior to harvesting more than three gallons of a single species of wild mushroom or more than nine gallons of wild edible mushrooms. Permits are validated by the county sheriff's office in the county in which the products are to be harvested. If a person is harvesting an amount below the threshold where a permit is required, that person must still obtain permission to harvest from the landowner.

It is unlawful to possess or transport a specialized forest product without a written authorization, sales invoice, bill of lading, or a permit containing the following information: the date of its execution; the number and type of products sold or transported; the name and address of the owner and receiver of the product; and the location of origin of the product.

Buyers of specialized forest products must collect information about their purchases. Specifically, the buyer must record the permit holder's name, the permit number, the type of product purchased, and the amount purchased. The buyer must retain this information for a year and make it available for inspection by authorized enforcement officials. The buyer must also record the seller's permit number on the bill of sale. These record keeping requirements do not apply to buyers of these products at the retail sales level.

It is unlawful for any cedar processor to purchase cedar products or salvage unless the supplier displays a permit or a true copy of the permit. Cedar processors must make and maintain a record of the purchase, taking possession, or retention of cedar products and cedar salvage for at least one year after the date of receipt. The records must include the date of delivery, the license number of the vehicle delivering the products, the driver's name, and the specialized forest products permit number. Cedar processors must also display a valid registration from the Department of Revenue at each location where they receive cedar products.

A person violating specialized forest products regulations is guilty of a gross misdemeanor punishable by a fine not to exceed \$1,000, up to one year in county jail, or both. In addition, a law enforcement officer may seize and take possession of any specialized forest products that are harvested, possessed or transported in violation of the law. All fines collected for violations are paid into the general fund of the county treasury in which the violation occurred.

Summary: It is unlawful for any person to harvest, possess, or transport a specialty wood product without a specialized forest products permit (permit) or a true copy of the permit. Specialty wood is defined to include logs less than eight feet in length from western red cedar, Englemann spruce, Sitka spruce, big leaf maple, or western red alder. In addition, specialty wood must be free of knots in a specified area, or may be used for making musical instruments or ornamental boxes. Specialty wood does not include wood harvested or transported from areas associated with a current forest practices application approved by the Department of Natural Resources (DNR) or an agency of the United States.

A properly completed permit for cedar and specialty wood must include a copy of a map or aerial photograph with defined permit boundaries. Prior to harvest, a person must obtain a permit to harvest specialty wood or more than five gallons of wild edible mushrooms. In addition, it is unlawful to possess, transport, or possess and transport specialty wood or five gallons of wild edible mushrooms or without having a valid permit or true copy. For cedar and specialty wood, a true copy of a validated specialized forest products permit must be signed by both the permittee and permittor in original ink.

The bill of lading must accompany all cedar and specialty wood products after it is received by the cedar or specialty wood processor. A bill of lading means an itemized list for the transportation or possession of a specialized forest product including: the date of transportation; the name and address of the first cedar processor or first specialized forest products buyer; the name and address from which the product is being transported; the name of the person receiving the product; the name of the driver; the vehicle license number; and the type and amount of product being shipped. A bill of lading is not required following a retail sale.

A specialty wood buyer or processor may not purchase, take possession, or retain specialized forest products and specialty wood unless the supplier displays a permit or a true copy of the permit. For products being transported into the state, a specialty wood processor may not purchase, take possession, or retain the product unless the supplier displays a permit or other governmental document indicating the true origin of the product. Every specialty wood buyer or processor must display a valid registration from the Department of Revenue at each location where they receive cedar or spe-

cialty wood products.

The DNR must develop and print the specialized forest products permit and distribute it to the county sheriffs. The DNR must develop and distribute educational materials for specialized forest products regulation to law enforcement, forest landowners, harvesters, buyers, and processors.

A law enforcement officer may seize and take possession of any equipment, vehicle, tools, or paperwork when cedar or specialty wood products are harvested, possessed or transported in violation of the law. The law enforcement officer shall provide reasonable protection of the items during the litigation process, or may dispose of the items at the discretion of the court. Upon disposition of the case by the court, the court shall make a reasonable effort to return the items. All fines collected for violations are paid into the general fund of the county treasury in which the violation occurred and are distributed equally among the district courts in the county, the county sheriff's office, and the county's general fund.

Votes on Final Passage:

House	96	0
Senate	45	0

Effective: July 24, 2005

HB 1407
C 150 L 05

Providing an expiration date for the tax deduction for certain businesses impacted by the ban on American beef products.

By Representatives Grant, Walsh, Linville, Buri and Morrell.

House Committee on Finance
Senate Committee on Agriculture & Rural Economic Development
Senate Committee on Ways & Means

Background: Washington's major business tax is the business and occupation (B&O) tax. The B&O tax is imposed on the gross receipts of business activities conducted within the state, without any deduction for the costs of doing business. The tax is imposed on the gross receipts from all business activities conducted within the state. Although there are several different rates, the most common rates are 0.471 percent for retailing, 0.484 percent for wholesaling, and 1.5 percent for service activity. Businesses that are involved in more than one kind of business activity are required to segregate their income and report under the appropriate tax classification based on the nature of the specific activity.

The slaughtering, breaking, processing, and wholesaling of perishable meat products is taxable at a rate of 0.138 percent when the product is sold at wholesale only and not at retail.

On December 23, 2003, a Washington cow that had been imported from Canada tested positive for Bovine Spongiform Encephalopathy (BSE). On December 24, 2003, Japan, Mexico, the Republic of Korea, and many other nations banned imports of U.S. beef. Before these bans, over 80 percent of U.S. beef exports went to Japan, Mexico, and the Republic of Korea.

In 2004, the Legislature adopted a B&O tax deduction for the slaughtering, breaking, processing, and wholesaling of perishable beef products for firms that slaughter cattle. The deduction is available until Japan, Mexico, and the Republic of Korea lift import bans on beef and beef products from the United States.

Since the original bans were put in place, progress has been made in lifting the bans. In March 2004, Mexico announced that it would allow imports of U.S. beef. Also in October 2004, the Governments of the United States and Japan announced an agreement on beef trade between the two countries. The agreement allows exports to Japan of beef from animals 20 months or younger without 100 percent testing. Both countries must revise their domestic regulations before trade occurs.

Summary: The B&O tax deduction for the slaughtering, breaking, processing, and wholesaling of perishable beef products for firms that slaughter cattle ends December 31, 2007.

Votes on Final Passage:

House	96	0
Senate	49	0

Effective: July 24, 2005

SHB 1408
C 402 L 05

Creating an individual development account program.

By House Committee on Appropriations (originally sponsored by Representatives Pettigrew, Hinkle, Morrell, Jarrett, Darneille, McDonald, B. Sullivan, Kagi, Skinner, Schual-Berke, Chase, McIntire, McCoy, Hasegawa, Upthegrove, Ormsby, Woods, Miloscia, P. Sullivan, Santos and Simpson).

House Committee on Economic Development, Agriculture & Trade
House Committee on Appropriations
Senate Committee on International Trade & Economic Development
Senate Committee on Ways & Means

Background: Individual Development Accounts (IDAs) are dedicated savings accounts that help low-income families save money to pay for job training or education, buy a home or start their own business. Saving is encouraged through a match by government or nonprofit organizations. These savings plans are similar to the

401(k) savings plans offered by many employers. Under federal welfare reform in 1996 and the reform of the state welfare program in 1997, IDAs were encouraged for Temporary Assistance for Needy Families (TANF) recipients. Washington has a TANF IDA program; however, it is set to expire in June 2005.

Summary: The Savings, Earning and Enabling Dreams (SEED) Act authorizes the Department of Community, Trade and Economic Development (DCTED) to create an IDA program to facilitate the creation of IDA accounts by sponsoring organizations for low-income individuals.

Low-Income Individuals and Foster Youth. The IDA program is created for low-income individuals and foster youth. A low income individual is defined as a person whose household income is equal or less than either: 80 percent of the median family income, adjusted for household size, for the county or metropolitan statistical area where the person resides; or 200 percent of the federal poverty guidelines.

A foster youth is a person who is 15 years of age or older who is a dependent of the Department of Social and Health Services (DSHS); or a person who is at least 15 years of age, but not more than 23 years of age, who was a dependent of the DSHS for at least 24 months after his or her 13th birthday.

Sponsoring Organizations. A sponsoring organization is a 501(c)(3) organization, a housing authority, or a federally recognized Indian tribe. In selecting a sponsoring organization to establish and monitor IDAs for low-income individuals and families, the DCTED must consider: the ability of the organization to implement and administer the program; the capacity of the organization to provide or raise matching funds; the capacity of the organization to provide financial counseling and other services; and the links the organization has to other activities and programs that relate to the purposes of the IDA program. The selection of a sponsoring organization to establish and monitor IDAs for foster youth must be from those entities that have contracts with the DSHS to provide independent living services to youths who have been dependents of DSHS.

Use of IDA Funds. An IDA may be established by or on behalf of a low-income individual to accumulate funds for: post-secondary education or job training; the purchase of a primary residence; the capitalization of a small business; the purchase of a computer, automobile or home improvements; or assistive technologies that would allow a person with a disability to participate in work-related activities. In addition, the sponsoring organization may authorize emergency withdrawals from an IDA for: necessary medical expenses; to avoid eviction from a residence; necessary living expenses following the loss of employment; and any other emergency circumstances as determined by the sponsoring organization. The amount withdrawn must be reimbursed by the

individual within 12 months or the IDA shall be closed.

An IDA may be established by or on behalf of a foster youth to accumulate funds for: post-secondary education or job-training; housing needs; the purchase of a computer if necessary for post-secondary education or job-training; the purchase of a car if necessary for employment; and the payment of a health insurance premium.

Contributions. A low-income individual or foster youth must contribute to his or her IDA. A low-income person may contribute to his or her IDA any amount derived from earned income or other income, including child support payments, supplemental security income and disability benefits. A foster youth may contribute to his or her IDA earned income and other income, including financial incentives provided by organizations providing independent living services for foster youths.

IDA funds may not be used to determine eligibility for, or the amount of, assistance in any state or federal means-tested program.

Matching Funds. Nothing in this Act shall be construed to create an entitlement to the matching moneys.

The DCTED shall set the match amount of up to \$4 for every \$1 of an individual's contribution to an IDA. The maximum match provided to an IDA shall be \$4,000.

Sponsoring organizations may seek additional funds to increase the match rate and the maximum annual match amount.

Individual Development Account Program Account. The IDA Program Account is created in the custody of the state treasurer. The IDA Program Account shall be composed of all moneys appropriated by the Legislature and any other federal, state, or private funds, appropriated or nonappropriated, that the DCTED receives for the purpose of matching low-income individuals' contributions to their IDAs. Expenditures may be used only for: grants to sponsoring organizations to assist in financial counseling and other related services to low income individuals or for program administration purposes; a match of up to \$4 for every \$1 deposited by the individual into his or her IDA; and the DCTED's administrative costs in carrying out the program.

Only the Director of the DCTED or his or her designee may authorize expenditures from the account. The account is subject to allotment; however, an appropriation is not required for expenditures.

The IDA Program Account shall retain its interest earnings.

Report. The DCTED shall provide an annual report to the Governor and the Legislature on the IDA program.

Votes on Final Passage:

House	93	0	
Senate	44	0	(Senate amended)
House	95	0	(House concurred)

Effective: July 24, 2005

HB 1409

C 151 L 05

Revising provisions relating to contract liquor stores.

By Representatives Condotta, Wood and Conway; by request of Liquor Control Board.

House Committee on Commerce & Labor
Senate Committee on Labor, Commerce, Research & Development

Background: The Liquor Control Board (Board) owns and operates 163 state liquor stores and contracts for the operation of 154 other stores. Historically these other stores were referred to as "vendor" or "agency stores," and the persons who operated them were referred to as "vendors" or "agency store managers." In 1994, however, the Internal Revenue Service issued a ruling changing the status of these persons from state employees to independent contractors, and the Board changed the terms used to refer to the stores and the persons who operated them. Currently these stores are referred to as "contract liquor stores," and the persons who operate them are referred to as "contract liquor store managers."

Summary: Statutory references to "vendors," "agency stores," and "agency store managers" are updated to "contract liquor stores" and "contract liquor store managers."

Votes on Final Passage:

House	95	0
Senate	45	0

Effective: July 24, 2005

E2SHB 1418

C 278 L 05

Regulating insurance overpayment recovery practices.

By House Committee on Appropriations (originally sponsored by Representatives Kirby, Roach, Simpson, Santos, Campbell, Orcutt, Williams and Serben).

House Committee on Financial Institutions & Insurance
House Committee on Appropriations
Senate Committee on Health & Long-Term Care

Background: A health carrier may overpay or underpay a health care provider for treatment of an enrollee. The incorrect payment may be due to an error or due to incorrect or incomplete information regarding the treatment of the enrollee. Processes for insurer recovery of actual or alleged overpayments and additional provider billing to achieve full payment are not explicitly addressed in statute or administrative rule.

Summary: "Refund" is defined as the return, either directly or through an offset to a future claim, of some or all of a payment already received by a health care provider.

General standards for a carrier request for a refund.

Except in specified circumstances, a carrier may not:

- request a refund unless it does so in writing to the provider within 24 months after the date that the payment was made; or
- request that a contested refund be paid any sooner than six months after receipt of the request.

A request must specify why the carrier believes the provider owes the refund. If a provider fails to contest the request in writing to the carrier within thirty days of its receipt, the request is deemed accepted and the refund must be paid.

Carrier request for a refund related to a coordination of benefits. If a coordination of benefits is involved, a carrier may not:

- request a refund from a health care provider of a payment unless it does so in writing to the provider within 30 months after the date that the payment was made; or
- request that a contested refund be paid any sooner than six months after receipt of the request.

Such a request must specify why the carrier believes the provider owes the refund and must include the name and mailing address of the entity that has primary responsibility for payment of the claim. If a provider fails to contest the request in writing to the carrier within thirty days of its receipt, the request is deemed accepted and the refund must be paid.

Carrier request for a refund related to liability imposed by law. A carrier may at any time request a refund of a payment previously made if:

- a third party is found responsible for satisfaction of the claim as a consequence of liability imposed by law; and
- the carrier is unable to recover directly from the third party because the third party has either already paid or will pay the provider for the health services covered by the claim.

General standards for a provider request for additional payment. Except in the case of fraud or coordination of benefits, a provider may not:

- request additional payment from a carrier to satisfy a claim unless he or she does so in writing to the carrier within 24 months after the date that the claim was denied or payment intended to satisfy the claim was made; or
- request that the additional payment be made any sooner than six months after receipt of the request.

A request must specify why the provider believes the carrier owes the additional payment.

Provider request for additional payment related to a coordination of benefits. If a coordination of benefits is involved, a provider may not:

- request additional payment from a carrier to satisfy a claim unless he or she does so in writing to the carrier within 30 months after the date the claim was

denied or payment intended to satisfy the claim was made; or

- request that the additional payment be made any sooner than six months after receipt of the request.

A request must specify why the provider believes the carrier owes the additional payment and must include the name and mailing address of any entity that has disclaimed responsibility for payment of the claim.

Other provisions. These refund and payment provisions prevail in any conflict with a provision in a contract between a carrier and a provider but a carrier may choose to make additional payments and a provider may choose to refund a previously made payment.

These provisions do not apply to claims for health care services provided through dental-only health carriers, health care services provided under Title XVIII (medicare) of the Social Security Act, or medicare supplemental plans regulated under Washington insurance law.

These provisions apply to contracts issued or renewed on or after January 1, 2006.

Votes on Final Passage:

House	93	0	
Senate	48	0	(Senate amended)
House	98	0	(House concurred)

Effective: July 24, 2005

SHB 1426
C 403 L 05

Establishing an interagency plan for children of incarcerated parents.

By House Committee on Children & Family Services (originally sponsored by Representatives Roberts, McDonald, Kagi, Nixon, Pettigrew, Dickerson, Darneille, Tom, Rodne, Hasegawa, O'Brien, Lovick, Ormsby, Morrell, Chase and Santos).

House Committee on Children & Family Services
Senate Committee on Human Services & Corrections

Background: According to the federal Justice Department's Bureau of Justice Statistics, an estimated 2 percent of the nation's 72 million children under 18 years of age had an imprisoned parent in 1999. During that same year, an estimated 721,500 federal and state prisoners had minor children. Almost 1.5 million minor children had a parent in prison, which constitutes an increase of more than 500,000 children since 1991. Of those children with imprisoned parents, 58 percent were under 10 years of age, with the average being 8 years of age.

Nationwide, 40 percent of the imprisoned fathers and 60 percent of the imprisoned mothers reported weekly contact with their children by phone, mail, or visit. However, a majority of both fathers (57 percent) and mothers (54 percent) reported never having had a

personal visit with their children since their admission to state prison. More than 60 percent of the parents in state prisons reported being held more than 100 miles from their last place of residence.

Summary: The Department of Corrections (DOC), in partnership with the Department of Social and Health Services (DSHS), is required to establish an oversight committee to develop a comprehensive interagency plan to provide the necessary services and supports for the children of this state whose parents are incarcerated in jail or prison.

The interagency plan must include the following:

- identification of existing state services and programs, as well as recognized community-based services and programs, for children whose parents are incarcerated;
- identification of methods to improve collaboration and coordination of existing services and programs;
- recommendations concerning new services and programs for children whose parents are incarcerated, involving both interagency and community-based efforts; and
- identification of evidence-based practices and areas for further research to support the long-term provision of services and programs for children whose parents are incarcerated, including the following:
 - identification and ongoing collection of data relating to incarcerated individuals in the state who have children under 18 years of age; and
 - identification and sharing of information relating to children of incarcerated parents who are involved in the juvenile justice or child welfare systems, to the extent permissible under state and federal law.

The oversight committee must include the following:

- representatives with decision-making authority of: the DOC, the Children's Administration of the DSHS, the Juvenile Rehabilitation Administration of the DSHS, the Washington Association of Sheriffs and Police Chiefs, the Office of Superintendent of Public Instruction, the courts, prosecuting attorneys and public defenders, and community-based agencies working with families of individuals who are incarcerated; and
- caregivers of children whose parents are incarcerated.

In developing the interagency plan, the oversight committee must seek input from children whose parents are or have been incarcerated and from parents who have been incarcerated.

The oversight committee is required to develop the interagency plan by June 30, 2006, with an interim report due to the appropriate committees of the Legislature by January 1, 2006.

Votes on Final Passage:

House 89 0
 Senate 48 0 (Senate amended)
 House 95 0 (House concurred)

Effective: July 24, 2005

SHB 1431

C 152 L 05

Authorizing licensees and managers to conduct courses of instruction on beer and wine and furnish beer and wine samples.

By House Committee on Commerce & Labor (originally sponsored by Representatives Wood, Condotta, Campbell and Chase).

House Committee on Commerce & Labor
 Senate Committee on Labor, Commerce, Research & Development

Background: Washington generally prohibits breweries, distilleries, wineries, and other producers or distributors of alcohol from furnishing wine, beer, or spirits free of charge. There are, however, several exceptions to this prohibition. Breweries, distilleries, wineries, and other producers or distributors, or their agents, are permitted to furnish alcohol free of charge to liquor license holders in conjunction with educational courses of instruction that these producers or distributors conduct relating to their products. These educational programs include instruction regarding the history, nature, values, and characteristics of beer, wine, or spirits, the use of wine lists, and methods of presenting, serving, storing, and handling the beer, wine, or spirits.

Summary: The holders of beer and wine restaurant liquor licenses and spirits, beer, and wine restaurant liquor licenses, or their managers, are permitted to conduct courses of instruction regarding beer, wine, and spirits, as applicable, for their employees, and provide samples of beer, wine, and spirits, as applicable, free of charge as part of this course of instruction. The alcohol used for sampling must be alcohol that the licensee obtains under its license. The courses of instruction must be given on the premises of the license holder.

Votes on Final Passage:

House 97 1
 Senate 47 2

Effective: July 24, 2005

HB 1432

C 232 L 05

Avoiding fragmentation in bargaining units for classified school employees.

By Representatives Fromhold, Conway, Cox, Haigh, Campbell, Strow, Hunt, Ormsby, Moeller, Morrell, O'Brien, Chase and Hasegawa.

House Committee on Commerce & Labor
 Senate Committee on Early Learning, K-12 & Higher Education

Background: Classified school employees bargain over grievance procedures and personnel matters, including wages, hours, and working conditions, under the Public Employees' Collective Bargaining Act (Act). The Act is administered by the Public Employment Relations Commission (PERC). If a union petitions for certification as a bargaining agent, the PERC must decide the unit of employees that is appropriate for bargaining.

In making unit determinations, the PERC must consider:

- the duties, skills, and working conditions of the employees;
- the history of collective bargaining by the employees and their representatives;
- the extent of organization among the employees; and
- the desire of the employees.

According to PERC decisions, the purpose of these requirements is to group together employees who have sufficient similarities to indicate that they will be able to bargain collectively with their employer. The starting point for analysis is the unit proposed by the petitioning union, although the union is not entitled to a presumption of appropriateness. Unit decisions are made on a case-by-case basis, with any appropriate unit, not necessarily the most appropriate unit, being permitted. The employer must show that a proposed unit is inappropriate for reasons such as artificially dividing a workforce, being too small (fragmentary), stranding employees, or mixing supervisors with rank-and-file employees.

Summary: The requirements are modified for making determinations of appropriate bargaining units of classified school employees. For units existing on the act's effective date, the PERC may not divide a unit into more than one unit without the agreement of the school district and the bargaining representative of the employees. The PERC must also consider the avoidance of excessive fragmentation in making unit determinations for classified school employees.

Votes on Final Passage:

House 96 0
 Senate 43 1

Effective: July 24, 2005

E2SHB 1441
PARTIAL VETO
C 279 L 05

Providing access to health insurance for children.

By House Committee on Appropriations (originally sponsored by Representatives Clibborn, Morrell, Campbell, Cody, Tom, Moeller, Schual-Berke, Wallace, Grant, Williams, Lovick, Ormsby, Chase, Kessler, Kagi, Hunt, Appleton, Darneille, Upthegrove, Sells, Roberts, Conway, Miloscia, Fromhold, P. Sullivan, Santos, Takko, Green, Wood, Simpson, Hasegawa and Dickerson).

House Committee on Health Care
House Committee on Appropriations

Background: The federal government granted a request from the State of Washington to charge monthly premiums for medical, dental, and mental health coverage of children whose family income is above the poverty level. The Department of Social and Health Services has the statutory authority to establish, copayment, deductible, coinsurance, or other cost-sharing requirements for recipients of any medical program. The amount, scope, and duration of health care services for children served through the children's health program is the same as that provided to children through the medical assistance program operated by the Department of Social and Health Services. Eligibility for the children's health program for undocumented children is currently set at the Federal Poverty Level.

Summary: The requirement that the University of Washington conduct an evaluation of the maternity care access program is deleted. An intent statement is provided that the Legislature intends to provide health care coverage for all children by 2010. Within available funds, the children's health program will provide health services to poor children who are not eligible for medical assistance because of their legal status.

Votes on Final Passage:

House 66 32
Senate 28 21

Effective: July 24, 2005

Partial Veto Summary: The Governor vetoed the emergency clause.

VETO MESSAGE ON HB 1441-S2

May 4, 2005

To the Honorable Speaker and Members,
The House of Representatives of the State of Washington
Ladies and Gentlemen:

I am returning, without my approval as to Section 3, Engrossed Second Substitute House Bill No. 1441 entitled:

“AN ACT Relating to health insurance coverage for children.”

This bill reinstates the Children's Health Program for children up to 100 percent of the federal poverty level who are not otherwise eligible for Medicaid. Section 3 of the bill, the emergency

clause that contains the effective date of July 1, 2005, is not needed for funding purposes and could set unreasonable expectations regarding the timing of implementation. The Department of Social and Health Services' (the 'Department') operating budget appropriation for 2005-07 becomes effective on July 1, 2005. The Department estimates it will take six months to make the systems changes necessary to start enrolling children in this program by January 2006. I do not want to create false expectation that the Department will start enrolling children on July 1, 2005.

For these reasons I have vetoed Section 3 of Engrossed Second Substitute House Bill No. 1441.

With the exception of Section 3, Engrossed Second Substitute House Bill No. 1441 is approved.

Respectfully submitted,

Christine O. Gregoire
Governor

HB 1447
C 153 L 05

Establishing a pilot project to examine the use of instant runoff voting for nonpartisan offices.

By Representatives Moeller, Jarrett, Morrell, Nixon, Fromhold, Kessler, Lantz, Upthegrove, Appleton, Green, Lovick, Dunshee, Buri, P. Sullivan, Ericks, Pettigrew, Schual-Berke, Simpson, Ormsby, Tom, Sells, Dickerson, McDermott, Wood, Santos, Hasegawa and Kilmer.

House Committee on State Government Operations & Accountability
Senate Committee on Government Operations & Elections

Background: Instant runoff voting (IRV) is an election method requiring candidates to receive a majority, rather than a plurality, of the votes cast in a particular race. While requirements vary, IRV voters may select more than one candidate for a single race and rank candidates in a preferential order. A candidate receiving a majority of "first choice" votes is elected. If no candidate receives a majority of the votes cast in the race after the first counting stage, the "second choice" designations are counted on the ballots cast for the candidate receiving the fewest votes. This process continues until one candidate receives a majority of the votes cast for the position or until all but one candidate is eliminated.

Provisions for IRV do not exist in Washington law.

In Washington, city and town primary elections are nonpartisan and are held when more than two candidates file for the same position. Generally, if a primary is held for a nonpartisan office, the general election ballot must contain the names of the two candidates receiving the highest vote totals, listed in that order. If no primary is held, the order of the candidate names for the general election ballot is determined by a lot drawing by the county filing officer. The candidate receiving the highest vote total in the general election is elected to the office.

Summary: Upon receiving sufficient notification from a qualifying county auditor by January 1, 2007, the Office of the Secretary of State (OSOS) must conduct a five-year pilot project to study the effects of using IRV as a local option for nonpartisan offices in any qualifying city. The pilot project must begin by August 1, 2008, and conclude by July 1, 2013.

For the purposes of the pilot project, a qualifying city must:

- be classified as a first class city;
- have a population greater than 140,000 and less than 200,000; and
- have demonstrated support for IRV by approving a city charter amendment authorizing the city council to use IRV for the election of city officers.

Following the timely receipt of a notification of participation from a qualifying county auditor, notification that obligates participation by the auditor, the OSOS, in part, must:

- certify at least one city in that county to qualify and participate in the pilot project;
- develop and adopt rules governing the conduct of IRV elections;
- develop a pilot project time line; and
- certify all election equipment and related processes before an IRV election.

Additionally, the OSOS must submit a report of findings to the appropriate committees of the Legislature by July 1, 2013, that includes:

- an assessment of all elections conducted using the IRV method;
- recommendations for statutory, rule, and procedural modifications that would be required prior to implementing IRV as a permanent alternative election method;
- an inventory of available election equipment and costs; and
- any recommendations from local government officials participating in the pilot project.

Upon the satisfaction of pilot project requirements, the legislative body of a qualifying city may adopt IRV as a method for electing candidates for all nonpartisan city offices during the pilot project. The city must notify the applicable county auditor and the OSOS of its intent to hold such an election.

If the county auditor notifies the city that existing county election equipment is insufficient for the conduct of an IRV election, the city and county must reach an agreement for the purchase of any new equipment required for the election. The returns of an IRV election may, however, be canvassed by hand.

No primary election may be held for nonpartisan offices in any first class city if the city is a participant in the pilot project and is conducting an authorized IRV election. Participating cities conducting an IRV election must certify the results on or before the thirtieth day after

the election.

Provisions related to the conduct of the pilot project, including tabulation and time line requirements and ballot design and processing specifications, are established.

The pilot project and related amendatory provisions expire on July 1, 2013.

Votes on Final Passage:

House	63	34
Senate	38	9

Effective: July 24, 2005

HB 1457

C 252 L 05

Creating the military department capital account and rental and lease account.

By Representatives Haigh, Bailey, Conway, McCoy and McDonald; by request of Military Department.

House Committee on State Government Operations & Accountability

House Committee on Capital Budget

Senate Committee on Ways & Means

Background: The Washington Military Code governs the organization, administration, and duties of the Military Department and the state militia. The militia consists of both the National Guard and the State Guard. The National Guard is organized under the United States National Defense Act and serves both the Governor under state law and the President under federal law.

Summary: The Military Department Capital Account (Capital Account) is created in the state treasury. Receipts from the sale of state-owned Military Department property must be deposited into the Capital Account, and money in the Capital Account may be spent only after appropriation. Expenditures from the Capital Account may be used only for Military Department capital projects.

The Military Department Rental and Lease Account (Rental Account) is created in the state treasury. Receipts from the rental or lease of state-owned Military Department property must be deposited into the Rental Account and money in the Rental Account may be spent only after appropriation. Expenditures from the Rental Account may be used only for operating and maintenance costs of military property.

Votes on Final Passage:

House	94	0
Senate	44	0

Effective: July 24, 2005

SHB 1460
C 101 L 05

Regulating county contracts for marine vessels.

By House Committee on Transportation (originally sponsored by Representatives Green, Shabro, Flannigan, Talcott, Morrell and Lantz).

House Committee on Transportation
Senate Committee on Transportation

Background: State law requires a contractor's bond for all public works contracts in excess of \$25,000 to be in an amount equal to the full contract price.

On contracts for the construction, maintenance or repair of marine vessels, the Department of Transportation is allowed to substitute alternative forms of security in lieu of the bond. Acceptable alternative forms of security include: certified check, replacement bond, cashier's check, treasury bill, an irrevocable bank letter of credit, or assignment of a savings account. Also authorized are other liquid assets approved by the Secretary of Transportation as well as a combination of a bond and an alternative form of security.

The Secretary of Transportation is required to predetermine and provide, in the bid package, the amount of the alternative security or bond. The bond or alternative security must be in an amount adequate to protect 100 percent of the state's exposure to loss.

In addition to the Washington State Ferry System, public ferry systems are operated by Pierce, Whatcom, Skagit, and Wahkiakum counties.

Summary: On contracts for the construction, maintenance or repair of marine vessels, counties may substitute alternative forms of security in lieu of a bond. The county engineer must approve the use of other liquid assets as the alternative form of security.

The county engineer is required to predetermine and provide, in the bid package, the amount of the alternative security or bond. The bond or alternative security must be in an amount adequate to protect 100 percent of the county's exposure to loss.

Prior to awarding any contract limiting security to the county's exposure to loss, a county must develop and adopt an ordinance that establishes the procedure for determining the county's exposure to loss on contracts for construction, maintenance, or repair of a marine vessel.

Votes on Final Passage:

House 95 0
Senate 46 0

Effective: April 20, 2005

SHB 1461
C 30 L 05

Changing conservation assistance revolving account provisions.

By House Committee on Economic Development, Agriculture & Trade (originally sponsored by Representatives Linville, Buri and Pettigrew; by request of Conservation Commission).

House Committee on Economic Development, Agriculture & Trade

House Committee on Capital Budget
Senate Committee on Agriculture & Rural Economic Development

Background: The Conservation Reserve Enhancement Program (CREP) is a partnership between the U.S. Department of Agriculture (USDA) and the State of Washington that began in 1998. Under CREP, private agricultural landowners in eligible geographic areas are provided with incentives to restore and improve salmon and steelhead habitat. Eligible areas are those that contain salmon or steelhead species listed under the Federal Endangered Species Act. Twenty-seven counties in Washington contain eligible lands and streams.

Landowners who enroll in CREP voluntarily remove lands from production and grazing under 10-year or 15-year contracts. Landowners then plant trees and shrubs to stabilize stream banks and serve other ecological purposes. In return, landowners receive annual rent, incentive and maintenance payments, and cost-sharing for these installations.

The Continuous Conservation Reserve Program (CCRP) is a federal stream rehabilitation program similar to CREP but applicable to geographic areas that do not contain federally-listed endangered species.

The Conservation Assistance Revolving Account (CARA) is a dedicated, appropriated account initially capitalized by the 2004 Legislature with a \$500,000 capital budget appropriation. Administered by the Conservation Commission through local conservation districts, the purpose of CARA is to provide financial assistance to landowners enrolled in CREP. Ninety percent of a landowner's costs of installing streamside improvements is reimbursed by the USDA and the other 10 percent is reimbursed by the Conservation Commission. However, the USDA cannot issue reimbursements until the projects are complete. The CARA funding bridges the financial gap between the time that the landowner invests in restoration installations and the time federal reimbursement is received.

Summary: The CARA may be used only to make loans to landowners for projects enrolled in the CCRP and the CREP.

Votes on Final Passage:

House 94 0
Senate 46 0

Effective: July 24, 2005

SHB 1462

C 31 L 05

Funding conservation districts.

By House Committee on Economic Development, Agriculture & Trade (originally sponsored by Representatives Linville, Buri, Pettigrew and Chase; by request of Conservation Commission).

House Committee on Economic Development, Agriculture & Trade

House Committee on Appropriations

Senate Committee on Agriculture & Rural Economic Development

Background: The Conservation Commission (Commission) and 47 conservation districts administer a number of programs related to the conservation of natural resources. The Commission is authorized to use appropriated funds to make grants to conservation districts on the basis of statutory formulas. Since the inception of the program in 1989, appropriations to the Commission have resulted in annual grants of approximately \$10,000 to each conservation district, which must be matched dollar for dollar.

Summary: The Conservation Commission is authorized to adopt rules concerning eligibility and distribution of grants to conservation districts. Existing statutory formulas governing distribution of grants are repealed. The Commission must submit a report to the Legislature on the distribution of grant funds to conservation districts by September 30, 2007.

Votes on Final Passage:

House 96 0
Senate 47 0

Effective: April 13, 2005

SHB 1463**PARTIAL VETO**

C 404 L 05

Requiring schools to provide information on meningococcal immunization.

By House Committee on Health Care (originally sponsored by Representatives Green, Rodne, Cody and Moeller).

House Committee on Health Care

Senate Committee on Early Learning, K-12 & Higher Education

Senate Committee on Health & Long-Term Care

Background: Meningitis is an infection and inflammation of the membranes and fluid surrounding the brain and spinal cord. Meningitis is most frequently caused by either bacteria or viruses. The bacterial variety is usually the most serious. Meningitis must be treated immediately to lessen the effects of any potential complications.

Meningococcus is a highly contagious bacterial form of meningitis. It can lead to brain damage, hearing loss, and learning disabilities. It kills about 300 people every year. The Centers for Disease Control and Prevention (CDC) has reported that between 1991 and 1997 the number of cases of meningococcal meningitis doubled for people 15 to 24 years old. Common living situations for people in these age groups such as college dormitories, boarding schools, and military bases are at a higher risk for outbreaks of the disease. In February 2005, the CDC's Advisory Committee on Immunization Practices recommended that all college freshmen living in a dormitory and all 11 to 12-year-old children receive a vaccination for the disease.

While proof of immunization for meningococcal meningitis is not required for admission to school, meningococcal meningitis is a notifiable condition that health care providers and facilities must report to the local health department immediately and laboratories must report within two days.

Summary: All public and private schools must provide the parents and guardians of students in sixth grade and above with information about meningococcal disease at the beginning of every school year. The information must address the characteristics of the disease; where to find additional information about the disease and vaccinations for children; and current recommendations from the CDC regarding receiving the vaccine.

The Department of Health (Department) is responsible for the preparation of the informational materials in consultation with the Office of the Superintendent of Public Instruction. Neither the Department nor the schools are required to provide the vaccination to students.

Votes on Final Passage:

House 95 0
Senate 48 0 (Senate amended)
House 96 0 (House concurred)

Effective: July 24, 2005

Partial Veto Summary: Removes the emergency clause that requires that the bill take effect on July 1, 2005.

VETO MESSAGE ON HB 1463-S

May 11, 2005

To the Honorable Speaker and Members,

The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning, without my approval as to Section 2, Substitute House Bill No. 1463 entitled:

“AN ACT Relating to meningococcal immunization.”

This bill requires that public and private schools provide parents or guardians of students in 6th grade and above with information on meningococcal disease every school year. It is an important bill that is consistent with our ongoing public health efforts.

Section 2 of the bill inserts an emergency clause that is not necessary for this type of legislation. It is reasonable to give the Department of Health and Office of the Superintendent of Public Instruction time over the summer to develop the informational materials that will be distributed in schools.

For these reasons, I have vetoed Section 2 of Substitute House Bill No. 1463.

With the exception of sections Section 2, Substitute House Bill No. 1463 is approved.

Respectfully submitted,

Christine O. Gregoire
Governor

HB 1469
C 444 L 05

Changing hearing procedures for violations of commercial motor vehicle laws, rules, and orders.

By Representatives Lovick, Jarrett, Haigh and Armstrong; by request of Washington State Patrol.

House Committee on Transportation
Senate Committee on Transportation

Background: The Washington State Patrol (WSP) administers a program of terminal safety audits for commercial motor vehicles to insure compliance with state and federal law. The WSP may assess penalties for violations that it discovers during these audits, which become due for payment upon assessment. If the penalty is not paid within fifteen days or if an application for remission or mitigation is not made within fifteen days, the Attorney General must bring an action in superior court to recover the penalty.

Summary: If the penalty assessed or an application for mitigation or remission is not received by the Washington State Patrol (WSP) within fifteen days of assessment, the WSP must commence an adjudication proceeding under the Administrative Procedure Act to recover the penalty.

Votes on Final Passage:

House	97	0	
Senate	44	0	(Senate amended)
House	97	1	(House concurred)

Effective: July 24, 2005

ESHB 1475
C 132 L 05

Modifying child passenger restraint provisions.

By House Committee on Transportation (originally sponsored by Representatives Schual-Berke, Jarrett, Murray, Kessler, Wood, Skinner, Hankins, Woods, Dunshee, Wallace, Dickerson, Upthegrove, Curtis, Lovick and Morrell).

House Committee on Transportation
Senate Committee on Transportation

Background: Under Washington law, children less than six years old and/or 60 pounds traveling in a motor vehicle must be placed in a child restraint system that complies with federal standards and is installed according to the manufacturers' instructions. The laws specify the requirements for the type of child restraint system that must be used for a child according to age and weight.

Drivers transporting a child under six years of age or weighing less than 60 pounds must transport the child in the back seat if the vehicle is equipped with a passenger side air bag.

Failure to comply with the child passenger restraint requirements does not constitute negligence by a parent or legal guardian and may not be admitted in court as evidence of negligence. The law is silent regarding immunity from civil liability for installers or inspectors of child restraint systems.

Since the child restraint system law was last amended in 2000, the National Highway Traffic Safety Administration has revised recommendations for how old and how tall a child should be before being placed in a seatbelt without a child restraint system. In addition, child restraint system technology and products have changed.

Summary: The limit for determining when a child no longer has to be placed in a child restraint system is changed from six years old and/or 60 pounds to eight years old or 80 pounds, unless the child is at least 4 feet 9 inches tall. The specific requirements for the type of child restraint system that a child needs to be in according to age and weight are deleted. These are replaced with a requirement that a child must be in a restraint system used and installed according to the auto and child restraint manufacturers' directions.

A requirement is added that a child under 13 must be in the back seat of a car when practical.

A person who provides inspection or education on proper child restraint use is not liable for civil damages resulting from providing the services, as long as the person is a currently certified child passenger safety technician and there is no gross negligence or willful misconduct.

Votes on Final Passage:

House 72 26
 Senate 32 15

Effective: July 24, 2005
 June 1, 2007 (Section 1)

SHB 1478
 C 431 L 05

Increasing penalties for failure to secure a vehicle load on a public highway.

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Kagi, O'Brien, Simpson, Morrell, Lovick, Kenney, P. Sullivan, Nixon and Chase).

House Committee on Criminal Justice & Corrections
 House Committee on Appropriations
 Senate Committee on Judiciary

Background: A vehicle driven or moved on a public highway must be loaded in such a manner as to prevent any contents from escaping, except that dropping sand for the purpose of securing traction is permissible. Violations of this requirement are designated as traffic infractions, subject to a monetary penalty not to exceed \$250 per infraction.

Summary: Failure to secure a load in the first or second degree is a gross misdemeanor and misdemeanor, respectively.

Failure to secure a load in the first degree is committed when a person, with criminal negligence, fails to secure all or part of a load to his or her vehicle and, as a result, causes substantial bodily harm to another. Failure to secure a load in the second degree is committed when a person, with criminal negligence, fails to secure all or part of a load to his or her vehicle and, as a result, causes damage to the property of another. Other failures to secure a load to a vehicle that do not rise to the level of first or second degree continue to be designated as traffic infractions and are subject only to monetary penalties.

Votes on Final Passage:

House 96 0
 Senate 43 3 (Senate amended)
 House 98 0 (House concurred)

Effective: July 24, 2005

HB 1479
 C 28 L 05

Regarding independent prescriptive authority for advanced registered nurse practitioners.

By Representatives Morrell, Campbell, Schual-Berke, Nixon, Cody, Green, Appleton, Clibborn, Simpson and Moeller.

House Committee on Health Care
 Senate Committee on Health & Long-Term Care

Background: Advanced registered nurse practitioners (ARNP) are registered nurses with formal specialized training which qualifies them to function more independently than a registered nurse in a variety of health care specialties. ARNPs may have specialties in such areas as pediatrics, geriatrics, midwifery, anesthesiology, and neonatology. This additional training allows ARNPs to assume primary care responsibilities for a broad range of patient care beyond the practice of registered nurses.

ARNPs may only prescribe legend drugs and controlled substances contained in Schedule V of the Uniform Controlled Substances Act. There are two exceptions to this limitation. First, an ARNP who is a certified registered nurse anesthetist may select, order, and administer Schedule II through IV controlled substances for anesthesia services at the request of a physician, osteopathic physician, dentist, or podiatrist. Second, an ARNP may order or prescribe Schedule II through IV controlled substances consistent with his or her scope of practice and in response to a request from a physician or osteopathic physician and an ARNP to enter into a joint practice arrangement. The joint practice arrangement must describe the collaboration between the ARNP and the physician or osteopathic physician, including when consultation shall occur, methods of communication, and documentation of the consultation.

Summary: ARNPs may prescribe Schedule II through IV controlled substances as consistent with their scope of practice without entering into a joint practice arrangement with a physician or osteopathic physician. Rule-making authority related to joint practice arrangements is removed.

Votes on Final Passage:

House 74 23
 Senate 47 0

Effective: July 24, 2005

HB 1485
C 492 L 05

Regarding the school bus bid process.

By Representatives Hunter, Jarrett, Wallace, Tom, Fromhold, McDermott, Haigh, Kenney and P. Sullivan.

House Committee on Education

Background: School districts provide transportation to and from school for many students as part of basic education. Two hundred and seventy-five districts operate their own bus fleets. About 8,500 school buses operate across the state and about 450 new buses must be purchased to augment or replace that fleet each year. The districts decide the brands of buses to purchase, the methods of operation and maintenance, and the replacement timetable for the districts' fleets. School districts purchase the buses and the state makes annual payments to the districts to replace the buses. The payments are made on either an eight-year or 13-year depreciation schedule, depending on the size of the bus. Under the replacement theory, by the end of the depreciation schedule, the state will have provided each district with enough money to replace the old buses with new ones.

Before 2004, school districts were able to purchase buses through a non-profit purchasing cooperative. In 2004, the Legislature limited state reimbursements to buses bought either through the state bid or through a district's competitive bidding process.

During 2004, the Joint Legislative Audit and Review Committee (JLARC) studied the methods school districts used for bidding and purchasing school buses. The JLARC's February 2005 report included a series of findings and recommendations for improving the process.

The JLARC found that many external factors affect the prices of school buses and that it appears that the prices paid by school districts are in line with the prices charged in states that use similar purchasing strategies. There are purchasing practices used in some districts and in other states that could improve the process. The JLARC also found that the wide variability in the annual payments to school districts for bus purchases is due more to the payment process than the bidding or purchasing processes. The variability could be reduced by switching to a financing system.

The JLARC's three recommendations were:

- 1) The Legislature should make permanent the bidding, purchasing, and payment system implemented through a proviso in the 2003-05 budget.
- 2) The Office of the Superintendent of Public Instruction (SPI) should examine some of the promising practices identified by the JLARC to determine whether and how to implement the practices on a statewide basis.
- 3) If predictable budget levels for bus reimbursements are important, the Legislature should ask the SPI to examine alternative funding approaches.

Summary: The requirement is removed that the SPI establish school bus categories that, as a minimum, are the same as the ones in place at the beginning of the 1994-95 school year.

The SPI will solicit competitive price quotes for base buses and for optional features and equipment. The prices must be in effect for at least one year. The SPI will publish a list of accepted quotes in each category. School districts may purchase directly from any dealer on the list.

The SPI will reimburse school districts and educational service districts for buses purchased through a lowest-bid competitive process or through the competitive price quote bus process established by the SPI, using reimbursement rates established for base buses.

Votes on Final Passage:

House	98	0
Senate	45	0

Effective: July 24, 2005

SHB 1486
FULL VETO

Concerning health care services.

By House Committee on Health Care (originally sponsored by Representatives Conway, Wood and Sells).

House Committee on Health Care
Senate Committee on Health & Long-Term Care

Background: Many employers choose not to provide health care benefits for their employees. These employees either go without health insurance, apply for state purchased health care programs supported with public funds, or seek uncompensated care at hospitals.

Summary: Directs the Department of Social and Health Services, the Health Care Authority, and the Employment Security Department to prepare a report on the employment status of recipients of Medicaid and the Basic Health Plan, including why they chose public programs over employer-sponsored coverage, and who referred them, and submit it to legislative committees.

Votes on Final Passage:

House	97	0	
Senate	40	0	(Senate amended)
House	95	0	(House concurred)

VETO MESSAGE ON 1486-S

May 13, 2005

To the Honorable Speaker and Members,
The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning, without my approval, Substitute House Bill No. 1486 entitled:

“AN ACT Relating to health care services.”

I strongly support the intent of this bill and believe that collecting data on who is relying on state-subsidized programs and why it is important to our understanding of the overall health care system. I am vetoing this bill for two reasons. First, the Legislature did not appropriate funding to implement the bill, and the bill requires the collection of data elements that are particularly resource-intensive. Second, the bill raises significant privacy and state public disclosure concerns regarding the release of employer-specific information.

In recognition of the intent of the bill, I direct the Health Care Authority and the Department of Social and Health Services to develop a report contemplated by the bill that is consistent with federal and state law. I look forward to working with the Legislature during the next session to develop legislation that meets our reporting needs, that can be implemented with appropriated funds, and that is consistent with existing laws and regulations.

For these reasons, I have vetoed Substitute House Bill No. 1486 in its entirety.

Respectfully submitted,



Christine O. Gregoire
Governor

HB 1487
C 154 L 05

Concerning payment agreements.

By Representatives Ormsby, Dunshee, Serben and Crouse.

House Committee on Capital Budget
Senate Committee on Government Operations & Elections

Background: Most of the construction or acquisition of capital facilities by state and local governments is financed by long-term debt instruments including revenue bonds, general obligation bonds, lease purchase agreements, and other contractual arrangements. All of these arrangements contain obligations to make payments on the amount borrowed plus interest. The interest rate, which is generally a fixed rate, is determined by the financial markets at the time the obligation is incurred.

In 1993, the Legislature authorized state and local governments with debt or annual revenues in excess of \$100 million to participate in "swap" agreements. "Swaps" are contracts under which the parties trade their respective interest payment obligations on a specified amount of debt for a specified period of time. The transactions usually involve trading a fixed rate obligation for

a variable rate obligation. These swap agreements do not alter or impair the basic obligation to pay the bond holders. One party agrees to make the payments owed by the other party and vice versa for a given period of time.

The first authorization for swap agreements was limited to two years and was set to expire on June 30, 1995. In 1995 and 2000, the Legislature extended the authorization in five year increments to June 30, 2005.

In 2004, the expiration date for authorization of state and local governments to use "swap" agreements was repealed. State and local governments, with the addition of city transportation authorities, were authorized to enter into these agreements after June 30, 2005.

Summary: Public facilities districts are added to the list of local governmental entities that may use "swap" agreements.

Votes on Final Passage:

House	95	0
Senate	49	0

Effective: July 24, 2005

SHB 1491
PARTIAL VETO
C 155 L 05

Reorganizing aquatic lands statutes.

By House Committee on Natural Resources, Ecology & Parks (originally sponsored by Representatives B. Sullivan, Kretz, Upthegrove, Orcutt, Eickmeyer and Buck; by request of Commissioner of Public Lands).

House Committee on Natural Resources, Ecology & Parks
Senate Committee on Natural Resources, Ocean & Recreation

Background: The Legislature created the Department of Natural Resources (DNR) in 1957 and assigned to it the responsibility for managing the state's aquatic lands for the benefit of the public. The DNR manages over two million acres of tidelands, shorelands, and bedlands. This includes the beds of all navigable rivers and lakes, along with the beds below the Puget Sound.

The management of aquatic lands must support a balance of goals, including the encouragement of public access, the fostering of water-dependent uses, the utilization of renewable resources, and the generation of revenue. Revenues generated from the state's aquatic lands are generally directed to be used for public benefits, such as shoreline access, environmental protection, and recreational opportunities. Under the law, the DNR may lease aquatic lands and exchange state-owned aquatic lands for privately owned lands. The DNR may also accept gifts of aquatic lands.

Most of the structure that outlines the DNR's duties

and responsibilities is codified in Title 79 of the Revised Code of Washington, which was last rewritten in 1982.

Summary: Statutes governing the DNR's management of aquatic lands are reorganized without substantive change. Non-substantive revisions eliminate outdated terms and antiquated provisions, create gender neutrality, and regroup like subjects.

Votes on Final Passage:

House 98 0
Senate 46 0

Effective: July 24, 2005

Partial Veto Summary: Removes a section of the act that would have made non-substantive changes to a section of code that was significantly amended by a separate piece of legislation.

VETO MESSAGE ON SHB 1491

April 22, 2005

To the Honorable Speaker and Members,
The House of Representatives of the State of Washington
Ladies and Gentlemen:

I am returning, without my approval as to section 210, Substitute House Bill No. 1491 entitled:

“AN ACT Relating to recodification of aquatic lands statutes.”

Substitute House Bill 1491 recodifies the state's aquatic lands management statutes without substantive change. Section 210 of the bill makes non-substantive changes to RCW 79.91.100, a section of state law that was substantively amended by Substitute House Bill 1657, relating to bridges and trestles. I signed Substitute House Bill 1657 into law earlier this session, on April 14, 2005. If Section 210 of Substitute House Bill 1491 is also signed into law, it may conflict with the substantive changes made by Substitute House Bill 1657. For this reason, I have vetoed Section 210 of Substitute House Bill 1491.

With the exception of Section 210, Substitute House Bill 1491 is approved.

Respectfully submitted,

Christine O. Gregoire
Governor

SHB 1495
C 205 L 05

Encouraging tribal history to be included in the common school curriculum.

By House Committee on Education (originally sponsored by Representatives McCoy, Roach, Simpson, P. Sullivan, McDermott, Santos, Appleton, Darneille, Williams, Hunt, Haigh, Chase, Sells, Conway, Kenney, Kagi, Moeller, Ormsby and Blake).

House Committee on Education
Senate Committee on Early Learning, K-12 & Higher Education

Background: Washington has a rich Native American heritage that dates back thousands of years. There are 29 federally-recognized Indian tribes whose reservations are located in Washington. The Governor's Office of Indian Affairs reports an additional seven tribes in Washington who are not federally recognized.

Washington's high school graduation requirements include a minimum of one-half credit of course work in Washington State history and government. Courses designed to meet this requirement are encouraged, but not required, to include information on the culture, history, and government of Washington Indian tribes.

The Washington State School Directors' Association (WSSDA) was created for the purpose of coordinating programs and procedures pertaining to the policymaking, control, and management of school districts in the state. The WSSDA reports annually to the Office of the Superintendent of Public Instruction (OSPI) regarding recommendations to increase the efficiency of the common school system.

Summary: The WSSDA is encouraged to convene regional meetings between local school boards and tribal councils to establish government-to-government relationships. Meetings should be scheduled at least annually beginning in 2006 and through 2010 and should be for the purposes of: (1) developing and implementing curricular materials to teach the history, culture, and government of Washington Indian tribes; and (2) identifying strategies to close the academic achievement gap. The WSSDA is directed to report to the Legislature in 2007, 2009, and 2011, regarding the progress made in developing the curricula and the potential for the curricula to contribute to efforts to close the achievement gap.

School districts are encouraged to incorporate information about tribal history, culture, and government into social studies courses in which Washington or United States history is taught. Districts also are encouraged to facilitate opportunities for cultural exchanges with tribes and to make good faith efforts to collaborate in the development of curricula with federally-recognized tribes whose reservations in whole or in part lie within the districts' boundaries. The OSPI is encouraged to assist districts in determining the locations of the reservations and traditional lands and territories of Washington Indian tribes.

Votes on Final Passage:

House 78 18
Senate 35 9 (Senate amended)
House 79 17 (House concurred)

Effective: July 24, 2005

SHB 1496

C 206 L 05

Authorizing the use of enrollment cards issued by federally recognized Indian tribes.

By House Committee on Judiciary (originally sponsored by Representatives Simpson, Roach, P. Sullivan, Quall, McDermott, Santos, Appleton, McCoy, Hunt, Kenney, Kagi and Blake).

House Committee on Judiciary

Senate Committee on Labor, Commerce, Research & Development

Background: To verify age, a purchaser of liquor or tobacco may present any one of the following documents that shows the purchaser's age and bears the purchaser's signature and photograph:

- liquor control authority card from a state or Canada;
- driver's license, instruction permit, or identification card from a state or Canada;
- Washington state "identocard" from the Department of Licensing (DOL);
- U.S. military identification;
- passport; or
- U.S. merchant marine identification card.

The DOL accepts enrollment cards from federally recognized Indian tribes as a form of secondary documentation establishing a person's identity when applying for a driver's license.

There are 29 federally recognized Indian tribes in Washington. There are also non-federally recognized tribes in the state. Each tribe determines its own membership criteria, using a variety of methods such as blood quantum requirements. Each tribe may issue enrollment cards to its members. There are no federal standards for tribal enrollment cards.

Summary: To verify a purchaser's age, a tobacco or liquor retailer may accept enrollment cards from federally recognized Indian tribes in Washington that incorporate security features comparable to those implemented by the DOL for driver's licenses.

At least 90 days prior to implementation of an enrollment card, the tribe must give notice to the Liquor Control Board (Board). The Board must publish and communicate to liquor and tobacco licensees regarding the implementation of each new enrollment card.

Votes on Final Passage:

House	98	0	
Senate	48	0	(Senate amended)
Houses			(House refuses to concur)
Senate	48	0	(Senate amended)
House	96	1	(House concurred)

Effective: July 24, 2005

SHB 1502

C 56 L 05

Modifying tax abatement provisions.

By House Committee on Finance (originally sponsored by Representatives Takko and DeBolt).

House Committee on Finance

Senate Committee on Ways & Means

Background: Property in the state is subject to the property tax each year based on the property's value, unless specifically exempted by law. Property value is determined as of January 1 of the assessment year. Property taxes are paid in the following year based on this value. Generally, changes in value that occur between the January 1 assessment date and the time the tax bill is calculated are not made.

Property that is destroyed in whole or part, or reduced in value as a result of a natural disaster after the assessment date, may be eligible for an adjustment in assessed value. The property damaged in a natural disaster must be reduced in value by 20 percent or more and be located in a Governor-designated disaster area. Under these circumstances the assessed value adjustment is equal to the value reduction due to the destruction or damage. The assessed value adjustment reduces the property tax in the following year. The property tax due in the year in which the destruction or damage occurs is not reduced.

For tax years 1998 through 2004, destroyed property or property damaged in certain disaster areas also received tax reductions during the year in which the destruction or damage occurred. The amount of the tax reduction was proportional to the time remaining in the year after the destruction or damage occurred.

Summary: Property that is destroyed and property reduced in value by 20 percent by a natural disaster after the assessment date may receive tax reductions during the year in which the destruction or damage occurred. The amount of the tax reduction is proportional to the time remaining in the year after the destruction or damage occurs. The natural disaster area may be declared by the county legislative authority. The tax relief is not available for property that is destroyed or damaged voluntarily.

Votes on Final Passage:

House	95	0
Senate	48	0

Effective: July 24, 2005

SHB 1509
C 253 L 05

Providing a property tax exemption to widows or widowers of members of the military.

By House Committee on Finance (originally sponsored by Representatives Green, Conway, Orcutt, Appleton, Morrell, O'Brien, Lovick, McCoy, Kilmer, Kessler, McDermott, Campbell, Simpson, Hunt, Chase, P. Sullivan, Sells, Kirby, Kenney, Linville and Kagi; by request of Governor Gregoire).

House Committee on Finance
Senate Committee on Government Operations & Elections
Senate Committee on Ways & Means

Background: All real and personal property in this state is subject to property tax each year based on its value, unless a specific exemption is provided by law.

Some senior citizens and persons retired due to disability are entitled to property tax relief on their principal residences. To qualify, a person must be 61 years old in the year of application or retired from employment because of a disability, own his or her principal residence, and have a disposable income of less than \$35,000 a year. Persons meeting these criteria are entitled to partial property tax exemptions and a valuation freeze.

Summary: A property tax exemption in the form of a grant is provided to certain widows and widowers of veterans based on their disposable household income.

The widow or widower must meet all the requirements of the senior citizen property tax exemption program except the income limits. In addition, the widow or widower must be at least age 62 when he or she applies for assistance and must be a widow or widower of a veteran who: died as a result of a service-connected disability; was rated as 100 percent disabled for the 10 years prior to death; was a prisoner of war and rated as 100 percent disabled for at least one year prior to death; died while on active duty; or died in active military training status. The retired widow or widower cannot remarry.

The assistance is equal to regular and excess property taxes imposed on the difference between the value eligible for exemption under the senior citizen program and:

- \$50,000 if the income level is \$35,001 to \$40,000;
- \$75,000 if the income level is \$30,001 to \$35,000; or
- \$100,000 if the income level is \$30,000 or less.

Claims must be filed with the Department of Revenue (Department) no later than thirty days before the tax is due. The Department may waive this requirement for good cause shown.

Veterans are persons who were honorably discharged or discharged for physical reasons with an honorable record from the armed forces of the United States and

served during periods of war or between World War I and World War II. Women's air force service pilots and certain merchant mariners are eligible.

This change first applies to property tax due for collection in 2006.

Votes on Final Passage:

House	94	0	
Senate	44	0	(Senate amended)
House	98	0	(House concurred)

Effective: July 24, 2005

SHB 1512
C 446 L 05

Concerning improving the quality of care in state-purchased health care programs.

By House Committee on Health Care (originally sponsored by Representatives Morrell, Clibborn, Moeller, Cody, Green, Appleton, Roberts, Sommers, Blake, Schual-Berke, Flannigan, Sells, Kenney and Kagi).

House Committee on Health Care
Senate Committee on Health & Long-Term Care

Background: In 2003 legislation was adopted that requires the Health Care Authority (Authority) to coordinate state agency efforts to adopt uniform policies based on the best available scientific and medical evidence. Uniform policies across state purchased health care programs were deemed necessary by the legislation to ensure prudent, cost-effective health services purchasing, maximize efficiencies in administration of state purchased health care programs, and reduce administrative burdens on health care providers participating in state purchased health care programs. Adopted uniform policies are required to address:

- 1) formal assessment methods, including health technology assessment;
- 2) monitoring of health outcomes, adverse events, quality, and cost-effectiveness of health services;
- 3) development of a common definition of medical necessity; and
- 4) exploration of common strategies for disease management and demand management programs.

"Best available scientific and medical evidence" is defined in statute as the best available external clinical evidence derived from systematic research.

Summary: The Authority, the Administrator of the Authority, and the Secretary of the Department of Social and Health Services must work in collaboration with other state agencies that administer state purchased health care programs, private health care purchasers, health care facilities, health care providers, and health insurance carriers to use evidence-based medicine principles to develop common performance measures. The collaboration must also implement financial incentives

in contracts with insuring entities, facilities, and providers. The incentives must:

- 1) reward improvements in health outcomes for individuals with chronic diseases, increased utilization of appropriate preventive health services, and reductions in medical errors; and
- 2) increase, through appropriate incentives to insuring entities and providers, the adoption and use of information technology contributing to improved health outcomes, better coordination of care, and decreased medical errors.

The Authority may require that insuring entities provide subscriber or member demographic and claims data necessary to implement performance measures or financial incentives related to performance.

The duty of the Authority to appoint a technical advisory committee relating to health care policy is removed.

Votes on Final Passage:

House	58	40	
Senate	47	0	(Senate amended)
House	61	34	(House concurred)

Effective: July 24, 2005

HB 1533

C 447 L 05

Revising provisions for inspection of hospitals.

By Representatives Appleton, Bailey, Cody, Morrell, Skinner, Hinkle, Curtis and Campbell; by request of Department of Health.

House Committee on Health Care
 House Committee on Appropriations
 Senate Committee on Health & Long-Term Care

Background: The Department of Health (Department) must conduct annual inspections of hospitals, unless the hospital has been inspected within the previous year by either the Joint Commission on the Accreditation of Health Care Organizations or the American Osteopathic Association. The Department is required to coordinate hospital inspection activities with other agencies, including the Department of Social and Health Services and the Office of the State Fire Marshal, to minimize the number of separate inspections that must be conducted.

Summary: The requirement that the Department conduct inspections of hospitals every 12 months is extended to an average of every 18 months. Surveys conducted by the Joint Commission on the Accreditation of Health Care Organizations or the American Osteopathic Association may substitute for a Department survey as long as their standards are substantially equivalent to those of the Department. The hospital is responsible for notifying the Department within 30 days of an

accreditation inspection and making the inspection report available to the Department.

Votes on Final Passage:

House	95	0	
Senate	44	0	(Senate amended)
House	95	0	(House concurred)

Effective: July 24, 2005

HB 1534

C 156 L 05

Identifying health care providers covered by the retired health care provider liability malpractice insurance program.

By Representatives Green, Hinkle, Cody, Morrell, Schual-Berke, Skinner, Curtis, Clibborn, Campbell and Kagi; by request of Department of Health.

House Committee on Health Care
 Senate Committee on Health & Long-Term Care

Background: The Department of Health (Department) administers a program to purchase malpractice insurance for certain retired primary health care providers who volunteer their services to low-income patients. In order to qualify, the provider must be a physician, osteopathic physician, naturopath, physician assistant, osteopathic physician assistant, advanced registered nurse practitioner, dentist, or other health care provider whose profession is determined to be in short supply. Providers may only perform primary health care services which are limited to noninvasive procedures. Providers may not perform any obstetrical care or specialized care and procedures. Providers may only practice at clinics that are public or private nonprofit organizations or other practice settings as defined by the Department.

Summary: The Department program that provides liability malpractice insurance to retired primary health care providers is expanded to include retired specialty care providers. The specialists that may be included in the program are limited to those who practice in specialties where the malpractice insurance premiums are comparable to primary care providers.

Votes on Final Passage:

House	97	0
Senate	46	0

Effective: July 24, 2005

SHB 1536

C 32 L 05

Providing the secretary of health with authority to administer grants.

By House Committee on Health Care (originally sponsored by Representatives Moeller, Hinkle, Cody, Morrell, Skinner, Campbell, Clibborn, Schual-Berke and Kenney; by request of Department of Health).

House Committee on Health Care
Senate Committee on Health & Long-Term Care

Background: The purposes of the Department of Health (Department) include the preservation of public health, the monitoring of health care costs, the maintenance of minimal standards for quality in health care delivery, and the general oversight and planning for the state's activities as they relate to health. The Secretary of Health (Secretary) has the authority to:

- 1) appoint advisory committees;
- 2) undertake studies, research, and analysis;
- 3) delegate powers, duties, and functions to Department employees;
- 4) enter into contracts on behalf of the Department;
- 5) act for the state in the initiation of, or participation in, any intergovernmental program; and
- 6) solicit and accept gifts, grants, bequests, devises, or other funds from public and private sources.

The Office of Financial Management (OFM) has a policy of requiring open competition for all personal service contracts over \$20,000 entered into by state agencies. The Department is involved with many contracts defined as personal service contracts over \$20,000 that are subject to formal competition under the OFM guidelines.

Summary: In addition to contracting authority, the Secretary is given the authority to enter into and distribute grants on behalf of the Department to carry out the purposes of the Department. The Department must report to the Legislature a summary of the grants distributed under this authority for each year of the first biennium that the Secretary has granting authority.

The Department is responsible for the efficient and accountable expenditure of public funds on health activities that further the mission of the agency via grants and contracts.

Votes on Final Passage:

House	97	0
Senate	46	0

Effective: July 24, 2005

ESHB 1539

C 448 L 05

Making it a crime to excavate without notification near a transmission pipeline.

By House Committee on Technology, Energy & Communications (originally sponsored by Representatives Linville, Roach, Morris, DeBolt, Ericksen, Williams and Upthegrove).

House Committee on Technology, Energy & Communications

Senate Committee on Water, Energy & Environment

Background: A single statewide telephone number exists for referring excavators to the appropriate one-number locator service. A one-number locator service is operated by non-governmental entities and is a means by which a person can notify utilities of excavation and request field marking of underground facilities. In general, a one-number locator service receives requests for the location of buried utility facilities and relays those requests to member utilities and governmental agencies. The Washington Utilities and Transportation Commission, in consultation with the Washington Utilities Coordinating Council, establishes minimum standards and best management practices for one-number services.

Before conducting any excavation, excluding agricultural tilling less than 12 inches in depth, a person must notify pipeline companies of the scheduled excavation through the one-number locator service. Notification must occur in a window of not less than two business days but not more than 10 business days before beginning the excavation. If a pipeline company is notified that excavation work will occur near a pipeline, a representative of the company must consult with the excavator on-site prior to excavation.

A civil penalty of not more than \$10,000 applies when a person fails to notify the one-number locator service and causes damage to a hazardous liquid or gas pipeline.

Summary: Upon receiving notice, during normal business hours, of an intended excavation, the one-number locator service must provide an excavation confirmation code containing the date and time that the confirmation code was issued. "Notice" is defined as contact in person or by telephone or other electronic methods that results in the receipt of a valid excavation confirmation code.

Any excavator who excavates within 35 feet of a transmission pipeline without obtaining a valid excavation confirmation code when required under law is guilty of a misdemeanor. A "transmission pipeline" is defined as a pipeline that transports hazardous liquid or gas within a storage field, or transports hazardous liquid or gas from an interstate pipeline or storage facility to a distribution main or a large volume hazardous liquid or gas user, or operates at a hoop stress of 20 percent or more of

the specified minimum yield strength.

The provision providing a civil penalty for failing to notify the one-number locator service and causing damage to a hazardous liquid or gas pipeline is modified to state that the penalty applies to any excavator instead of any person. The civil penalty may be imposed in addition to any criminal penalty for excavating within 35 feet of a transmission pipeline without obtaining a valid excavation confirmation code.

Affirmative defenses are created for an operator. "Operator" is defined as the individual conducting the excavation. The affirmative defenses are: (1) the operator was provided a valid excavation confirmation code; (2) the excavation was performed in an emergency situation; (3) the operator was provided a false confirmation code by an identifiable third party; or (4) notice of the excavation was not required.

Any person who intentionally provides an operator with a false excavation confirmation code is guilty of a misdemeanor.

Votes on Final Passage:

House	94	0	
Senate	49	0	(Senate amended)
House			(House refused to concur)
Senate	44	0	(Senate amended)
House	98	0	(House concurred)

Effective: July 24, 2005

SHB 1541

C 317 L 05

Enacting the Transportation Innovative Partnerships Act.

By House Committee on Transportation (originally sponsored by Representatives Murray, Woods, Wallace, Jarrett, Ericksen, Morris, B. Sullivan, Chase, Schual-Berke, Rodne and Dickerson).

House Committee on Transportation

Senate Committee on Transportation

Background: The current public-private initiatives law (RCW 47.46) does not provide for any additional projects. Out of six projects originally identified by the Department of Transportation for development, the only project that has been undertaken is the Tacoma Narrows Bridge project.

After a development agreement between the Department of Transportation and the private developer had been signed, the Legislature analyzed the cost savings that could result from state financing, and subsequently amended the law to provide for state financing.

Summary: The Transportation Innovative Partnerships Act is created to enable the Washington State Department of Transportation (WSDOT) to enter into partnerships with private entities for the development of transportation facilities. Projects eligible for develop-

ment include road and highway facilities, structures, operations, properties, vehicles, vessels, etc., representing any mode of travel (except for recreational purposes). Projects that are not transportation facilities, but that carry out public purposes or provide financing streams to a transportation project, are also eligible for development.

The Transportation Commission is directed to conduct a statewide tolling feasibility study to determine which state highways and facilities are viable candidates for development as a public-private partnership. The results of the study must be presented to the Legislature by January 15, 2006.

After conducting the feasibility study, the WSDOT may solicit proposals or may survey their existing transportation project lists and plans to determine if any are suitable for development as a public-private partnership. Beginning January 1, 2007, the WSDOT may also accept unsolicited proposals. If an unsolicited proposal is received, the WSDOT must publish notice of the proposal and provide 90 days to allow competing proposals to be submitted.

The Transportation Commission must enact rules for the proper acceptance, review, evaluation and selection of projects. Once a project has been identified for development, the WSDOT may enter into negotiations on an agreement. Some terms of the agreement are proscribed, such as the payment of prevailing wages on the public works, and provisions for bonding and the payment of workers and subcontractors. Other terms are required to be negotiated, such as ownership of the asset to be developed, maintenance responsibilities, liability for the project, etc.

Financing may be considered for all or part of a proposal, subject to certain conditions. For projects owned, leased, used or operated by the state as a public facility, any bonded indebtedness must be issued by the state treasurer. For other public projects that are not transportation projects, financing must be approved by the state finance committee or, in the case of federal tax exempt financing, by the public benefit corporation as specified in federal law. For projects that are not public projects or public facilities, any lawful source of financing may be used.

Sources of repayment may include user fees, tolls, fares, lease proceeds, gross or net receipts from sales, proceeds from development rights, franchise fees, or any other lawful form of consideration. Federal, state and local fund sources (such as grants, loans, or tax revenues) may also be used for project financing.

A public involvement plan must be submitted and approved as part of any agreement. All public meetings, workshops, open houses, hearings, etc., must be administered and attended by representatives of the public sector partner, and may not be contracted out to the private developer. For projects that cost in excess of \$300 mil-

lion, a citizen advisory committee must be established for the purpose of reviewing, monitoring and advising on development of the project and operations and maintenance of the project after construction is complete.

After a tentative development agreement has been reached, the Transportation Commission must publish the proposed contract for 20 days, followed by a hearing to receive public comment. After receiving public comment and approving a public involvement plan, the Transportation Commission may execute the contract.

The Transportation Innovative Partnership Account (Account) is created in the state treasury, as a depository for bond proceeds and any revenues generated from the transportation project. Funds in the Account must be spent on the specific public-private project, and may not be diverted to other transportation projects.

The WSDOT is directed to study alternative contracting and project management authorities to seek out best practices as used by other states and the private sector. As part of the study, the WSDOT must consider procedures for negotiating contracts in situations of a single qualified bidder, in either solicited or unsolicited proposals. Finally, WSDOT must also analyze methods of encouraging competition in the development of transportation projects. A report must be submitted to the Governor and Legislature for consideration in the 2006 legislative session.

The WSDOT is authorized to enter into agreements with private entities for the imposition of late-coming fees, to help apportion the cost of infrastructure improvements among the beneficiaries of those improvements.

Votes on Final Passage:

House	95	1	
Senate	33	13	(Senate amended)
House	94	2	(House concurred)

Effective: July 24, 2005

2SHB 1542

C 157 L 05

Providing indigent defense services.

By House Committee on Appropriations (originally sponsored by Representatives Lantz, Hinkle, Appleton, Rodne, Lovick, Newhouse, Buri, Darneille, Williams, McDermott, Clibborn, Schual-Berke, O'Brien, McIntire, Kagi, Hasegawa, Dickerson, Green, Kenney and Kilmer).

House Committee on Judiciary
 House Committee on Appropriations
 Senate Committee on Judiciary
 Senate Committee on Ways & Means

Background: Both the federal and state constitutions contain guarantees of the right to legal representation for an accused person in a criminal prosecution. Court deci-

sions at both the federal and state levels have construed these provisions to require public funding of indigent legal representation in criminal prosecutions in which the accused's liberty is at stake. Statutes and court decisions have also extended the right to publicly funded counsel to other cases, such as involuntary commitments, dependencies, and juvenile cases. The right also attaches to criminal appeals, and special rules apply in capital punishment cases.

The Washington statute on indigent defense declares that:

"...effective legal representation should be provided for indigent persons and persons who are indigent and able to contribute, consistent with the constitutional requirements of fairness, equal protection, and due process in all cases where the right to counsel attaches."

A determination of indigence is to be made for any person requesting the appointment of counsel in a criminal, juvenile, involuntary commitment, dependency, or other case in which the right to counsel attaches. The indigent defense services law defines an indigent person as one who:

- receives public assistance in one of several enumerated forms; or
- has been involuntarily committed to a public mental health facility; or
- has an income of 125 percent or less of the federal poverty level; or
- has insufficient available funds to retain counsel.

Most criminal defendants are found to be indigent within this definition and therefore eligible for legal representation at public expense. The court may determine that a person is indigent under this definition, but nevertheless able to contribute to the cost of his or her legal counsel. In such cases, the court is to require the person to make payments toward the cost of his or her legal representation.

Generally, the funding of trial-level indigent defense costs are a local responsibility.

Counties and cities are required to adopt standards for the delivery of public defense services. The local service delivery standards are to cover:

- compensation, duties, training, qualifications, supervision, monitoring, and evaluation of counsel;
- caseload limits;
- expert witness fees and other costs;
- administrative costs and support services;
- limitations on private practice;
- substitution of attorneys or assignment of contracts;
- client complaints;
- cause for termination of contracts or removal of attorneys; and
- nondiscrimination.

The public defense services standards endorsed by the state Bar Association may serve as guidelines for the

counties and cities.

A variety of delivery methods are used for public defense services. Some local jurisdictions provide indigent defense services through their own public defense agencies. Other jurisdictions contract with private non-profit agencies or with individual law firms or attorneys. Still others assign counsel on a case-by-case basis from lists of available attorneys. Some jurisdictions may use combinations of these delivery systems.

The Office of Public Defense (OPD) was created in 1996 to administer state-funded indigent defense services for criminal appeals. The OPD also processes requests from counties to the Legislature for reimbursement for "extraordinary criminal justice costs," including indigent defense costs associated with aggravated murder cases. The Director of the OPD is appointed by the Washington Supreme Court. The Director is supervised by an 11-member advisory committee with a chair and two other members appointed by the Supreme Court, one member appointed by the Court of Appeals, two by the Governor, four by the Legislature, and one by the Bar Association. The OPD is scheduled to sunset in 2009.

In 2003, the Board of Governors of the state Bar Association appointed a Blue Ribbon Panel on Criminal Defense. The panel was created in response to concerns about the delivery of indigent defense services. The panel was directed to develop recommendations for the Board of Governors regarding various aspects of indigent defense services.

Summary: A mechanism is established for providing state funding of local indigent defense services.

The OPD is to disburse appropriated funds to eligible cities and counties for public defense services. Local jurisdictions may apply for funds if they meet certain requirements, including requiring public defenders to get annual training approved by the OPD. Applicants must also report financial and caseload information on public defense services for the previous year. Individuals and entities that contract with local jurisdictions to provide public defense services must report to the local jurisdiction the hours they have billed for nonpublic defense legal services.

If a local jurisdiction receives funds from the OPD, it must document that it is meeting the standards of the Bar Association or making "appreciable demonstrable improvements" in services, including:

- the service delivery standards which cities and counties are required to adopt, and for which the Bar Association standards should serve as a guideline;
- requiring training for public defense attorneys;
- with respect to counties only, requiring specified enhanced training and experience for attorneys handling first or second degree murder cases, persistent offender cases, or any class A felony;
- requiring contracts to address compensation for extraordinary cases; and

- funding for the costs of expert witnesses and investigators.

If the OPD determines that a local jurisdiction receiving funds has not substantially complied with these requirements, the OPD may terminate funding. A determination to terminate funding is appealable to the OPD Advisory Committee, whose decision is final.

Distribution from total available appropriated funds by the OPD is to be as follows:

- 90 percent of the total goes to eligible counties:
 - 6 percent of which is divided equally among the eligible counties; and
 - 94 percent of which is distributed as follows:
 - 50 percent pro rata, based on county population;
 - 50 percent pro rata, based on county criminal filings; and
- 10 percent of the total goes to no more than five eligible cities as determined by the OPD based on grant applications.

Votes on Final Passage:

House	95	0
Senate	42	6

Effective: July 24, 2005

HB 1546
C 158 L 05

Regulating naturopathic physicians.

By Representatives Clibborn, Bailey, Cody, Skinner, Chase, Campbell, McIntire and Dickerson.

House Committee on Health Care
Senate Committee on Health & Long-Term Care

Background: Naturopathy is the practice of the diagnosis, prevention, and treatment of disorders of the body by stimulation and support of the human body's natural processes. The practice includes manual manipulation; the use of nutrition and food science; physical modalities; homeopathy; hygiene and immunization; and the administration, prescription, and use of medicines of mineral, animal, and botanical origin.

Naturopaths may use medicines that are derived from animal organs, tissues, and oils, minerals, and plants. They may also use legend vitamins, minerals, whole gland thyroid, and other traditional herbal and botanical pharmacopeia. A Department of Health rule interprets this to include legend topical ointments, creams, and lotions containing antiseptics as well as legend topical, local anesthetics. Naturopaths may also use intermuscular injections of vitamin B12 preparations.

Summary: The term "medicines of mineral, animal, and botanical origin" is replaced with the term "naturopathic medicines." The medicines that naturopaths may use include vitamins, minerals, botanical medicines, homeo-

pathic medicines, hormones, and legend drugs and controlled substances that are consistent with naturopathic medical practice and established by the Secretary of Health (Secretary) in rule. The prohibition on the use of controlled substances is revised to permit the use of codeine and testosterone in Schedules III, IV, and V of the Uniform Controlled Substances Act. The Secretary, in consultation with the Naturopathic Advisory Committee and the Board of Pharmacy, is required to establish requirements for the use of controlled substances, including educational and training standards.

The definition of "minor office procedures" is modified to include care and procedures for lesions as well as injections of substances consistent with the practice of naturopathic medicine and rules established by the Secretary. The definition of "common diagnostic procedures" eliminates references to superficial scrapings and prohibitions on surgical procedures and restates the prohibition as applying to incision or excision beyond a minor office procedure.

Naturopathic education programs are required to be accredited.

Votes on Final Passage:

House 81 15
Senate 31 12

Effective: July 24, 2005

HB 1554
C 57 L 05

Clarifying the definition of "farm and agricultural land" for purposes of current use property taxation.

By Representatives Morrell, Buri, Grant, Holmquist, Newhouse, McDonald, Conway, Blake, Quall, Linville and Miloscia.

House Committee on Finance
Senate Committee on Agriculture & Rural Economic Development

Background: Most property is valued or assessed at its true and fair, or highest and best, value for purposes of imposing property taxes. The state Constitution, however, allows the Legislature to enact legislation assessing certain types of real property at its present or current use for purposes of imposing property taxes. Two programs of current use valuation have been established: one program for forest lands and a second program that includes open space lands, farm and agricultural lands, and timber lands.

Farm and agricultural lands must be devoted primarily to commercial agricultural purposes. To qualify for classification as farm and agricultural land, land of less than 20 acres must meet income tests for three of the previous five years. For classified farm and agricultural land for which an application was made before January

1, 1993, and that has not been transferred to a new owner since January 1, 1993, farm parcels of less than five acres must generate \$1,000 in farm gross income, and farm parcels of between five and 20 acres must generate \$100 per acre. For other classified farm and agricultural land, farm parcels of less than five acres must generate \$1,500 in farm gross income, and farm parcels of between five and 20 acres must generate \$200 per acre.

Department of Revenue rules adopted to administer the open space current use laws require cash income from agricultural production in order to meet the income requirement of the farm and agriculture current use program.

Summary: Participants in the farm and agricultural current use property program may use the wholesale value of agricultural products donated to nonprofit food banks and feeding programs to satisfy the farm income test.

Votes on Final Passage:

House 98 0
Senate 49 0

Effective: July 24, 2005

HB 1555
C 181 L 05

Clarifying the valuation of land for monetary assessments by drainage, diking, flood control, and mosquito control districts.

By Representatives Wallace, Newhouse, Haigh, Dunn, Takko, Grant, Blake, Quall, Linville, Conway, Orcutt and Kretz.

House Committee on Local Government
Senate Committee on Government Operations & Elections

Background: Special Districts. For certain purposes, the statutory definition of "special district" includes the following types of special purpose districts:

- diking district;
- drainage district;
- diking, drainage, and/or sewerage improvement district;
- an intercounty diking and drainage district;
- a consolidated diking district, drainage district, diking improvement district, and/or drainage improvement district; or
- a flood control district.

A special district may investigate, plan, construct, acquire, repair, maintain, and operate improvements, works, projects, and facilities that are: (1) necessary to prevent inundation or flooding from rivers, streams, tidal waters or other waters; or (2) necessary to control and treat storm water, surface water, and flood water.

Special districts are created by either the petition of the owners of the property located within the proposed

special district, or by resolution of the county legislative authority or authorities in which the proposed special district is located.

Such districts are funded through property tax assessments levied upon properties within the special district that either use the services or facilities of the district or that otherwise derive benefits from the operation of the district. Such assessments are calculated through a complex statutory formula that takes into account the assessed value of the property in conjunction with a variety of other factors, including:

- the dollar value of benefit to the land calculated per acre obtained by a property receiving the services of the special district; and
- the dollar value of benefit to improvements upon the land (buildings, etc.) that are the result of the services provided by the district.

Special districts must establish individualized "assessment zones" that reflect the relative ratio of benefit or use that the real property within such a zone receives as the result of the operation of the special district. Those properties within the zones receiving the greatest benefits are subject to the highest tax assessments. In other words, these zones enable the calculation of tax assessments that reflect the pro rata share of the benefit received by a property.

Mosquito Control Districts. A mosquito control district (MCD) is a type of special purpose district whose purpose is to exterminate and generally prevent the propagation of mosquitos. Such districts are controlled by a five member board of trustees. The powers of an MCD include the following:

- taking the steps necessary to exterminate mosquitos;
- eliminating or neutralizing breeding places; and
- constructing and maintaining dikes, canals, levees, or ditches, as necessary for the elimination of mosquitos.

The MCDs are funded through property tax assessments that are calculated through an apportionment formula requiring that the tax reflect the proportionate benefit received by a property as the result of the services provided by the MCD. This apportionment formula is similar in concept to that used by special districts, insofar as it takes into account the assessed value of the property in conjunction with dollar value of the benefits accruing to that property by virtue of the operation of the MCD.

"Current Use" Versus "Market Value" Tax Benefits Related to Designated Forest Land, Farm and Agricultural Land, and Open Space Land. Property meeting certain criteria may have property tax assessments determined on the basis of current "use values" rather than "market values." In other words, under certain circumstances a property owner may obtain a property tax reduction by having the tax assessment based upon the actual current use of the property rather than an assess-

ment based upon market value (i.e., the value that could be derived from the "highest and best use" of the property.) There are four categories of lands whose tax status may be classified and assessed based upon the current use concept. Three categories are covered in what is known as the "open space law": (1) open space lands; (2) farm and agriculture lands; and (3) timber lands. (See chapter 84.34 RCW.) The remaining category is designated forest land subject to the timber tax law.

The land remains in current use classification as long as it continues to be used for the purpose for which it was placed in the current use program. Under certain circumstances, land may be removed from the program: (1) at the request of the owner; (2) by sale or transfer to an ownership making the land exempt from property tax; or (3) by sale or transfer of the land to a new owner, unless the new owner signs a notice of classification continuance. The assessor may also remove land from the program if the land is no longer devoted to its open space purpose.

Summary: In calculating tax assessments for designated forest land, specified farm and agricultural land and/or open space land, special districts and mosquito control districts must calculate such assessments by reference to current use rather than market value. This rule applies even if the district uses only a fractional amount of the assessed property tax value in its formula for determining the district assessment.

Votes on Final Passage:

House	97	0
Senate	46	0

Effective: July 24, 2005

HB 1557
C 280 L 05

Expanding membership of the electrical board by appointment of one outside line worker.

By Representatives Conway, Ericks, Kessler, Campbell, Blake, Simpson, Ormsby, Morrell, Chase, P. Sullivan and Kenney.

House Committee on Commerce & Labor
Senate Committee on Labor, Commerce, Research & Development

Background: The state's electricians and electrical installations law requires that persons who install or maintain wires or equipment to convey electric current be licensed. This licensure requirement does not apply to utilities and persons employed by utilities who install, repair, and maintain lines, wires, apparatus, or equipment used to light streets or public areas, or to transmit or distribute electricity to customers. The workers who construct and maintain electric transmission and distribution facilities are known as outside line workers.

The Department of Labor and Industries (Department) licenses electrical contractors and certifies electrical administrators and electricians under the electricians and electrical installations law. The Department also regulates the installation, repair, and maintenance of electrical wires, equipment, and services pursuant to this law.

The Electrical Board (Board) advises the Director of the Department on electrical and telecommunications installation standards, inspection procedures, and adoption of rules pertaining to electrical inspections. The Board also reviews appeals of license revocations and suspensions, as well as other citations.

The 14-member Board includes 13 voting members who represent various segments of the electrical and telecommunications industries and the public. These members include one member who is an employee or officer of an entity generating or distributing electric power. The one nonvoting Board member is a city building official. These Board members are appointed by the Governor with the advice of the Director of the Department. The Secretary of the Board is the Chief Electrical Inspector.

The Board meets at least once each quarter. The Board members are compensated no more than \$50 per day for days in which they attend official meetings or perform official duties. They are also reimbursed for travel expenses. These costs are paid from the electrical license fund.

Summary: One outside line worker is added as a voting member of the Electrical Board. The Governor must appoint this member of the Board within 90 days after the act's effective date.

Votes on Final Passage:

House 66 32
Senate 30 16

Effective: July 24, 2005

SHB 1560
C 159 L 05

Authorizing community colleges to deduct certain payments from tuition waivers.

By House Committee on Higher Education (originally sponsored by Representatives Sells, Campbell, Fromhold, McCoy and Chase).

House Committee on Higher Education
Senate Committee on Early Learning, K-12 & Higher Education

Background: Apprenticeship programs enable individuals to learn trades and occupations through on-the-job training and related or supplemental instruction. Apprenticeship programs are sponsored by committees made up of joint employer and labor groups, individual

employers, or employer associations.

Most apprenticeship committees contract with a community or technical college to provide the related or supplemental instruction for the program. The nature of the contract varies. Some training trusts hire their own instructor but use a college facility. Others rely fully on the college for instruction, location, and administration and record-keeping. For 2003-05, the contract rate for training is \$2,307 per full-time equivalent (FTE) apprentice, and the contract rate for rent is \$384 per FTE.

Even if the contract calls for the college to pay the apprenticeship committee, the apprentices in the program still owe their tuition to the college. A rule established by the State Board for Community and Technical Colleges prohibits a college from deducting the tuition owed on behalf of apprentices from the training contract. As a result, the college and apprenticeship committee must complete two financial transactions.

Summary: For courses offered for the purpose of related or supplemental instruction in an approved apprenticeship program, a community or technical college may deduct tuition owed from a training contract with an apprentice organization at the request of the organization.

Votes on Final Passage:

House 96 2
Senate 45 0

Effective: July 24, 2005

EHB 1561
C 441 L 05

Prohibiting discrimination in life insurance based on lawful travel destinations.

By Representatives Appleton, Roach, Santos, Kirby, Schual-Berke, Condotta, Williams and Chase.

House Committee on Financial Institutions & Insurance
Senate Committee on Financial Institutions, Housing & Consumer Protection

Background: The Office of the Insurance Commissioner (OIC) is responsible for the regulation of life insurance in the State of Washington. The OIC is authorized to regulate both the rates and contracts of the companies doing business in this state.

Insurers are not allowed to make or permit any unfair discrimination between insureds or subjects of insurance that have "substantially like insuring, risk, and exposure factors, and expense elements" in contract terms, rates or benefits. A life insurer is allowed to "fairly" discriminate between individuals having unequal expectation of life.

Summary: Generally, a life insurer may not take the following actions if the actions are based upon the appli-

cant or insured person's past or future lawful travel destinations:

- deny or refuse to accept an application for insurance;
- refuse to insure;
- refuse to renew;
- cancel;
- restrict;
- otherwise terminate a policy of insurance; or
- charge a different rate for the same coverage.

A life insurer may exclude or limit coverage of specific lawful travel, or charge a differential rate for the coverage, when bona fide statistical differences in risk or exposure have been substantiated.

Votes on Final Passage:

House	96	0	
Senate	49	0	(Senate amended)
House	94	1	(House concurred)

Effective: July 24, 2005

2SHB 1565

C 328 L 05

Addressing transportation concurrency strategies.

By House Committee on Transportation (originally sponsored by Representatives Jarrett, Moeller, Tom, Simpson, Appleton, Linville, Sommers, Lantz and Dunshee).

House Committee on Local Government
House Committee on Transportation
Senate Committee on Transportation

Background: Enacted in 1990 and 1991, the Growth Management Act (GMA) establishes a comprehensive land use planning framework for county and city governments in Washington. The GMA specifies numerous provisions for jurisdictions fully planning under the Act (planning jurisdictions) and establishes a reduced number of compliance requirements for all local governments.

The Department of Community, Trade, and Economic Development (DCTED) is charged with providing technical and financial assistance to jurisdictions implementing the GMA.

Comprehensive Plan Elements. Among numerous requirements, planning jurisdictions must adopt internally consistent comprehensive land use plans, which are generalized, coordinated land use policy statements of the governing body. Comprehensive plans must satisfy requirements for specified "elements," including land use and transportation elements, each of which is a subset of a comprehensive plan. Planning jurisdictions must also adopt development regulations that are consistent with and implement the comprehensive plan.

Transportation Element/Concurrency. The transportation element of a comprehensive plan must include

sub-elements that address transportation mandates for forecasting, finance, coordination, and facilities and services needs. A provision of the sub-element for facilities and services needs requires planning jurisdictions to adopt level of service (LOS) standards for all locally-owned arterials and transit routes. The facilities and services needs sub-element must include specific actions and requirements for bringing into compliance locally-owned transportation facilities or services failing to meet an established LOS.

Planning jurisdictions must adopt and enforce ordinances prohibiting development approval if the development causes the LOS on a locally-owned transportation facility to decline below standards adopted in the transportation element. Exemptions to this prohibition may be made if improvements or strategies to accommodate development impacts are made concurrent with the development. These strategies may include:

- increased public transportation service;
- ride sharing programs;
- demand management; and
- other transportation systems management strategies.

"Concurrent with the development" means improvements or strategies that are in place at the time of development, or that a financial commitment is in place to complete the improvements or strategies within six years.

Buildable Lands Program. The GMA requires six western Washington counties (Clark, King, Kitsap, Pierce, Snohomish, and Thurston counties) and the cities within those counties to establish a review and evaluation "buildable lands" program. The purpose of the program is to determine whether a county and its cities are achieving urban densities and identify reasonable measures, subject to statutory provisions, that will be taken to comply with requirements of the GMA.

Regional Transportation Planning Organizations. Legislation enacted in 1990 authorized the creation of regional transportation planning organizations (RTPOs). The RTPOs are formed through the voluntary association of local governments within a county or within geographically contiguous counties. The RTPOs have duties prescribed in statute, including preparing and updating regional transportation strategies and certifying that transportation elements required by the GMA reflect guidelines and principles adopted to provide direction for the development and evaluation of these elements.

The RTPOs must also prepare and update a regional transportation plan (plan) that is consistent with certain provisions of the GMA. The plan must be developed in cooperation with the Department of Transportation (DOT), the agency that owns and manages the state's highway system. The plan must also be developed in cooperation with transportation providers, local governments, and other specified entities. In addition to satisfying other requirements, the plan must:

- be based upon a least-cost planning methodology;
- identify existing or planned transportation facilities, services, and programs;
- establish regional LOS standards for qualifying highways and ferry routes;
- include a financial plan; and
- assess regional development patterns and capital investments.

The plan must also set forth a proposed regional transportation approach, including capital investments, service improvements, programs, and transportation demand management measures to guide the development of an integrated, multimodal regional transportation system.

All transportation projects, programs, and demand management measures within the region must be consistent with the plan and adopted regional growth and transportation strategies.

Summary: Growth Management Act. The transportation element of a comprehensive plan may include, in addition to improvements or strategies to accommodate the impacts of development authorized under specified provisions of the GMA, multimodal transportation improvements or strategies that are made concurrent with the development. These improvements or strategies may include, but are not limited to, measures implementing or evaluating:

- multiple modes of transportation with peak and non-peak hour capacity performance standards for locally owned transportation facilities; and
- modal performance standards meeting the peak and nonpeak hour capacity performance standards.

Nothing within specified provisions of the act or the GMA may be construed as prohibiting a county or city that is fully planning under the GMA (planning jurisdiction) from exercising its authority to develop multimodal improvements or strategies to satisfy the concurrency requirements of the GMA. Similarly, nothing within a specified provision of the act is intended to affect or otherwise modify the authority of planning jurisdictions.

Regional Transportation Planning Organizations. New requirements for regional transportation plans adopted by RTPOs are set forth. The proposed regional transportation approach of the plan must, for regional growth centers, address transportation concurrency strategies required by the GMA and include a measurement of vehicle level-of-service for off-peak periods and total multimodal capacity for peak periods.

Multimodal Concurrency Study. The DOT must administer a study to examine multimodal transportation improvements and strategies to comply with concurrency requirements of the GMA, subject to the availability of amounts appropriated for this purpose. The study must be completed by one or more RTPOs electing to participate in the study. The DCTED must provide technical assistance with the study.

The DOT must, in consultation with members from each of the two largest caucuses of the Senate, and members from each of the two largest caucuses of the House of Representatives, approve the scope of the study.

The study must satisfy specific criteria, including:

- an assessment and comprehensive summary of studies or reports examining concurrency requirements and practices in Washington;
- an examination of existing or proposed multimodal transportation improvements or strategies employed by a city in a county with a population of one million or more residents;
- recommendations for statutory and administrative rule changes that will further the promotion of effective multimodal transportation improvements and strategies that are consistent with provisions of the GMA; and
- recommendations for improving the coordination of concurrency practices in jurisdictions subject to the buildable lands requirements of the GMA.

The DOT, in coordination with participating RTPOs, must submit a report of findings and recommendations to the appropriate committees of the Legislature by December 31, 2006.

Votes on Final Passage:

House	94	0	
Senate	44	0	(Senate amended)
House			(House refused to concur)
Senate	46	0	(Senate amended)
House	92	3	(House concurred)

Effective: July 24, 2005

SHB 1569

C 33 L 05

Regarding quality assurance in boarding homes, nursing homes, hospitals, peer review organizations, and coordinated quality improvement plans.

By House Committee on Health Care (originally sponsored by Representatives Morrell, Clibborn, Skinner, Schual-Berke, Green, Moeller, Cody, Curtis, Condotta, Chase, O'Brien and Kenney).

House Committee on Health Care
Senate Committee on Health & Long-Term Care

Background: Many believe that facilitation of the quality assurance process in licensed boarding homes and nursing homes will promote safe patient care and may reduce property and liability insurance premium costs for such facilities.

It is the opinion of many that heightening the protection of quality assurance committee records will promote self-monitoring of patient care outcomes and allow facilities to correct identified problems at the earliest point in time.

Summary: Nursing homes may maintain a quality assurance committee. The committee must, at a minimum include a director of nursing services, a physician and three other members from the staff of the facility. The committee must meet quarterly with the purpose of identifying issues that may adversely affect quality of care and services.

The Department of Social and Health Services (DSHS) may not require, and the long-term care ombudsman cannot request, disclosure of any quality assurance committee records or reports unless otherwise statutorily required.

The information and documents, including complaints and incident reports, created specifically for, and collected and maintained by a quality improvement committees for boarding homes and nursing homes, are not subject to discovery or introduction into evidence in any civil action.

Participants in the processes of the quality assurance committees for boarding homes and nursing homes, are not permitted or required to testify in any civil action as to the content of proceedings or the documents and information prepared specifically for the committee.

Information and documents disclosed by one quality assurance committee to another quality assurance committee and any information and documents created or maintained as a result of the sharing of information is not subject to the discovery process.

The DSHS is immune from liability for inadvertent disclosures, disclosures related to federal or state audits, or incorrectly labeled documents, used by quality assurance committees.

Votes on Final Passage:

House	96	0
Senate	41	0

Effective: July 24, 2005

ESHB 1577

C 160 L 05

Concerning capital projects for certain nonprofit organizations.

By House Committee on Capital Budget (originally sponsored by Representatives Lantz, Hankins, Morrell, Jarrett, Moeller, Clibborn, Flannigan, Darneille, Dunshee and Kilmer).

House Committee on Capital Budget
Senate Committee on Ways & Means

Background: Washington has traditionally provided capital funding to local governments and other entities through a variety of competitive grant programs. Examples of grant programs funded through the state's capital budget include the Building for the Arts program, the Heritage program, the Community Services Facilities

program, and the Youth Recreational Facilities program.

Building for the Arts. The Building for the Arts program awards state grants to nonprofit performing arts, art museum, and cultural organizations to defray up to 20 percent of the capital costs of new facilities or major renovations. The Department of Community, Trade and Economic Development (CTED) conducts a statewide competitive grant process every two years to solicit project proposals. A citizen advisory committee, including a representative from the State Arts Commission, assists the CTED by helping establish program policy and reviewing and ranking project proposals. Over the last 12 years, the state capital budget has provided over \$40 million to 112 arts-related projects.

Heritage Program. The Heritage Program awards grants to nonprofit heritage organizations, tribal governments, and local governments to defray up to 33 percent of the capital costs of facilities that interpret and preserve Washington's history and heritage. The Washington State Historical Society (WSHS) conducts a statewide competitive grant process every two years to solicit heritage project proposals. An advisory board consisting of representatives from the Washington Museum Association, the Office of the Secretary of State, the Eastern Washington State Historical Society, and the Office of Archaeology and Historic Preservation establishes program guidelines and reviews and ranks project proposals. Since its inception in 1998, the state capital budget has provided over \$16 million to 53 heritage projects.

Community Services Facilities Program. The Community Services Facilities program awards state grants to nonprofit organizations to help with the capital costs of major renovations or new facilities used for the delivery of nonresidential social services. The CTED conducts a statewide competitive grant process every two years to solicit new projects. The Community Services Facilities Program Advisory Board assists the CTED by helping establish program policy and reviewing and ranking project proposals. Since its inception in 1995, the state capital budget has provided nearly \$22 million to 122 qualifying social service projects statewide.

Youth Recreational Facilities Program. The Youth Recreational Facilities Program is a competitive grant program that funds nonprofit organizations featuring a youth recreational component and a supporting social service or educational component. Funds may be used to construct or renovate nonresidential youth recreational facilities, excluding outdoor athletic fields, and are available on a 25 percent matching fund basis. A citizen advisory committee assists the CTED by helping establish program policy and reviewing and ranking project proposals. The Youth Recreational Facilities program was established by the Legislature in 2003 and is in its first competitive grant cycle.

Capital budget requests for Building for the Arts, Heritage, and Community Service Facility grants must

not exceed \$4 million in any biennium. Capital budget requests for the Youth Recreational Facilities program must not exceed \$2 million in any biennium. The requests may identify an alternate list of projects not to exceed \$500,000 for any biennium.

Statutes pertaining to Building for the Arts, Heritage, and Community Service Facility grants expire on June 30, 2007.

Summary: Alternate project lists of \$2 million may be submitted for the Building for the Arts, Heritage, and Community Service Facility grant programs. The expiration date for these programs is repealed.

An alternate project list of \$1 million may be submitted for the Youth Recreational Facilities program.

Votes on Final Passage:

House 79 19
Senate 46 3

Effective: July 24, 2005

SHB 1591
PARTIAL VETO
C 505 L 05

Concerning assisted care facilities.

By House Committee on Health Care (originally sponsored by Representatives Schual-Berke, Hinkle, Cody, Skinner and Moeller).

House Committee on Health Care
Senate Committee on Health & Long-Term Care

Background: Boarding homes are facilities that provide housing and basic services, and assume general responsibility for the safety and well-being of residents. The Department of Social and Health Services (DSHS) is responsible for licensing and overseeing the operation of boarding homes. The Department of Health is responsible for the construction review and approval process.

Summary: The Departments of Health and Social and Health Services, and the Building Code Council will develop standards for small boarding homes. The Department of Health and the Building Code Council will study the risks and benefits of modifying and simplifying construction and equipment standards for small boarding homes, and report their findings to the Legislature by December 1, 2005. The DSHS is required to implement a food safety component as part of the required training for staff and providers in adult family homes. Food handler permits will not be necessary for persons working in adult family homes after June 30, 2005 who successfully complete training requirements. Employees or providers who have food handler permits prior to June 30, 2005 must maintain continuing education classes of one-half hours per year to maintain the food handling and safety training but do not need to

renew the permit if they receive the continuing education.

A special capacity adult family home licensed to provide services to seven or eight residents is created. Prior to licensing an adult family home as a special capacity adult family home, the DSHS must consider the prior compliance history of the licensee, the experience level of the licensee, the adequacy of the physical space in the home, and the numbers, qualifications, and training of readily available staff.

Special capacity adult family homes must install smoke detectors that are interconnected and monitored by a central monitoring company. These adult family homes must have a residential automatic fire sprinkler system. The sprinkler system must be inspected annually by a state certified inspection and testing technician.

Votes on Final Passage:

House 94 2
Senate 46 0 (Senate amended)
House (House refused to concur)
Senate (Senate insists on its position)
House 92 0 (House concurred)

Effective: July 24, 2005

Partial Veto Summary: The Governor vetoed the requirement that the Department of Social and Health Services license a new category of larger adult family homes which could serve up to eight residents, from the current limit of six residents.

VETO MESSAGE ON HB 1591-S

May 17, 2005

To the Honorable Speaker and Members,
The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning, without my approval as to Sections 3, 4, and 5, Substitute House Bill No. 1591 entitled:

“AN ACT Relating to care facilities.”

Sections 3, 4, and 5 of this bill authorize licensure of a new category of larger adult family homes, known as special capacity adult family homes, which may serve seven or eight residents instead of up to only six residents. Adult family homes are an important component of our state’s long-term care continuum and are favored by many families seeking a home-like, but safe living environment for an elderly or disabled family member. The intent behind this proposal is to make operating one of these facilities more economically viable. Expanding the size of these facilities, however, may make them less safe, less homelike, and more intrusive in neighborhood settings. Larger facilities would also likely incur higher staff and service costs. It is not clear that expanding their size would make them more economically viable. The idea of authorizing the expansion of adult family homes should be considered by the Long Term Care Task Force. The task force was created under Substitute House Bill No. 1220 this year, and will be considering both financial and capacity issues in our long-term care system over this next year.

For these reasons, I have vetoed Sections 3, 4, and 5 of Substitute House Bill No. 1591.

With the exception of Sections 3, 4, and 5, Substitute House Bill No. 1591 is approved.

Respectfully submitted,



*Christine O. Gregoire
Governor*

HB 1598

C 233 L 05

Adjusting population thresholds for membership on the county road administration board.

By Representatives Wood, Wallace, Woods and Skinner; by request of County Road Administration Board.

House Committee on Transportation
Senate Committee on Transportation

Background: The County Road Administration Board administers the county portion of the motor vehicle fuel tax, issues standards of good practice, and provides technical services to the road departments of Washington's 39 counties.

The County Road Administration Board is composed of three members from counties with a population of 125,000 or more, four members from counties with a population from 12,000 to less than 125,000, and two members from counties with a population less than 12,000.

Summary: The County Road Administration Board membership population thresholds are revised to state that four members are to come from counties with a population from 25,000 to less than 125,000, and two members from counties with a population less than 25,000.

Votes on Final Passage:

House	98	0
Senate	47	0

Effective: July 24, 2005

HB 1599

C 161 L 05

Revising the definition of "county engineer."

By Representatives Takko, Wallace and Woods; by request of County Road Administration Board.

House Committee on Transportation
Senate Committee on Transportation

Background: Each county is required to appoint a county road engineer, who must be a licensed professional engineer. The statutory definition of "county engineer" includes a county director of public works. Directors of public works are not required to be licensed professional engineers.

Summary: The statutory definition of "county engineer" is revised to clarify that it includes directors of public works if they are licensed professional engineers and are appointed by the county legislative authority.

Votes on Final Passage:

House	93	0
Senate	44	0

Effective: July 24, 2005

HB 1600

C 162 L 05

Revising county road project reporting.

By Representatives Takko, Wallace and Woods; by request of County Road Administration Board.

House Committee on Transportation
Senate Committee on Transportation

Background: The Washington State Auditor's Office prescribes the accounting and reporting systems of local government, pursuant to state law. Accounting and reporting requirements are detailed in a Budgetary, Accounting, and Reporting System (BARS) manual, which contains a standardized chart of accounts.

The County Road Administration Board (CRAB) administers the county portion of the motor vehicle fuel tax, issues standards of good practice, and provides technical services to the road departments of Washington's 39 counties. Counties are required to report to CRAB on road construction maintenance, planning, and budgeting. These reporting laws contain references to specific local government BARS manual accounts, which have been updated since the laws were last revised.

Summary: Obsolete BARS manual account numbers and references are removed regarding county road construction budgets and county road construction and maintenance planning and reporting.

Votes on Final Passage:

House	95	0
Senate	40	0

Effective: July 24, 2005

E2SHB 1605

C 306 L 05

Protecting children from area-wide soil contamination.

By House Committee on Appropriations (originally sponsored by Representatives Upthegrove, Dickerson, Schual-Berke, Cody, McDermott, Hunter, B. Sullivan, Simpson, Morrell, Murray, Chase, Roberts, Kenney and Santos).

House Committee on Natural Resources, Ecology & Parks

House Committee on Appropriations

Senate Committee on Water, Energy & Environment

Senate Committee on Ways & Means

Background: The Legislature provided \$1,200,000 in the 2002 Operating Budget for the Department of Ecology (DOE), in conjunction with affected local governments, to address emergent area-wide soil contamination issues. The DOE chartered an Area-Wide Soil Contamination Task Force to offer advice about a statewide strategy to respond to low-to-moderate level arsenic and lead soil contamination. The Area-Wide Contamination Report published in June 30, 2003, contains findings and recommendations for the statewide strategy. The recommendations include actions property owners should take in child-use areas including schools and childcare facilities.

The DOE has appropriation authority in the 2003-05 Capital Budget from the Local Toxics Control Account (LTCA) for remedial actions, hazardous waste plans, and other purposes. From the LTCA, the DOE provides grants to local governments for a wide variety of cleanup projects including grants to address area-wide soil contamination.

The state Model Toxics Control Act (MTCA) requires sites contaminated with hazardous materials to be cleaned up by liable parties. The MTCA is administered by the DOE to ensure that the vast majority of sites at which hazardous substances have been released are cleaned up. The state cleanup standard for arsenic is 20 parts per million (PPM), and the state cleanup standard for lead is 250 PPM. Elevated levels of lead and arsenic are present in soils in Central Puget Sound from historical sources including air emissions from metal smelters and combustion of leaded gasoline.

Summary: The Department of Ecology (DOE), in cooperation with the Department of Health (DOH), the Department of Social and Health Services, the Office of the Superintendent of Public Instruction, and local health districts must assist schools and child care facilities within the Central Puget Sound smelter plume to reduce the potential for children's exposure to area-wide soil contamination. The DOE must:

- identify schools and child care facilities that are located within the Central Puget Sound smelter plume based on available information;
- conduct qualitative assessments at schools and child care facilities within those areas to determine if the potential exists for children's exposure to area-wide soil contamination;
- if the evaluation determines that children may be routinely exposed to area-wide soil contamination, conduct soil sampling tests on those properties by December 31, 2009; and
- notify schools regarding test results and next steps for implementing a best management practices.

Schools and child care facilities must work with the DOE to provide site access for soil sampling. If a school or a child care facility with area-wide soil contamination does not implement best management practices within six months of receiving written notification from the DOE, the facility must notify parents or guardians in writing of the soil testing results. The DOE must recognize facilities that successfully implement cleanup plans with a voluntary certification letter.

The DOE is directed to assist schools and child care facilities by providing technical and financial assistance to conduct qualitative evaluations, soil testing, and implementation of best management practices. The DOE may enter into an interagency agreement with local health jurisdictions to implement the program. In addition, the DOE must establish a grant program to assist schools and child care facilities with implementing best management practices. The DOE and the DOH must also develop area-wide soil contamination best management practice guidelines for schools and day care facilities.

The area-wide soil contamination program does not apply to lands devoted primarily to agriculture.

Votes on Final Passage:

House	95	0	
Senate	49	0	(Senate amended)
House	94	1	(House concurred)

Effective: July 24, 2005

SHB 1606

PARTIAL VETO

C 506 L 05

Providing for fairness in the informal dispute resolution process.

By House Committee on Health Care (originally sponsored by Representatives Green, Skinner, Cody, Bailey, Clibborn, Williams, Morrell and Schual-Berke).

House Committee on Health Care

Senate Committee on Health & Long-Term Care

Background: A boarding home provider has the right to review and reconsideration of a Department of Social and Health Services (DSHS) finding of regulatory non-compliance through an Informal Dispute Resolution (IDR) process. The IDR process allows the provider an opportunity to share information with a department staff person who was not involved in the citation process itself. If the DSHS determines that a violation should have been cited, the department adds the citation or enforcement remedy to an existing citation report, usually within 10 days of completing an inspection.

Currently, nursing home providers can utilize a federally mandated IDR process provided under Title 42 CFR 488.331. States are not required to create any new or additional processes if their existing process meets the requirements set out in the State Operations Manual. The IDR established by the state is required to be in writing and available for review upon request.

Summary: If the DSHS determines that a violation should have been cited under a different more appropriate regulation, the DSHS must revise the report, statement of deficiencies, or enforcement remedy accordingly.

Nursing home providers have the right to an informal review to present written evidence to refute the findings or deficiencies cited during a licensing or certification survey or a complaint investigation.

The request for informal dispute resolution will not delay the effective date of any enforcement remedy imposed by the DSHS. Civil monetary fines are not payable until exhaustion of hearings and appeal rights. Residents or resident representatives will be given an opportunity to provide input in an informal dispute resolution proceeding.

Votes on Final Passage:

House	96	0	
Senate	45	0	(Senate amended)
House	92	0	(House concurred)

Effective: July 24, 2005

Partial Veto Summary: The Governor vetoed the requirement that residents be given the opportunity to provide input in the nursing home informal dispute resolution process.

VETO MESSAGE ON HB 1606-S

May 17, 2005

To the Honorable Speaker and Members,
The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning, without my approval as to Section 2, Substitute House Bill No. 1606 entitled:

“AN ACT Relating to fairness in the informal dispute resolution process.”

Section 2 of this bill would create new statutory language regarding the state’s nursing home informal dispute resolution process. The Department of Social and Health Services currently offers an informal dispute resolution process for all licensed

nursing homes that is in compliance with federal regulations for Medicaid and Medicare-certified nursing homes. Section 2 of the bill would require modification of the current informal dispute resolution process to allow nursing home residents or their representatives to provide input. Nursing home residents currently have extensive input during the complaint investigations and licensing and certification surveys. The presence of residents or their representatives during informal dispute resolution sessions might have a chilling effect upon candid discussions regarding resident care issues and might limit the effectiveness of this tool for addressing resident care concerns quickly and less contentiously. The enacted 2005-2007 state operating budget does not include additional funding or staff to implement this program.

For these reasons, I have vetoed Section 2 of Substitute House Bill No. 1606.

With the exception of Section 2, Substitute House Bill No. 1606 is approved.

Respectfully submitted,



Christine O. Gregoire
Governor

ESHB 1607

C 163 L 05

Including members of federally recognized Indian tribes as resident students for tuition purposes.

By House Committee on Higher Education (originally sponsored by Representatives Strow, Kenney, Walsh, McCoy, Ormsby, Murray, Chase, Dickerson, Hasegawa, Roberts, Santos and Hudgins).

House Committee on Higher Education
Senate Committee on Early Learning, K-12 & Higher Education

Background: State laws define a number of criteria for determining residency for purposes of paying resident tuition rates at public institutions of higher education. The primary criterion is that the student, or his or her family if the student is a dependent, must have a bona fide domicile in Washington for at least one year prior to the academic year in which the student wishes to enroll.

Native American students can also qualify for resident tuition if they were a resident of Idaho, Montana, Oregon, or Washington during the prior year, and if they are a member of an American Indian tribe whose traditional and customary tribal boundaries included portions of Washington, or whose tribe was granted reserved lands in the state. Thirty-three different tribes are specified in the statute. Twenty-seven are Washington tribes recognized by the federal government. Five are tribes whose primary tribal boundaries are in neighboring states.

This law was enacted in 1994. Since that time, two additional Washington tribes have received federal recognition: the Samish Indian Nation and the Cowlitz Tribe. These tribes are not currently included in the stat-

HB 1612

utory list of tribes under the law regarding resident tuition for Native American students.

Summary: Members of any federally recognized Indian tribe, rather than a specific list of tribes, whose customary and tribal boundaries include portions of Washington are eligible for resident tuition under certain circumstances.

Votes on Final Passage:

House	97	0
Senate	46	0

Effective: July 24, 2005

HB 1612

C 164 L 05

Modifying the licensing provisions for faculty members of the University of Washington dental school.

By Representatives Kilmer, Skinner, Cody, Bailey, Murray, Haigh, Kenney, McDermott and Santos.

House Committee on Health Care
Senate Committee on Health & Long-Term Care

Background: Applicants for a license to practice dentistry in Washington must present evidence of graduation from a dental school approved by the Dental Quality Assurance Commission (Commission) and pass an examination approved by the Commission. There are several instances in which an individual may obtain a license to practice dentistry without taking an examination. One of these exceptions applies to situations where the Dean of the University of Washington School of Dentistry requests that the Commission issue a license to a dentist who is licensed in another state or country and is to be employed by the School of Dentistry as a full-time faculty member.

Summary: The exception that allows full-time teaching faculty members employed by the University of Washington School of Dentistry to obtain a license to practice dentistry without taking an examination is expanded to also include teaching faculty members employed by the School of Dentistry who are not full-time employees.

Votes on Final Passage:

House	97	0
Senate	44	0

Effective: July 24, 2005

HB 1621

C 102 L 05

Modifying identification requirements for liquor purchases.

By Representative McDonald.

House Committee on Commerce & Labor
Senate Committee on Labor, Commerce, Research & Development

Background: Certain retailers are required to check a customer's identification whenever there is a question as to whether the customer is at least 21 years old, and therefore, legally permitted to purchase liquor. The following types of identification may be used as proof of age when purchasing liquor or tobacco:

- liquor control authority card of identification for any state or province of Canada;
- driver's license, instruction permit or identification card of any state;
- U.S. military identification;
- passport; and
- merchant marine identification card issued by the U.S. Coast Guard.

These types of identification show age, signature, and photo of the holder. No other forms of identification may be accepted as proof of age.

Liquor control authority cards may be used as proof of age to purchase liquor in at least two other states (Massachusetts and Vermont) and in at least four Canadian provinces and territories (Manitoba, Prince Edward Island, Newfoundland, and the Yukon).

Liquor control authority cards have not been issued by the Liquor Control Board since 1971, when the Department of Licensing began issuing identification cards.

Summary: "Liquor control authority cards" are deleted from the list of acceptable types of identification that may be used as proof of age when purchasing liquor.

Votes on Final Passage:

House	95	0
Senate	46	0

Effective: July 24, 2005

HB 1625

C 103 L 05

Modifying employer disclosure of employee information.

By Representatives Clibborn, Condotta, Lantz, Armstrong, Morrell, Hinkle, Buri, Bailey, Grant, Pettigrew, Linville, Priest, Moeller, Simpson, Williams, Tom, Ericks, P. Sullivan, Darneille, Kilmer, Kagi, Hunter, O'Brien, Jarrett and Morris.

House Committee on Judiciary
Senate Committee on Labor, Commerce, Research & Development

Background: An employer who makes false statements about a current or former employee to a prospective employer is subject to potential liability for harm to the employee caused by the false statements. The tort of defamation is the usual theory of liability connected with false statements contained in job references.

An action for defamation requires a showing that a person wrongfully made a false statement to a third person that results in harm to the person defamed. Libel is a written defamatory statement; slander is spoken. A true statement, even if it harms a person's reputation, is not defamatory, and the plaintiff has the burden of proving that the statement is false.

In some situations, a person may make a defamatory communication without being liable because of the existence of an absolute privilege or a qualified privilege. A person who has a qualified privilege to make a defamatory statement can lose the privilege if he or she makes the statement with actual malice. The plaintiff has the burden of proving actual malice by clear and convincing evidence. Actual malice exists if the statement was knowingly false or made with reckless disregard as to its truth or falsity.

The Washington Supreme Court has held that an employer has a qualified privilege to disclose potentially defamatory information to a former or current employee's prospective employer in response to an inquiry from the prospective employer.

Summary: An employer who discloses information about a former or current employee to a prospective employer or employment agency at the request of the employer or employment agency is presumed to be acting in good faith and is immune from civil liability for the disclosure if the information relates to:

- the employee's ability to perform his or her job;
- the employee's diligence, skill, or reliability in carrying out job duties; or
- illegal or wrongful acts committed by the employee when related to job duties.

The presumption of good faith may be rebutted by clear and convincing evidence that the information disclosed was knowingly false, deliberately misleading, or

made with reckless disregard for the truth.

An employer is advised to keep a written record of the identity of persons or entities to whom the disclosure is made for a period of two years. If a written record is made, the record must be included in the employee's personnel file, and the employee has a right to inspect the record.

Votes on Final Passage:

House	92	6
Senate	48	0

Effective: July 24, 2005

ESHB 1631

C 449 L 05

Using revenues under the county conservation futures levy.

By House Committee on Local Government (originally sponsored by Representatives Clibborn, Fromhold, Moeller, Wallace and Jarrett).

House Committee on Local Government
House Committee on Finance
Senate Committee on Government Operations & Elections
Senate Committee on Natural Resources, Ocean & Recreation

Background: Since 1971, state law has provided a method by which designated both public and private entities may acquire certain property rights for the purpose of conserving selected open space land, farm and agricultural land, and timber land for public use or enjoyment. Counties, cities, towns, metropolitan park districts, metropolitan municipal corporations, and nonprofit preservation and conservancy corporations meeting statutory requirements may acquire full or partial interests in lands by purchase, gift or other prescribed method. The pertinent statutes refer to such property interests as "conservation futures."

The acquisition of a "conservation future" by an authorized entity – public or private – confers on that entity rights in perpetuity allowing the exercise of varying degrees of control over how the property is developed or maintained. The degree and type of control over the property that may be exercised by an entity acquiring a conservation future is dependent on the terms of the purchase of the conservation future. For example, if a private owner sells a conservation future limiting his or her right to develop the property, but nevertheless retains title to the property, the private owner is restricted in his future use or development of the property in accordance with the terms of purchase agreement. In such instances, the private land owner would be required to seek the permission of the entity holding the conservation future before engaging in any activity that might be deemed

inconsistent with the conservation future agreement.

Counties may levy a tax of up to 6.25 cents per \$1,000 of assessed valuation of all taxable property in the county for the purpose of acquiring conservation futures and other related rights and interests in real property. County legislative authorities may also establish a conservation futures fund, which may be used solely to acquire conservation futures and other rights and interests in real property pursuant to statutory requirements.

Summary: Counties are allowed to use conservation futures levy funds for maintaining and operating property acquired with such funds. However, no more than 15 percent of the funds collected in the preceding calendar year may be used for maintenance and operation of parks and recreational facilities. Also, conservation futures tax revenues may not be used to supplant existing maintenance and operation funding.

All rights or interests in real property acquired with conservation futures levy funds must be located within the assessing county. Counties are also encouraged to use some conservation futures funds for salmon restoration purposes.

In the event the property rights acquired with conservation futures funds diminish the ability of a county to accommodate planned growth, the county must adopt reasonable measures to restore the growth capacity lost by such actions.

County commissioners or county legislative authorities in counties with more than 100,000 residents are required to develop a process to ensure that conservation futures levy funds are eventually distributed throughout the county.

County legislative authorities in certain counties may authorize a ballot proposition that asks county voters to determine whether or not the county may make a one-time emergency reallocation of unspent conservation futures funds to pay for other county government purposes. This provision applies only to counties with population densities of fewer than four persons per square mile, requires that specified procedures be followed pertaining to the submission of the ballot proposition to the voters, and expires as of July 1, 2008.

Votes on Final Passage:

House	55	41	
Senate	46	3	(Senate amended)
House	92	3	(House concurred)

Effective: July 24, 2005

ESHB 1635

C 482 L 05

Modifying local emergency medical service funding provisions.

By House Committee on Local Government (originally sponsored by Representatives Kessler, Haler, Clibborn, Jarrett, O'Brien, Hankins, Ericks, Grant, Buck, Chase and Kenney).

House Committee on Local Government
Senate Committee on Government Operations & Elections

Background: Cities have statutory authorization to establish a system of ambulance service to be operated as a public utility when the city is not adequately served by existing private ambulance service. They also have the authority to levy and collect:

- a business and occupation tax for the privilege of engaging in the ambulance business; and
- excise taxes from persons, industry, and businesses who are served and billed for ambulance service.

All proceeds must be used only for the operation, maintenance, and capital needs of an ambulance service that is municipally owned, operated, leased, or contractually created.

Pursuant to an ordinance adopted in 1989, the City of Kennewick imposed what it called an "excise tax" in the form of a monthly flat fee of \$2.60 upon each household, business, and industry within the area served by the emergency medical and ambulance service. The city's authority to do so was challenged in superior court. While the court proceedings were pending, the ordinance was amended to change the "excise tax" to a "utility charge." However, the superior court ruled that regardless what name was attached to the fee, it operated as an excise tax. (*Arborwood Idaho v. City of Kennewick*)

In its ruling on the *Arborwood* case, the Washington Supreme Court held that the city lacked necessary, specific statutory authority to levy an excise tax upon all households, businesses, and industry for availability, as opposed to actual utilization, of the ambulance service. The Court further held that the charge did not meet the test for a regulatory fee and, instead, was an unauthorized tax. In holding that the charge was not a fee, but a tax, the Court noted that it was a flat charge which did not take into account benefits or burdens.

Summary: Findings are stated that the provision of ambulance and emergency medical services will benefit persons, businesses, and industries. It is explicitly recognized that cities have the ability and the authority to collect utility service charges to fund such services and that rates and charges may reflect, at least in part, a charge for the availability of the service.

Cities are specifically authorized to establish ambulance services to be operated as public utilities. There are

limitations placed on cities' authority to establish an ambulance service utility where there is already a private ambulance service in operation. If a private service is already in operation, a city may not establish an ambulance service utility unless the legislative authority of the city determines that the private service is inadequate in light of published objective generally accepted medical standards and reasonable levels of service.

Generally, a preliminary determination of inadequacy triggers a sixty-day period within which the private ambulance service may attempt to meet the generally accepted medical standards and reasonable levels of service. A city is not required to afford a sixty-day period within which to cure inadequacy if the private ambulance service: (1) has already been afforded a sixty-day cure period within a twenty-four month period; or (2) is not licensed by the Department of Health (DOH) or has had its license denied, suspended, or revoked by the DOH.

Cities operating an ambulance service utility may set and collect rates and charges in an amount sufficient for regulation, operation, and maintenance. Prior to setting such rates and charges, a city must complete a cost-of-service study. Total costs for the purpose of determining rates and charges may not include capital costs of construction, major renovation, or major repair of the physical plant.

Once total costs are determined, a city must identify what portion of the total cost is attributable to availability and what portion is attributable to demand. Availability costs include costs for dispatch, labor, training, equipment, patient care supplies, and maintenance of equipment. These costs are to be uniformly applied across all utility user classifications.

Demand costs include costs related to the burden placed on the ambulance service by individual calls for service, including frequency of calls, distances from hospitals, and other factors identified as burdens in the cost-of-service study. Demand costs are to be billed to each utility user classification based on such user classifications's burden on the ambulance service.

Combined rates must reflect an exemption for persons who are Medicaid eligible and reside in a nursing facility, boarding home, adult family home, or receive in-home services. These combined rates may reflect an exemption or reduction for designated classes consistent with the provision of the Washington Constitution which prohibits the lending of money or credit by cities except for the necessary support of the poor and infirm. The amounts of exemption or reduction are to be categorized as a general expense of the utility and designated as an availability cost. Small cities with fewer than 2500 residents which established an ambulance utility before May 6, 2004 (the date of the *Arborwood* decision) may, but are not required to, grant such exemptions or reductions.

Cities must continue to allocate at least seventy per-

cent of the total amount of general fund revenues expended prior to the *Arborwood* decision for regulating, operating, and maintaining the ambulance service utility. Where general funds and ambulance service dollars were commingled, provision is made for the city to estimate the amount of general fund dollars which were applied toward the ambulance service and continue to apply seventy percent of the estimated amount toward the ambulance service utility. Those cities which first establish an ambulance service utility after the *Arborwood* decision must allocate from the Local Government General Fund or emergency medical service levy fund, or a combination of both, an amount which is at least equal to seventy percent of the total costs necessary to regulate, operate, and maintain the ambulance service utility as of May 5, 2004.

From available emergency medical service levy funds, cities must allocate toward the total costs of the ambulance service utility an amount proportionate to the percentage which ambulance service costs bear to total emergency service costs. All revenues received from direct billing of individual users must be applied toward the demand costs.

Total revenue from rates and charges must not exceed the total costs and all such revenue must be deposited in a separate fund or funds which may only be used for the ambulance utility.

The Joint Legislative Audit and Review Committee (JLARC) is to study and review ambulance utilities operated under this act and present a final report by December 2007. Factors to be reviewed include: the number and operational status of such utilities; whether the rate structures and user classifications were established in accordance with generally accepted utility rate-making practices; and the rates charged.

Votes on Final Passage:

House	90	4	
Senate	34	11	(Senate amended)
House			(House refused to concur)
Senate	37	10	(Senate amended)
House	95	2	(House concurred)

Effective: July 24, 2005

SHB 1636
PARTIAL VETO
 C 507 L 05

Adopting a wage ladder for child care workers.

By House Committee on Appropriations (originally sponsored by Representatives Pettigrew, Roberts, Kagi, Clements, Darneille, Hunt, Green, Kenney, Appleton, Chase, Jarrett, Kessler, Moeller, Morrell, Williams, Ormsby, Murray, Dickerson, Conway, Lantz, Wood, Haigh, McDermott, Santos and Hudgins).

House Committee on Children & Family Services
 House Committee on Appropriations
 Senate Committee on Labor, Commerce, Research & Development

Background: In July 2000, the state instituted a Child Care Career and Wage Ladder Pilot Project (Pilot Project), which was funded by Temporary Assistance for Needy Families (TANF) reinvestment funds. The purpose of the Pilot Project was to enable child care centers to increase wages and offer benefits for child care workers and to encourage child care workers to obtain further education.

The Pilot Project emphasized worker education, responsibilities, and experience, and consisted of the following:

- wage increments of 50 cents for education beyond state regulatory requirements, paid by the state;
- wage increments of 50 cents for levels of responsibility, paid by the child care centers; and
- wage increments of 25 cents for years of experience, paid jointly by the state and child care centers.

In order to participate in the Pilot Project, child care centers had to meet the following criteria:

- maintain at least 10 percent of child capacity in state-subsidized child care programs;
- provide employees with 12 days paid leave; and
- provide employees with assistance with medical premiums of up to \$25 per month.

Prior to elimination of the Pilot Project in June 2003, the Pilot Project included 120 child care centers, 1,500 child care workers, and 8,700 children served. An evaluation of the Pilot Project conducted by Washington State University found the following:

- Wages for all positions at pilot child care centers were higher than non-pilot comparison centers.
- More pilot child care centers provided their employees with benefits than non-pilot comparison centers, both with respect to benefits required for participation in the Pilot Project and benefits not required for participation in the Pilot Project.
- Educational attainment of employees of pilot child care centers was greater than that of non-pilot centers, with more employees at the pilot centers having earned a bachelor's degree, master's degree, or some

early childhood education credits and fewer employees at the pilot centers having completed no college study.

- Employees of pilot child care centers pursued more additional education and training than employees of non-pilot centers.
- Employee retention at pilot and non-pilot child care centers was about the same.
- When the date of hire was not taken into consideration, there were no differences in the average length of employment for employees of pilot and non-pilot child care centers. However, among employees hired during the first months of the Pilot Project, employees of the pilot child care centers worked significantly longer than employees of non-pilot centers.

Summary: The Division of Child Care and Early Learning (DCCCEL) in the Department of Social and Health Services (DSHS) is required to establish a child care career and wage ladder, subject to the availability of amounts appropriated for this specific purpose, in licensed child care centers that meet the following criteria:

- dedicate at least 10 percent of child care slots to children whose care is subsidized by the state or any local government;
- agree to adopt the child care career and wage ladder, which, at a minimum, must be at the same pay schedule as existed in the Pilot Project; and
- meet further program standards as established by the DCCCEL by rule.

The child care career and wage ladder must include wage increments for levels of education, years of relevant experience, levels of work responsibility, relevant early childhood education credits, and relevant requirements in the State Training and Registry System (STARS).

The DCCCEL is required to establish procedures for the allocation of funds to implement the child care career and wage ladder among child care centers meeting the identified criteria for participation. In developing these procedures, the DCCCEL is required to:

- review past efforts or administration of the Pilot Project in order to take advantage of any findings, recommendations, or administrative practices that contributed to the Pilot Project's success;
- consult with stakeholders, including organizations representing child care teachers and providers, in developing an allocation formula that incorporates consideration of geographic and demographic distribution of child care centers adopting the child care career and wage ladder; and
- develop a system for prioritizing child care centers interested in adopting the child care career and wage ladder that is based on the identified criteria for participation.

Notwithstanding the procedures that the DCCEL is required to establish for the allocation of funds to implement the child care career and wage ladder, child care centers that meet the basic criteria for participation in the career and wage ladder and that are located in urban areas of Region 1 of the DSHS, which consists of Adams, Chelan, Douglas, Ferry, Grant, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, and Whitman counties, must receive a minimum of 15 percent of the funds allocated through the child care career and wage ladder. Of those centers, child care centers participating in the DSHS tiered-reimbursement pilot project in Spokane must have first priority for child care career and wage ladder funding.

Child care centers adopting the child care career and wage ladder are required to increase wages for child care workers who have earned a high school diploma or GED certificate, gain additional years of experience, or accept increasing levels of responsibility in providing child care, in accordance with the child care career and wage ladder. The adoption of a child care career and wage ladder must not prohibit the provision of wage increases based upon merit. The DSHS is required to pay wage increments for child care workers employed by child care centers adopting the child care career and wage ladder who earn early childhood education credits or meet relevant requirements in the STARS, in accordance with the child care career and wage ladder.

The DCCEL is required to establish by rule further program standards for the child care career and wage ladder. The DCCEL is also required to study the impact of the child care career and wage ladder on the quality of child care and the child care work force, and report its findings to the Governor and the appropriate committees of the Legislature by December 1, 2006.

Votes on Final Passage:

House	59	34	
Senate	27	22	(Senate amended)
House	65	30	(House concurred)

Effective: July 24, 2005

Partial Veto Summary: The DCCEL is no longer required to establish by rule further program standards for the child care career and wage ladder. The DCCEL is also no longer required to study the impact of the child care career and wage ladder on the quality of child care and the child care work force, and report its findings to the Governor and the appropriate committees of the Legislature by December 1, 2006.

VETO MESSAGE ON HB 1636-S

May 17, 2005

To the Honorable Speaker and Members,
The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning, without my approval as to Section 4, Substitute House Bill No. 1636 entitled:

“AN ACT Relating to child care workers.”

This bill establishes a childcare career and wage ladder in the Department of Social and Health Services (DSHS), and requires it to be implemented only if funds are appropriated for this purpose. Funds were not appropriated. Childcare career and wage ladders effectively increase the salary and benefits of childcare workers. The DSHS had a childcare career and wage ladder pilot project in place a few years ago but eliminated it when the WorkFirst Program faced a budget shortfall.

Section 4 would require the DSHS to establish program standards, study the impact of the childcare career and wage ladder on the quality of childcare and the childcare workforce, and report its findings to the Legislature by December 1, 2006. Section 4 is not subject to the "within funds specifically appropriated for this purpose" clause in the bill. Section 4 should be vetoed; it makes no sense for the DSHS to take the time to create a report for a program that does not exist.

For these reasons, I have vetoed Section 4 of Substitute House Bill No. 1636.

With the exception of Section 4, Substitute House Bill No. 1636 is approved.

Respectfully submitted,



Christine O. Gregoire
Governor

ESHB 1640

C 429 L 05

Providing a dispute mechanism for manufactured/mobile home landlord and tenant disputes.

By House Committee on Housing (originally sponsored by Representatives Morrell, Chase, Dunn, McCoy, O'Brien, Appleton and Lantz).

House Committee on Housing
House Committee on Appropriations
Senate Committee on Financial Institutions, Housing & Consumer Protection
Senate Committee on Ways & Means

Background: The Manufactured/Mobile Home Landlord-Tenant Act (Act) governs the legal rights, remedies and obligations arising from any rental agreement between a landlord and a tenant regarding a mobile home lot or pad where the tenant has no ownership interest in the real property or in the association which owns the real property. The Act sets forth grounds for termination of the tenancy, duties of the landlord, duties of the tenant, rules with respect to transfer of the rental agreement, and the effect of failure to carry out duties. The Act includes provisions with respect to bringing suit as well as arbitration and mediation proceedings.

The Office of Mobile Home Affairs (OMHA) was created in the Department of Community, Trade and Economic Development (DCTED) to serve as the coordinating office within state government for matters relating to manufactured/mobile homes. The OMHA

provides ombudsman service to manufactured/mobile home park owners and tenants with respect to disputes and problems. It also provides technical assistance to resident organizations or persons in the process of forming a resident organization; handles the consumer complaints and related functions necessary to comply with the regulations established by the federal Department of Housing and Urban Development for manufactured/mobile homes; and administers the Mobile Home Relocation Assistance Program.

Summary: An expanded ombudsman service within the DCTED, funded by a mobile home park registration fee and providing for additional numbers of investigative fact-finding staff and contractors to investigate complaints, will provide outreach and service to tenants through the implementation of a toll free information and complaint hot line, compile and track data regarding complaints, and produce a registry by December 31, 2005, of all mobile home parks, including the number of tenants/units within each park. The DCTED must report on the number and types of complaints as well as on the success rate of complaint resolution to the appropriate committees of the House of Representatives and Senate by December 31, 2005.

Investigations. Complainants must provide written notice to the respondent prior to notifying the DCTED of an alleged violation. Whether to investigate a complaint is left to the discretion of the DCTED. Investigations will be conducted by the DCTED ombudsman staff or consultants. Representatives of the ombudsman program will negotiate an agreement between the two parties. These procedures do not effect the remedies available under the Mobile Home Landlord Tenant Act.

Outreach to Tenants and Landlords Regarding Ombudsman Program. The DCTED is required to ensure that notice of this program is widely distributed. Landlords will be required to post a notice about the program prominently in common areas. A toll-free number will be established for park owners and tenants to use to seek additional information and to communicate complaints.

Data Collection and Reporting. By December 31, 2005, the DCTED must submit a summary report of its activities under these provisions to the House of Representatives Housing Committee and the Senate Committee of Financial Institutions, Housing & Consumer Protection. This report will include:

- number of complaints received;
- nature and extent of complaints received;
- actions taken by the DCTED on each complaint;
- recommendations on future changes in law;
- recommendations on resources necessary to retain or improve the ombudsman program; and
- recommendations on whether or not an administrative hearing process should be adopted.

Registration of Mobile Home Parks and Manufactured Housing Communities. All mobile home parks and manufactured housing communities must register with the DCTED. The DCTED must compile the most accurate list possible of all mobile home parks and manufactured housing communities in the state, the number of lots subject to these new provisions in each park or community, and the names and addresses of these parks. The DCTED must submit this registry to the House of Representatives Housing Committee and the Senate Committee of Financial Institutions, Housing and Consumer Protection by December 31, 2005.

An annual park registration fee, which is used by the DCTED to administer these provisions, is assessed. The annual park registration fee is \$5 per lot. No more than \$2.50 of the fee may be passed on to the tenants by the park or community owner.

Notification regarding the fee must go out to all known mobile home/manufactured housing community owners. If the owner fails to pay the fee, a penalty shall be assessed at the prevailing interest rate for Superior Court civil judgments.

Any uncollected fees and assessments may continue to be collected after December 31, 2005.

Investigation Account. A Manufactured/Mobile Home Investigations Account (Account) is created in the custody of the State Treasurer. All receipts from park registration fees and late fees must be deposited in the Account. Expenditures may only be used for costs associated with this chapter. An appropriation is not required for expenditures, but the Account is subject to the allotment procedures. In January 2006, any remaining funds in the Account will be transferred to the Mobile Home Affairs Account for the DCTED ombudsman program. .

These provisions expire December 31, 2005.

Votes on Final Passage:

House	96	0	
Senate	44	0	(Senate amended)
House	98	0	(House concurred)

Effective: May 13, 2005

SHB 1652

PARTIAL VETO

C 281 L 05

Authorizing fire protection districts to establish or participate in health clinic services.

By House Committee on Health Care (originally sponsored by Representatives Ericks, Appleton, Simpson, Kilmer, Eickmeyer, Woods, Lovick, Santos and Linville).

House Committee on Health Care
Senate Committee on Health & Long-Term Care

Background: Point Roberts, Washington is bounded on three sides by water and shares a common border with Canada. While part of Whatcom County, residents must drive through two international borders to seek medical attention in the county's largest city, Bellingham. In 2002, a group of local citizens attempted to open a health clinic in conjunction with the local fire protection district to serve some of the health needs of area residents. The State Auditor's Office indicated at the time that the fire protection district did not have the statutory authority to assist with the operation of a health clinic.

In 2003, the Legislature specifically authorized the fire protection district at Point Roberts, Washington to participate in the operation and maintenance of a health clinic. It is the only fire protection district in Washington authorized to do so.

Summary: Authorizes one additional fire protection district bounded on the north by Bremerton, the west by Mason County, the south by Pierce County, and the east by Puget Sound to participate in the operation and maintenance of health clinics.

The Department of Health is directed to study the merits of allowing fire protection districts to establish and participate in the provision of health clinic services. An advisory committee will be appointed to assist in the study. The Department will report the results of the study and any recommendations to the Legislature by September 1, 2006.

Votes on Final Passage:

House	97	0	
Senate	40	7	(Senate amended)
House			(House refused to concur)
Senate	48	1	(Senate amended)
House	95	2	(House concurred)

Effective: July 24, 2005

Partial Veto Summary: The requirement that the Department of Health study the merits of allowing all fire protection districts to establish and participate in the provision of health clinic services is vetoed.

VETO MESSAGE ON HB 1652-S

May 4, 2005

To the Honorable Speaker and Members,

The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning, without my approval as to Section 2, Substitute House Bill No. 1652 entitled:

“AN ACT Relating to authorizing fire protection districts to establish or participate in health clinic services.”

This bill authorizes one additional fire protection district to operate a health clinic in Kitsap County. Section 2 of the bill directs the Department of Health to conduct a study to evaluate the merits of allowing fire protection districts to establish or participate in the provision of health care services. The study must consider the scope of services that might be provided, the interest among Washington's fire districts in providing these services, the need for having them do so, and the impact on health expenditures and potential government liability. Section 2 also

includes the appointment of an advisory group to assist in the study and a final report by September 1, 2006. The Legislature did not, however, appropriate funds for the study.

For these reasons, I have vetoed Section 2 of Substitute House Bill No. 1652.

With the exception of Section 2, Substitute House Bill No. 1652 is approved.

Respectfully submitted,



Christine O. Gregoire
Governor

SHB 1657
C 58 L 05

Concerning the construction of bridges and trestles.

By House Committee on Natural Resources, Ecology & Parks (originally sponsored by Representatives Takko, Buck, B. Sullivan, Orcutt, Blake, Wallace, Sells and Chase).

House Committee on Natural Resources, Ecology & Parks
Senate Committee on Natural Resources, Ocean & Recreation

Background: The Washington State Constitution declares that the beds and shores of all navigable waters in Washington are owned by the state. The Legislature subsequently designated the Department of Natural Resources (DNR) as the steward of these lands. The DNR acts as a proprietor, subject to legislative direction, of all state-owned aquatic lands and holds these lands in trust for all current and future residents of the state. The DNR may charge for a lease for use of the state's aquatic lands.

The DNR is authorized by statute to grant right-of-ways over the aquatic lands of the state for limited purposes. These purposes include the construction of bridges and trestles by a municipality. Before the DNR may grant a right-of-way, it must first assure payment for the use of the aquatic land and for any damages caused by the right-of-way to the affected aquatic land.

Summary: The DNR is instructed to allow cities, towns, and other municipalities to construct bridges and trestles across aquatic lands without paying for the right-of-way. Natural resource damages must be paid by the local government if the damages are not already covered by an approved mitigation plan. The DNR is allowed to recover reasonable direct administrative costs incurred in processing the applications for bridge or trestle construction, and must prepare a report to the Legislature regarding the collection of administrative fees.

Votes on Final Passage:

House	90	0
Senate	46	3

Effective: July 24, 2005

SHB 1661
C 165 L 05

Specifying procedures for transfer of juvenile proceedings.

By House Committee on Juvenile Justice & Family Law (originally sponsored by Representatives Moeller, Hasegawa, Appleton, Hunt, Ericks, Chase, Curtis, Lovick, McCune and Cody).

House Committee on Juvenile Justice & Family Law
Senate Committee on Human Services & Corrections

Background: Venue refers to the particular county, or geographical area, in which a court with jurisdiction may hear and determine a case. It relates only to the question of the geographical location in which a case may be heard. Venue does not refer to jurisdiction, which is the inherent power to hear a case.

In juvenile court, the venue of a juvenile offender matter is in any county in which an element of the offense was committed. A juvenile court has the authority to transfer a case to a different county for supervision and enforcement of the disposition order if the offender is residing in that county. The receiving county has the authority to modify and enforce the disposition order.

The juvenile court may also order a transfer of venue if the court has reason to believe that an impartial proceeding cannot be held in the county in which the proceeding began.

Summary: If a court orders a case to be transferred to a different county for disposition in a juvenile offender proceeding, the case and copies of legal and social documents pertaining to the case must be transferred to the county in which the juvenile resides, regardless of whether or not the juvenile's custodial parent resides in that county. Once transferred, the receiving county will monitor and enforce the disposition in the case.

If restitution has not been determined in the case, the case may be transferred to the receiving county; however, the restitution must be established by the originating county. Once the restitution order is entered, the originating county will send the restitution order to the receiving county for enforcement.

The juvenile must make payments for the restitution, and other legal financial obligations, to the originating county, which will maintain the account receivable in the judicial information system. The probation officer in the receiving county will manage collection of the payments while the offender is on probation. Once probation ends, the probation department must notify the clerk of the originating county who will then be responsible for managing the payments.

The receiving county has the authority to modify the disposition and restitution orders.

Votes on Final Passage:

House 97 0
Senate 40 0

Effective: July 24, 2005

HB 1668
PARTIAL VETO
C 282 L 05

Changing provisions relating to the administrative office of the courts.

By Representatives Lantz and Priest; by request of Board For Judicial Administration.

House Committee on Judiciary
Senate Committee on Judiciary

Background: The Administrator for the Courts (administrator) is appointed by the Washington Supreme Court from a list of five persons submitted by the Governor. The administrator is charged with administering various aspects of the state court system, such as fostering court efficiency, training personnel, designing forms, developing standards, and controlling costs. Neither the administrator nor assistants may practice law during their tenure with the Office of the Administrator for the Courts. In addition, the administrator may not be over the age of 60 when appointed to office.

One of the duties of the administrator is to examine the need for new superior court and district court judicial positions. The administrator must use a weighted caseload analysis that takes into account the time required to hear all the cases in a particular court and the amount of time existing judges have available to hear cases in that court. In 2002, the Legislature changed the method for determining the need for new district court judges from the weighted caseload analysis to an "objective workload analysis," but did not enact this change with respect to superior court judge positions. The objective workload analysis takes into consideration the available judicial resources and caseload activity of each court.

In 2000, the Board for Judicial Administration formed the Project 2001 Committee to study and make recommendations on ways to improve the operation of the courts. The final report of the Project 2001 Committee calls on the Board for Judicial Administration to promote the establishment of court coordination councils in each jurisdiction, to be composed of trial court judges, clerks, court administrators, lawyers, citizens, and other local officials. The councils are to work toward maximum utilization of judicial and other court resources by first developing and then implementing comprehensive trial court coordination plans.

Summary: A variety of changes are made with respect to the Office of the Administrator for the Courts relating to the office's functions and duties.

The name of the Office of the Administrator for the Courts is changed to the Administrative Office of the Courts (AOC). References throughout the code are changed to reflect the name change.

The requirement that the Administrator for the Courts be appointed from a list of five persons submitted by the Governor is removed so that the administrator is simply appointed by the Supreme Court. In addition, the requirement that the administrator not be over 60 years old at the time of appointment is removed. The administrator and his or her assistants are authorized to practice law to provide pro bono legal services and legal services to family members, as long as the legal services do not interfere with official duties.

The weighted caseload analysis that is used by the administrator to examine the need for new superior court judicial positions is replaced with an "objective workload analysis."

The duties of the administrator are amended to include using state funds to improve the operation of the courts and providing support for court coordinating councils.

Votes on Final Passage:

House	90	0
Senate	39	0

Effective: July 24, 2005

Partial Veto Summary: The Governor vetoed a section of the bill that changed the reference to the Office of the Administrator for the Courts to the Administrative Office of the Courts. This section became unnecessary with the passage of E2SHB 2015, which deleted the language being amended in the vetoed section.

VETO MESSAGE ON HB 1668

May 4, 2005

To the Honorable Speaker and Members,

The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning, without my approval as to Section 18, House Bill No. 1668 entitled:

"AN ACT Relating to the administrative office of the courts."

Section 18, which amends RCW 9.94A.660, presents an irreconcilable conflict with the provisions of Engrossed Second Substitute House Bill No. 2015. Section 18 is rendered moot by language changes in Engrossed Second Substitute House Bill No. 2015, and has no substantive effect on either bill.

For these reasons, I have vetoed Section 18 of House Bill No. 1668.

With the exception of Section 18, House Bill No. 1668 is approved.

Respectfully submitted,



Christine O. Gregoire
Governor

SHB 1681

C 452 L 05

Extending and adding a member to the joint task force on criminal background check processes.

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives B. Sullivan, Darneille, Chase, Appleton, Uptegrove and Lovick).

House Committee on Criminal Justice & Corrections
Senate Committee on Human Services & Corrections

Background: The Joint Task Force on Criminal Background Check Processes (Task Force) was created by the passage of Engrossed Substitute House Bill 2556 during the 2004 legislative session. The legislation required the Task Force to review and make recommendations regarding how to improve the state's criminal background check processes and to report its findings and recommendations to the Legislature.

Membership. The membership of the Task Force consists of one member from each of the two largest caucuses of the Senate and the House of Representatives; one representative from the Washington State Patrol, the Department of Social and Health Services, and the Office of the Superintendent of Public Instruction; one elected sheriff or police chief, selected by the Washington Association of Sheriffs and Police Chiefs; and jointly appointed by the speaker of the House of Representatives and the president of the Senate, representatives from the following entities:

- a nonprofit service organization that serves primarily children under sixteen years of age;
- a health care provider;
- an organization that serves primarily developmentally disabled persons or vulnerable adults;
- a local youth athletic association;
- the insurance industry;
- a local parks and recreation program, selected by the Association of Washington Cities; and
- a local parks and recreation program, selected by the Washington Association of Counties.

Issues to be Considered. The Task Force was required, at a minimum, to review the following issues:

- What state and federal statutes require regarding criminal background checks.
- What criminal offenses are currently reportable through the criminal background check program.
- What information is available through the Washington State Patrol and the Federal Bureau of Investigation criminal background check systems.
- What are the best practices among organizations for obtaining criminal background checks on their employees and volunteers.
- What is the feasibility and costs for businesses and organizations to do periodic background checks.
- What is the feasibility of requiring all businesses and organizations, including nonprofit entities, to conduct criminal background checks for all employees, contractors, agents, and volunteers who have regularly scheduled supervised or unsupervised access to children, developmentally disabled persons, or vulnerable adults.
- What are the benefits and obstacles of implementing a criminal history record information background check program created by the National Child Protection Act of 1993.

The Task Force, where feasible, may consult with individuals from the public and private sector and may use legislative facilities and staff from Senate Committee Services and the House Office of Program Research.

The Task Force held six public meetings in 2004, and made five recommendations. One of the Task Force's recommendations was to expand the membership and extend the life of the Task Force in order to consider matters that were raised at the 2004 meetings of the Task Force but that require further analysis and discussion.

Summary: The Joint Task Force on Criminal Background Check Processes is extended for one additional year. The Task Force membership and the issues that must be examined by the Task Force are also expanded.

Membership. The membership of the Task Force is expanded to include four additional members. The members include: (1) a representative from a for-profit entity that primarily serves children; (2) a representative from a business or organization that primarily serves vulnerable adults; (3) a representative selected by the state's long-term care ombudsman; and (4) as a nonvoting ex officio member, a representative of an organization that serves as a clearinghouse for other nonprofit organizations in the state and that recruits volunteers and trains nonprofit boards of directors.

Issues to be Considered. Two topics are added to the list of issues that the task force must review. The issues include: (1) What is the feasibility of establishing a state registration program for private youth sports coaches under which some or all of such persons are required to obtain and disclose to prospective clients and employers a copy of the results of their fingerprint-based criminal background checks; and (2) A review of the practices of

the Department of Social and Health Services with respect to checking the backgrounds of its employees, applicants for employment, and candidates for promotion.

The Task Force is authorized to continue its work until December 31, 2005, at which time it must report its findings and recommendations to the Legislature.

The entire act expires on January 31, 2006.

Votes on Final Passage:

House	94	0	
Senate	48	0	(Senate amended)
House	95	0	(House concurred)

Effective: May 13, 2005

SHB 1687

C 453 L 05

Revising provisions concerning possession of firearms by persons found not guilty by reason of insanity.

By House Committee on Judiciary (originally sponsored by Representatives Moeller, Talcott, O'Brien, Ericks, Lovick, Tom, Roberts, Appleton, Kagi, Hunter and Chase).

House Committee on Judiciary
Senate Committee on Judiciary

Background: Conviction of any felony and certain non-felonies results in the loss of a person's right to possess a firearm. Involuntary commitment for mental health treatment also results in the loss of the right to possess a firearm. The right to possess may only be restored by a court order after the person has met certain eligibility requirements.

For certain serious offenses, the right can never be restored. For other crimes, a period of crime-free time must pass after completion of the sentence before a person may apply for restoration of the right to possess.

A person who has been involuntarily committed for mental health treatment may apply for restoration of the right to possess a firearm upon discharge from the commitment. The person must show that he or she is no longer required to participate in inpatient treatment or to take medication and must show by a preponderance of the evidence that the reasons for the commitment no longer exist and are not likely to recur.

A person who has been found not guilty by reason of insanity may or may not be involuntarily committed for mental health treatment, depending on whether the person is found to be a danger to others.

Law enforcement agencies are given limited access to mental health records in order to enforce these provisions.

Summary: A verdict of not guilty by reason of insanity is to be considered the same as a verdict of guilty for purposes of a person's right to possess a firearm or to obtain

a concealed pistol permit. For restoration of these rights, such a person must meet the eligibility requirements that would have applied had he or she been convicted of the crime.

An additional requirement is placed on a person who has been involuntarily committed for mental health treatment and is applying for restoration of his or her right to possess a firearm. If the record shows by a preponderance of the evidence that the person has been violent and is likely to be violent again, the person must show by clear, cogent, and convincing evidence that he or she does not present a substantial danger to the safety of others.

Law enforcement agencies are given explicit access to limited mental health records in order to enforce these provisions.

Votes on Final Passage:

House	96	0	
Senate	47	0	(Senate amended)
House	98	0	(House concurred)

Effective: July 24, 2005

E2SHB 1688

C 283 L 05

Studying and preparing recommendations to improve and update the certificate of need program.

By House Committee on Appropriations (originally sponsored by Representatives Cody, Clibborn, Moeller, Sommers, Kenney and Schual-Berke).

House Committee on Health Care
House Committee on Appropriations
Senate Committee on Health & Long-Term Care
Senate Committee on Ways & Means

Background: A certificate of need from the Department of Health (Department) is required prior to: the construction, renovation, or sale of a health care facility; changes in bed capacity at certain health care facilities; an increase in the number of dialysis stations at a kidney disease center; or the addition of specialized health services. The Department must consider specific criteria when determining whether or not to issue a certificate of need including: (1) the population's need for the service; (2) the availability of less costly or more effective alternative methods of providing the service; (3) the financial feasibility and probable impact of the proposal on the cost of health care in the community; (4) the need for, and availability of, services and facilities for physicians and their patients in the community; (5) the efficiency and appropriateness of the use of existing services and facilities similar to those proposed; and (6) improvements in the financing and delivery of health services that contain costs and promote quality assurance.

The Health Care Facilities Authority is authorized to issue bonds to finance projects by health care facilities,

including the purchase, construction, or renovation of a facility. If the project requires that a certificate of need review be obtained, then the certificate must be issued before a financing plan may be adopted.

Summary: A task force is established to make recommendations to the Governor and the Legislature related to improving and updating the certificate of need program. The task force is composed of four members of the Legislature, the Secretary of Health, a representative of the Health Care Authority, a representative of the Department of Social and Health Services, a health economist, and representatives of private employer-sponsored health benefits purchasers, labor organizations, health carriers, health care consumers, and health care providers. The task force may consult with an advisory committee that consists of representatives of health care providers and facilities.

The task force must consider several guiding principles when developing its recommendations. These principles provide that:

- The supply of health services impacts the utilization of those services independent of the need for the services.
- Consideration must be given to the impact of new health services or facilities on overall health expenditures.
- Consideration must be given to the likelihood that a new health facility, service, or equipment will improve health care quality or outcomes.
- It is presumed that the services and facilities currently subject to certificate of need should continue to be subject to it.

The task force must make recommendations by November 1, 2006, related to: the scope of facilities, services and capital expenditures that should be subject to certificate of need reviews; the criteria for reviewing certificate of need applications; the need for service and facility specific policies to guide certificate of need decisions; the purpose of the certificate of need program; the timeliness and consistency of certificate of need decisions; and mechanisms to monitor commitments made by health care facilities. The recommendations may consider the results of a study of the certificate of need program to be performed by the Joint Legislative Audit and Review Committee.

Votes on Final Passage:

House	71	25	
Senate	34	11	(Senate amended)
House	80	18	(House concurred)

Effective: July 24, 2005

SHB 1689

C 454 L 05

Concerning dental health services.

By House Committee on Health Care (originally sponsored by Representatives Cody, Moeller, Appleton, Morrell, Clibborn, Green, Kenney, Murray, Schual-Berke and Chase).

House Committee on Health Care
Senate Committee on Health & Long-Term Care

Background: Applicants for a license to practice dentistry in Washington must present evidence of graduation from a dental school approved by the Dental Quality Assurance Commission (Commission) and pass an examination approved by the Commission. The examination consists of both written and practical components. The practical component is met through completing the Western Regional Examining Board's clinical examination within five years of applying for a license.

Summary: An applicant for a license to practice dentistry may replace the practical examination requirement for obtaining a license with the satisfactory completion of a postdoctoral residency program in a community health clinic that serves predominantly low-income patients or is located in a dental care health professional shortage area in Washington. The residency must last for at least one year and must be accredited by the American Dental Association (ADA) and approved by the Commission. The Commission must establish criteria, consistent with the standards of the Commission on Dental Accreditation of the ADA, for the sponsoring clinics to use when sponsoring residents, including guidelines for supervising and evaluating residents. Residents in the program must hold a limited license to practice dentistry.

This act is null and void if not funded in the Omnibus Operating Budget.

Votes on Final Passage:

House	97	0	
Senate	47	0	(Senate amended)
House	95	0	(House concurred)

Effective: July 1, 2006

HB 1690

C 1690 L 05

Regarding the applicability of certain taxes and assessments to state funded health care services.

By Representatives Cody and Moeller.

House Committee on Finance
Senate Committee on Ways & Means

Background: A health maintenance organization (HMO) is an organization that provides comprehensive health care to enrolled participants through a group med-

ical practice and charges per capita prepayments. Group Health Cooperative is an example of an HMO. A health care service contractor (HCSC) is an organization that provides health care in exchange for prepayments, but is organized differently than HMOs or insurance companies. Blue Cross affiliates are examples of HCSCs.

Every year HMOs and HCSCs are required to pay 2 percent of all premiums and prepayments for health care services to the Office of the Insurance Commissioner. The funds collected are deposited in the Health Services Account. The Health Services Account is an appropriated account that is used for health services for low-income residents; the public health system; maintenance and expansion of the capacity of the health care system; the containment of health care costs; and the regulation and administration of the health care system.

The Washington State Health Insurance Pool (WSHIP) is an entity established in statute to provide comprehensive health insurance to persons who, due to their health status, are unable to obtain coverage through the private market. Enrollees' premiums are capped, and losses in the pool are made up through an assessment charged all health carriers in the state. The assessment for a health care carrier is based on the ratio of the number of persons insured by the carrier to the total number of persons insured by all carriers.

General Assistance - Unemployable (GA-U) is a state-funded program that provides cash and medical benefits for individuals who are physically and/or mentally incapacitated and unemployable.

Summary: Exemptions from the 2 percent health care premiums and prepayments tax are created for repayments received from Washington State for health services under the GA-U program and health services under a demonstration or pilot Medicaid program for elderly or disabled persons.

Health plans that provide health services under the GA-U program or health services under a demonstration or pilot Medicaid program for elderly or disabled persons are exempt from Washington State Health Insurance Pool assessments.

The exemptions for the health services under a demonstration or pilot Medicaid program for elderly or disabled persons are ended on July 1, 2009.

Votes on Final Passage:

House	93	0	
Senate	45	3	(Senate amended)
House	95	0	(House concurred)

Effective: July 24, 2005

SHB 1694
C 284 L 05

Protecting public employee personal information.

By House Committee on State Government Operations & Accountability (originally sponsored by Representatives O'Brien, Lovick, Hankins, Ericks, Holmquist, Darneille, Kirby and Moeller).

House Committee on State Government Operations & Accountability
Senate Committee on Government Operations & Elections

Background: The Public Disclosure Act (PDA) requires that all state and local government agencies make all public records available for public inspection and copying unless they fall within certain statutory exemptions. The provisions requiring public records disclosure must be interpreted liberally and the exceptions narrowly in order to effectuate a general policy favoring disclosure.

The residential addresses and residential telephone numbers of employees or volunteers of a public agency are exempt from public records disclosure when they are held by any public agency in personnel records, public employment related records, volunteer rosters, or mailing lists.

Summary: The following information exempt from public records disclosure when it is held by any public agency in personnel records, public employment related records, volunteer rosters, or mailing lists:

- personal wireless telephone numbers, personal e-mail addresses, social security numbers, and emergency contact information of employees or volunteers of a public agency; and
- personal wireless telephone numbers, personal e-mail addresses, social security numbers, and emergency contact information of dependents of employees or volunteers of a public agency.

"Employees" includes independent provider home care workers.

Votes on Final Passage:

House	96	0
Senate	49	0

Effective: July 24, 2005

HB 1695
C 104 L 05

Modifying the definition of "resident" for the purposes of Title 77 RCW.

By Representatives Buri, Kretz, Green, Grant, Newhouse, Blake, DeBolt, Orcutt, Haler, B. Sullivan and Buck.

House Committee on Natural Resources, Ecology & Parks
Senate Committee on Natural Resources, Ocean & Recreation

Background: A recreational license issued by the Director of the Department of Fish and Wildlife (Department) is required for any person to participate in a hunting, trapping, or fishing season. The fees for these licenses are set in statute, and many fees are set so that participants that are not Washington residents pay a higher rate. For instance, Washington residents pay \$18 for a saltwater fishing license and non-residents are required to pay \$36 for the same license. Likewise, the resident price for a small game license is set at \$30 and the non-resident price is \$150.

A person can qualify for the resident rate if he or she has satisfied three requirements:

- the maintenance of a permanent home within Washington for at least 90 days before applying to the Department for a licence;
- the establishment of an intent to continue living in Washington; and
- not possessing a current license to hunt or fish in another state as a resident of that state.

Summary: A person under the age of 18 who does not reside in Washington is able to purchase a hunting and fishing license from the Department at the lower resident rate if his or her parent qualifies for the resident rate.

Votes on Final Passage:

House	92	0
Senate	46	0

Effective: July 24, 2005

ESHB 1696
C 406 L 05

Increasing penalties for the violation of certain fish and wildlife provisions.

By House Committee on Natural Resources, Ecology & Parks (originally sponsored by Representatives Blake, Buck, Takko, Holmquist, McCune, Condotta, Hinkle and B. Sullivan).

House Committee on Natural Resources, Ecology & Parks
House Committee on Appropriations

Senate Committee on Natural Resources, Ocean & Recreation
Senate Committee on Ways & Means

Background: Unlawful recreational fishing. Individuals violating certain fishing laws can be prosecuted for the crime of unlawful recreational fishing. The gross misdemeanor of unlawful recreational fishing in the first degree can be prosecuted when an individual takes twice the allowed bag limit of a species, fishes in a fishway, or uses certain illegal methods for catching a fish. Unlawful recreational fishing in the second degree is a misdemeanor, and can be prosecuted when a person fishes without a license or violates a recreational fishing rule of the Fish and Wildlife Commission (Commission).

Unlawful hunting. The crime of unlawful big game hunting can also be prosecuted in the first and second degree. The second degree crime, which is a gross misdemeanor, occurs when a person hunts big game in a closed area or during a closed season, hunts without a license, or hunts in violation of a Commission rule. The first degree crime, which is a felony, occurs if the person has been convicted within the past five years of another Fish and Wildlife Code violation.

In addition to the criminal penalties associated with unlawful big game hunting, those convicted of the first degree variety face a suspension of their big game hunting privileges for two years. Individuals convicted of either the first or second degree variety of unlawful big game hunting also face a wildlife penalty assessment. The fees collected by this assessment are directed to the Public Safety and Education Account and range between \$2,000 and \$12,000, depending on the species of big game killed.

Individuals can also face criminal charges for spotlighting big game. This crime occurs when a person is found hunting with the aid of a spotlight or other artificial lighting device.

Property seizures. Fish and wildlife enforcement officers have the authority to seize without warrant items that are believed to have been used to violate the Fish and Wildlife Code. Enforcement officers must have probable cause to believe that the item was used in furtherance of a violation. The seizure authority extends to boats, airplanes, vehicles, gear, appliances, and other articles used to violate state law.

Seized property may be recovered by the owner if he or she submits to the court a cash bond that is equal to the value of the seized property, or \$25,000, whichever is less. In addition, the property forfeiture may be contested by making a claim in writing to the Director of the Department of Fish and Wildlife (Department) within 45 days of the seizure. If the value of the property in question is greater than \$5,000, the claim can be moved to a court of law.

Summary: Unlawful recreational fishing. The crime of unlawful recreational fishing in the first degree is

expanded to include the action of fishing for or possessing a fish that is listed as endangered or threatened by the U.S. Department of the Interior.

Unlawful hunting. The Department is required to revoke all hunting privileges for two years for an individual convicted of a second-degree charge of unlawful big game hunting or spotlighting big game. Individuals convicted of a first-degree charge of unlawful big game hunting will have their hunting privileges suspended for 10 years.

The criminal wildlife penalty assessed to a person convicted of the crime unlawful big game hunting is increased as follows for persons convicted of spotlighting, persons with previous convictions of the Fish and Wildlife Code, when the animal was killed with the intent of sale, and when the person is operating with a licensed guide:

- from \$4,000 to \$8,000 for moose, mountain sheep, mountain goat, and most species listed as threatened or endangered by the Commission;
- from \$2,000 to \$8,000 for elk, deer, cougar, and black bear;
- from \$6,000 to \$12,000 for trophy deer and elk; and
- from \$12,000 to \$24,000 for caribou, grizzly bear, and trophy mountain sheep.

Property seizures. Individuals that have had property seized by the Department have the option to recover the property by posting security equivalent to a cash bond. The maximum amount of security that may be required is increased from \$25,000 to \$100,000.

The Department is given the authority to settle a claim of ownership filed with the Department.

Fish and Wildlife Reward Account. The Fish and Wildlife Reward Account (Account) is created as a non-appropriated account in the state treasury. The Account receives the revenues generated from the assessment of criminal wildlife penalties for the unlawful hunting of big game, as well as any money or property donated to the fund. The Director of the Department may only authorize expenditures from the account for wildlife enforcement uses, including the investigation and prosecution of fish and wildlife offenses and providing rewards to informants.

Assessments of criminal wildlife penalties for the unlawful hunting of big game are no longer directed towards the Public Safety and Education Account.

Votes on Final Passage:

House	90	3	
Senate	49	0	(Senate amended)
House	95	0	(House concurred)

Effective: July 24, 2005

SHB 1699

C 186 L 05

Regulating agreements for the purchase and sale of real estate.

By House Committee on Judiciary (originally sponsored by Representatives Lantz, Priest and Tom).

House Committee on Judiciary

Senate Committee on Judiciary

Background: Liquidated Damages Clauses. When a party breaches a contract with another, the party hurt by the breach has several options. For instance, the injured party may sue for damages, seek restitution or return of property held by the breaching party, or request that the court compel the breaching party to perform its end of the bargain. The parties may also specify other remedies in the contract itself.

Sales contracts often include a "liquidated damages" clause. These clauses establish a defined amount of money that the parties agree to pay as damages if they breach the agreement. Parties use liquidated damages agreements to reduce litigation over damages and manage risk when the parties have difficulty predicting the actual harm of a contract breach.

Common Law Requirements for Liquidated Damages Clauses. Courts will not enforce liquidated damages clauses unless they satisfy several common law requirements. Most importantly, the amount specified in the liquidated damages clause must be a reasonable estimate of the possible harm from a future breach. Traditionally, courts would also only enforce the clause if the parties inserted the clause because of anticipated difficulty in determining actual damages when a breach occurs. More recently, however, the Washington Supreme Court has treated actual damages more as a factor in evaluating the reasonableness of the liquidated damages clause than as an independent requirement.

Much of the controversy concerning these clauses revolved around whether an injured party must prove actual damages from the breach before claiming the liquidated damages amount. Before 1989, courts never considered actual damages. In *Lind Building Corporation v. Pacific Bellevue Developments*, however, the Washington Court of Appeals departed from the traditional view, holding that a party who does not prove any actual damages could not enforce the liquidated damages clause even if its estimate of future damages was reasonable when first written. Five years later, the Washington Supreme Court overruled *Lind*, holding that lower-than-expected actual damages were, at most, evidence of an unreasonable liquidated damages clause.

Earnest Money Deposits. Many real estate transactions use an earnest money deposit provision. One party (typically the purchaser) agrees in the purchase and sale agreement to deposit a sum of money. A party forfeits the deposit by breaching the contract, allowing the other

party to keep the money. Courts treat these arrangements as a form of liquidated damages.

In 1991, the Legislature responded to the *Lind* decision by creating a new law governing earnest money deposits. The law guarantees enforcement of an identified earnest money clause regardless of actual damages so long as the clause satisfies the law's requirements. This guarantee only applies when the agreement designates payments as an earnest money deposit and provides that forfeiture of the deposit is the seller's exclusive remedy if another party backs out of the deal.

For earnest money provisions to be enforced under this provision, they must meet the following amount, language, and notice requirements:

- *Maximum Amount*. The maximum amount to be forfeited may not exceed 5 percent of the purchase price.
- *Standard Language*. The agreement must include a forfeiture clause using language set out in the statute.
- *Notice*. In residential home sales, the forfeiture clause must be in the same size typeface as the rest of the agreement and must be initialed by all the parties.

Consequences of Defective Earnest Money Forfeiture Clauses. According to a recent Court of Appeals decision, the earnest money deposit law bars enforcement of an earnest money clause when the clause is defective with respect to the amount, language, and notice requirements. In *Chrisp v. Goll*, decided January 3, 2005, the home seller elected forfeiture of an earnest money deposit as the sole remedy, but the parties did not separately initial the clause as required by law. The Court refused to enforce the earnest money provision, holding that the statute's plain language required that the parties retain all remedies allowed by law if the earnest money clause violated the amount, language, and notice requirements. Consequently, if the purchaser reneges on a deal with a defective earnest money clause, the seller may pursue remedies in addition to recovery of the earnest money deposit. *Chrisp* is currently being appealed.

The consequences of violating the amount, language, and notice requirements do not apply to liquidated damages clauses that are not earnest money deposits within the scope of the statute. For example, courts have upheld contracts where the total amount forfeited (including an earnest money deposit and other payments) is as much as 17 percent of the purchase price so long as the earnest money portion itself is no greater than 5 percent of the price. Similarly, if forfeiture of the deposit is not the sole and exclusive remedy, the statute does not apply, and the provision need not meet the amount, notice, and language requirements. These liquidated damage clauses must still comply with the common law reasonableness requirement.

Summary: Liquidated Damages. The guaranteed enforcement requirement in the earnest money deposit

law is extended to all forms of liquidated damages clauses in real estate agreements. Courts must enforce the liquidated damages clause regardless of the seller's actual damages if the following conditions exist:

- the agreement expressly identifies the liquidated damages clause as such;
- the seller's sole and exclusive remedy for a party's failure to complete the purchase is recovery of the liquidated damages; and
- the amount of liquidated damages is no greater than 5 percent of the purchase price.

These requirements apply equally to residential and commercial property transactions.

Liquidated damages clauses that do not satisfy the statute's requirements are instead governed by the common law requirements.

Earnest Money Deposits. The notice and language requirements are eliminated, making the requirements for guaranteed enforcement of earnest money deposits identical to the requirements for all liquidated damages clauses. Courts must now enforce an earnest money forfeiture clause regardless of the seller's actual damages if the following conditions exist:

- the agreement expressly identifies the amount paid as an earnest money deposit;
- the seller's sole and exclusive remedy for a party's failure to complete the purchase is recovery of the forfeited earnest money deposit; and
- the amount of earnest money to be forfeited is no greater than 5 percent of the purchase price.

These requirements apply equally to residential and commercial property transactions.

Consequences of Defective Earnest Money Forfeiture Clauses. Failure to meet the statutory requirements no longer renders the earnest money forfeiture clause totally ineffective. Instead, courts will evaluate a defective earnest money deposit clause under the common law liquidated damages requirements.

Application. The act applies only to contracts executed on or after the effective date of the act.

Votes on Final Passage:

House	96	0	
Senate	46	0	(Senate amended)
House	95	0	(House concurred)

Effective: April 26, 2005

ESHB 1703

C 285 L 05

Modifying the application of the unclaimed property laws to certain public transportation fare cards.

By House Committee on Finance (originally sponsored by Representatives Jarrett and Sells).

House Committee on Finance
Senate Committee on Financial Institutions, Housing & Consumer Protection

Background: The Uniform Unclaimed Property Act governs the disposition of intangible property that is unclaimed by its owner. A business that holds unclaimed intangible property must transfer it to the Department of Revenue after a holding period set by statute. The holding period varies by type of property, but for most unclaimed property the holding period is three years.

In 2004, the Legislature exempted gift certificates, including gift cards, from the unclaimed property provisions, as long as the holders or issuers of the certificates met certain requirements. Gift cards are defined to include cards with stored value that may be exchanged for consumer goods and services.

Some public transportation agencies issue fare cards as a convenient mechanism for riders to pay for transit trips. These cards may be designed with microcomputers and can be used to store transit passes for unlimited trips over a certain period of time. In addition, these cards can maintain amounts of stored value that may be redeemed incrementally when making transit trips. There is some question as to whether such cards would be subject to the gift certificate law enacted in 2004. The 2004 law provides an intent statement that the law be liberally construed to benefit consumers and that any ambiguities with respect to the application of the law should be resolved by applying the unclaimed property law to the intangible property in question.

Summary: A public transportation agency may retain any funds representing value on abandoned fare cards until such time as the owner of the value claims it. A fare card is any pass or instrument purchased to utilize public transportation facilities or services. Fare cards do not include gift cards that are subject to the 2004 gift certificate law.

Votes on Final Passage:

House	93	0
Senate	45	1

Effective: July 24, 2005

SHB 1708
PARTIAL VETO
 C 207 L 05

Regarding dropout prevention.

By House Committee on Education (originally sponsored by Representatives Lovick, Quall, Dickerson, Cox, Haigh, Kenney, McDermott, O'Brien, Sells, B. Sullivan, Appleton, Simpson, Kagi, Darneille, Morrell, Green, P. Sullivan, Ormsby, McCoy, Chase and Moeller).

House Committee on Education
 Senate Committee on Early Learning, K-12 & Higher Education

Background: Dropout Definitions. Dropouts typically are defined as students who leave school before graduating from high school with a diploma, but there is no universally accepted definition for the term *dropout*. For purposes of state statistics, dropouts are defined as students who leave high school without a regular diploma and do not transfer to another school. Under this definition, high school students who continue beyond their senior year in order to complete graduation requirements are not dropouts.

Under the federal No Child Left Behind Act of 2001(NCLB), on-time graduation rates are used as an indicator of adequate yearly progress (AYP). Graduation rates under the NCLB, however, can reflect only the percentage of students who graduate from secondary school with a regular diploma in the standard number of years. Under this definition, students who continue beyond their senior year and earn a diploma before turning age 21 still are counted as dropouts.

Washington's Graduation Rate Goals. The Academic Achievement and Accountability Commission (A+ Commission) is authorized, but not required, to establish dropout reduction and graduation rate goals for students in grades seven through 12. Goals must be established by rule, and require legislative review prior to adoption.

The graduation rate goals established by the A+ Commission in 2003 apply only to schools serving 30 or more high school students. For each of the years 2004 through 2013, the graduation rate goal is the lesser of: (1) the statewide average graduation rate for the class of 2002 (approximately 66 percent); or (2) the school's own 2003 graduation rate plus one percentage point annually. In 2014, the graduation rate goal for all high schools is 85 percent, and this goal applies to all subgroups defined in the NCLB.

At its December 2004 meeting, the A+ Commission considered the establishment of dropout reduction goals for grades seven and eight, but elected to postpone action on this issue until it is determined whether the data reporting capabilities for seventh and eighth grade students are sufficiently in place. At its February 2005

meeting the Commission established proposed revisions to high school graduation rate goals and scheduled legislative review of proposed revisions.

School District Reporting and Graduation and Dropout Statistics. School districts are required to report annually to the SPI regarding the number of high school students who drop out in each of the grades nine through 12, including the dropout rates of students according to ethnicity, gender, socioeconomic status, and disability status. Districts also report regarding the causes and reasons attributed to dropping out as reported by students.

In the 2002-03 school year, an estimated 7 percent of all high school students dropped out of school. Of the 2003 graduating class cohort (those students who entered grade nine in 1999), approximately 24 percent dropped out before graduating, and another 10 percent were still enrolled at the end of 12th grade. The on-time graduation rate for Washington high school students in 2003 was approximately 66 percent.

Dropout Prevention Programs. The strategies for dropout prevention can be organized into two general categories: comprehensive school improvement and reform programs, and targeted programs focused at reaching students who are at risk of dropping out.

Compulsory School Attendance. State law regarding school attendance requires children ages eight to 17 years to attend public schools unless they:

- attend state-approved private schools;
- receive home-based instruction;
- attend a state-approved education center;
- are excused by the school district superintendent under certain circumstances; or
- are at least 16 years old and meet other specified criteria.

Children six and seven years old who are enrolled full-time in a public school also must attend school unless temporarily excused by the district superintendent. This attendance requirement does not apply to children under the age of eight years if a parent has not enrolled the child in school or if the parent formally removes the child from enrollment.

Unexcused Absences. A child's absence from school is unexcused if the child is absent for the majority of hours in an average school day and the reason for the absence fails to meet the school district's policy for excused absences. School districts must excuse children who are physically or mentally unable to attend school. Absences for other reasons at the request of a parent may be excused only if the absence does not create a serious adverse effect on the child's educational progress. School districts establish their own policies regarding excused and unexcused absences and, by statute, are strongly encouraged to excuse up to five absences per school year for students participating in state-recognized search and rescue activities.

The Becca Bill and School District Duties. The

Becca Bill was enacted by the Legislature in 1995 to address several areas of public policy affecting at-risk, runaway, and truant youth. The bill was named for a 13-year-old runaway girl from Spokane. Provisions of the law can be divided into three broad categories related to truancy petitions, at-risk youth petitions, and petitions for a child in need of services (CHINS petitions).

The truancy provisions of the Becca Bill require that, when a child who is required to attend a public school has unexcused absences, the school district take steps to eliminate or reduce the child's absences and:

- after one unexcused absence in a month, contact the child's parent by telephone or in writing;
- after two unexcused absences in a month, request a conference with the child's parent; and
- after seven unexcused absences in a month or 10 unexcused absences in a school year, file a truancy petition in juvenile court requesting intervention and supervision.

An additional rule applies to children ages eight to 17 years who are required to attend school. After five unexcused absences in one month, the school district must either:

- enter into a school attendance agreement with the student and parent;
- refer the student to a community truancy board; or
- file a truancy petition requesting court intervention or supervision.

Parents of children ages eight to 17 years also may file a truancy petition if the school district does not file a petition after five unexcused absences in one month or after 10 unexcused absences in a school year.

Running Start and Northwest Indian College. Under the Running Start dual enrollment program, school districts and public institutions of higher education may partner and allow students in grades 11 and 12 to enroll in one or more college-level courses prior to high school graduation. A public tribal college, however, is not within the definition of the institutions eligible to participate in the program.

Northwest Indian College is the only public tribal college in the state and is funded primarily through federal appropriations. The college participates in Washington's Work First and Adult Basic Education programs, and students may use state financial aid at the college.

Summary: The SPI is directed to review and evaluate the most promising dropout prevention programs and practices, including programs using non-punitive approaches to school discipline, and to report by December 2005 to the Legislature. The SPI will recommend the most promising comprehensive dropout prevention programs and practices, and the most promising targeted dropout prevention programs and practices. The SPI also is directed to recommend policy and other changes to enhance the ability of career and technical education programs and skills centers to further contribute to drop-

out prevention.

The SPI must establish goals for dropout reduction and high school graduation rates for students in grades seven through 12. The goals must require annual incremental improvements for schools and districts starting in the 2005-06 school year and must meet or exceed the 2014 high school graduation rate goal of 85 percent. The setting of goals for dropout reduction and high school graduation rates is no longer under the authority of the A+ Commission.

School districts are required to include students in grades seven and eight in their annual reporting of student enrollments and dropout data to the SPI.

For the purpose of reducing the dropout rate of Native American students and encouraging their greater participation in higher education, accredited public tribal colleges are eligible to participate in the Running Start program.

To the extent funds are appropriated, the SPI, in conjunction with the Administrative Office of the Courts, must convene a work group to: (1) review the implementation of the Becca Bill and other school attendance measures for consistent application across the state and conformance with state law; and (2) evaluate the definitions of excused and unexcused absences, incentives for school districts to improve students attendance, and the data collection requirements for graduate rates, dropout, student transfer, and related issues.

The work group must include representation from the following groups:

- the SPI;
- the Legislature;
- the State Board of Education (SBE);
- the Office of the Attorney General;
- the Administrative Office of the Courts;
- school administrators, counselors, and teachers;
- truancy officers and truancy board members;
- judges and prosecuting attorneys;
- higher education institutions; and
- other interested education organizations.

The SPI must report the work group's findings by January 10, 2006, to the Governor, the State Board of Education, and the Legislature.

Votes on Final Passage:

House	98	0	
Senate	48	0	(Senate amended)
House			(House refused to concur)
Senate	47	0	(Senate amended)
House			(House refused to concur)
Senate	44	0	(Senate amended)
House	91	0	(House concurred)

Effective: July 24, 2005

Partial Veto Summary: The Governor vetoed the section requiring the SPI and the Administrative Office of the Courts to convene a work group to review implemen-

tation of the Becca Bill and evaluate the definitions of excused and unexcused absences.

VETO MESSAGE ON HB 1708-S

April 28, 2005

To the Honorable Speaker and Members,

The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning, without my approval as to Section 2, Substitute House Bill No. 1708 entitled:

“AN ACT Relating to dropout prevention.”

This bill encompasses four activities related to school dropouts: a study of effective school prevention programs and practices, a study of Becca bill issues, changes in enrollment and dropout data collection, and, authorization of accredited public tribal colleges to participate in the Running Start Program.

Section 2 of this bill provides for the Office of the Superintendent of Public Instruction (OSPI), in conjunction with the administrative offices of the courts, to convene a work group to evaluate four items: (1) the implementation of the Becca bill and other school attendance measures with regard consistent implementation and conformance with state law; (2) the definition of excused and unexcused absences; (3) the creation of incentives for school districts to improve student attendance; and (4) data collection requirements related to graduation, dropouts, student transfer and school attendance issues.

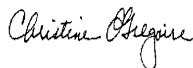
Several of the items in Section 2 are included in other sections of the bill. For example, the OSPI is charged with reporting on a study of the most promising dropout prevention programs and practices in Section 1. The OSPI is also charged with making changes in enrollment and dropout data collection in Section 3. Both of these activities are key to helping all of us better understand which students are most likely to dropout and what are the most effective ways of reaching these students.

Section 2 specifically states that it should be implemented to the extent funds are appropriated. Unfortunately, funding was not appropriated in this legislation or in the 2005-07 appropriations act to carry out the provisions of Substitute House Bill No. 1708. Therefore, I must carefully weigh whether the activities of the bill should be authorized at this time, knowing that resources are scarce.

For these reasons, I have vetoed Section 2 of Substitute House Bill 1708.

With the exception of Section 2, Substitute House Bill No. 1708 is approved.

Respectfully submitted,



Christine O. Gregoire
Governor

SHB 1711
PARTIAL VETO
C 390 L 05

Revising marking requirement for parking places for persons with disabilities.

By House Committee on Transportation (originally sponsored by Representatives Wallace, Woods, Simpson, Morrell, Lovick, Flannigan, Chase, Moeller and Kilmer).

House Committee on Transportation
Senate Committee on Transportation

Background: Parking spaces for persons with disabilities are required to have two indicators. The first is a sign with the international symbol of access. The sign must be between 36 and 84 inches off the ground. The second is a notice which states that a "state disabled parking permit required."

Many parking spaces for persons with disabilities do not include the notice that a "state disabled parking permit is required." Tickets written for use of these parking spaces without the proper permit have been invalidated.

State law requires the Code Reviser to use respectful language when referring to persons with disabilities.

Summary: Parking spaces for persons with disabilities do not have to be marked by a notice with specific language stating that a disabled parking permit is required. The signs may include additional language indicating the amount of the monetary penalty for parking in the space without a valid permit. The specified height range for the sign is deleted. Other statutes relating to parking spaces for persons with disabilities are changed to conform to respectful language requirements.

Votes on Final Passage:

House	93	0	
Senate	46	0	(Senate amended)
House	95	0	(House concurred)

Effective: July 24, 2005

Partial Veto Summary: The replacement of the phrase "disabled veteran" with "veteran with disability" is vetoed because of an inconsistency with federal law.

VETO MESSAGE ON HB 1711-S

May 11, 2005

To the Honorable Speaker and Members,

The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning, without my approval as to Section 6, Substitute House Bill No. 1711 entitled:

“AN ACT Relating to parking places for persons with disabilities.”

Statutes relating to persons with disabilities are updated to use respectful language and consistency. The term 'veteran with disability' in this bill is not consistent with the term 'disabled veteran' used in federal law. Therefore, in order to avoid any unintended negative consequences, I am vetoing Section 6 of Substitute House Bill No. 1711.

For these reasons, I have vetoed Section 6 of Substitute House Bill No. 1711.

With the exception of Section 6, Substitute House Bill No. 1711 is approved.

Respectfully submitted,



Christine O. Gregoire
Governor

SHB 1719
C 286 L 05

Regarding school district bidding requirements.

By House Committee on State Government Operations & Accountability (originally sponsored by Representatives P. Sullivan, Cox, Hunt, Simpson and Williams).

House Committee on State Government Operations & Accountability
Senate Committee on Early Learning, K-12 & Higher Education

Background: When the cost of furniture, supplies, equipment, building, improvements or repairs, or other work or purchases, excluding books, exceeds \$50,000, a school district must engage in a competitive bid process. Complete plans and specifications must be prepared and notice published in at least one newspaper of general circulation for two consecutive weeks. The bids must be in writing and must be opened and read in public.

For purchases, excluding books, estimated to cost from \$15,000 to \$50,000, the school board must secure telephone and/or written quotations from at least three sources and must record the quotations for public perusal.

Projects or purchases made through competitive bid or quotation processes are awarded to the lowest responsible bidder, but the school district may reject any and all bids.

A school district may make improvements or repairs to district property through the district's shop and repair department when the total cost does not exceed \$10,000. This limit is increased to \$15,000 for districts with 15,500 or more full-time equivalent students or, for districts with fewer than 15,500 students, if more than one craft or trade is involved in the improvement or repair. Projects exceeding these limits must be bid competitively. However, school districts may use the small works roster process for any project estimated to cost \$200,000 or less.

Under the small works roster process, a single roster may be established or rosters may be established for different specialties or categories of anticipated work. Where applicable, small works rosters may make distinctions between contractors based upon different geographic areas served by the contractors. Generally, the process requires the public body to solicit names of responsible contractors to be included on the rosters on a yearly basis. When projects arise, quotations must be invited in a manner that will equitably distribute the opportunity among contractors on the appropriate roster. Quotations must be obtained from at least five contractors in order to assure that a competitive price is established. Contracts are awarded to the lowest responsible bidder. Contracts estimated to cost less than \$35,000 may be let using the limited public works process. Under this process quotations are invited from a

minimum of three contractors from the appropriate roster with award to the lowest responsible bidder.

Summary: School districts may make a purchase of furniture, supplies, or equipment of up to \$40,000 without using a formal bid procedure. Purchases estimated to cost between \$40,000 and \$75,000 may be made by securing telephone or written quotes from at least three different sources. Any purchase estimated to be in excess of \$75,000 must be made using a formal bid procedure.

A school district may use in-house labor for building, improvements, or repairs estimated to cost \$40,000 or less without using a bid procedure. Projects estimated to cost between \$40,000 and \$100,000 must use a competitive bid process, and projects in excess of \$100,000 must use a formal bid procedure in which complete plans and specifications are prepared and notice published, unless the small works roster process is used.

Votes on Final Passage:

House 94 0
Senate 35 10

Effective: July 24, 2005

HB 1722
C 234 L 05

Extending an asparagus exception to the standards for fruits and vegetables.

By Representatives Grant, Newhouse, Linville, Buri, Clements, Walsh, Haler and Skinner.

House Committee on Economic Development, Agriculture & Trade
Senate Committee on Agriculture & Rural Economic Development

Background: The Fruit and Vegetable Inspection Program of the Department of Agriculture (Department) inspects fresh and processed produce such as apples, pears, cherries, peaches, asparagus, and potatoes. The produce is inspected according to uniform standards adopted by the Department including maturity, size, soundness, shape, color, condition and other factors important to marketing. The produce may also be certified as free from pests and diseases in order to meet domestic and international market requirements. The Fruit and Vegetable Inspection Program is self-supporting through fees-for-service.

The Director of the Department must adopt rules providing grading standards for some fruits and vegetables, and may adopt rules providing grading standards for others. Asparagus is one of the vegetables for which standards must be adopted. In 2004, the Legislature approved a temporary exception to mandatory grading standards for asparagus shipped out of state for fresh packing. With no grading standards, there are no inspec-

tions in Washington. Instead the inspection takes place in whichever state the processing occurs. The exception expires on December 31, 2005.

Summary: The exception from mandatory grading standards for asparagus shipped out of state for fresh packing is extended and will expire on December 31, 2007.

Votes on Final Passage:

House	97	0
Senate	48	0

Effective: July 24, 2005

SHB 1732

C 198 L 05

Allowing additional industrial insurance benefits when social security benefits are reduced.

By House Committee on Commerce & Labor (originally sponsored by Representatives Conway, McCoy, Wood, Chase, Campbell and Santos).

House Committee on Commerce & Labor

Senate Committee on Labor, Commerce, Research & Development

Background: In 1956, when the U.S. Congress enacted the federal social security disability program, it included provisions to coordinate benefits received under more than one disability program. Social security disability benefits for persons under age 62 were reduced by the full amount of state or federal workers' compensation benefits also being paid to the individual. This offset provision was repealed in 1958, but reenacted again in 1965.

The 1965 social security disability benefit provisions included a "reverse offset" that permits the benefit reduction to be taken by a state's workers' compensation program rather than by the federal disability program. However, in 1981, federal law was amended to raise the age limit to age 65 and to allow a state to take the reverse offset only if the state had provided for a reverse offset as of February 18, 1981.

Washington permitted this reverse offset beginning in 1975. When Washington's law was enacted, it applied to persons under age 62 who were receiving social security disability payments. In 1983, this age limit was raised to age 65 to correspond to the age limit change in federal law for social security disability payments.

According to the Social Security Administration (SSA), the SSA is not permitted by federal law to recognize any extensions of a reverse offset provision that a state enacted after 1981. For example, the SSA does not recognize Washington's change in the law allowing a reverse offset after age 62 and will reimpose the SSA offset beginning at age 62 for social security disability beneficiaries.

Summary: Adjustments to workers' compensation benefits must be made if the federal Social Security Administration (SSA) makes a retroactive reduction in a worker's federal social security benefits for periods when time-loss or pension benefits were also paid to the worker and for which the Department of Labor and Industries (Department) or self-insurer also offset benefits to account for social security benefits. To request the adjustment, the worker must submit a written request, along with satisfactory documentation of an SSA overpayment assessment. As appropriate, the Department or self-insurer must make changes in the offset calculations and pay additional benefits to the worker.

These additional benefits are paid without interest and without regard to whether the worker's claim is closed. This action does not affect the status of the claim or the date of claim closure.

These provisions apply only to requests for adjustments that are submitted before July 1, 2007, and do not apply to requests on claims for which a final determination in response to a request has been made.

By December 1, 2006, the Department must report to the appropriate committees of the Legislature on these benefit adjustments, including information about similar benefit adjustments in other states and recommendations on whether additional statutory changes might be warranted in light of actions by the SSA.

Votes on Final Passage:

House	92	0
Senate	42	0

Effective: July 24, 2005

HB 1739

C 235 L 05

Modifying snowmobile registration.

By Representative Ericksen.

House Committee on Natural Resources, Ecology & Parks

Senate Committee on Natural Resources, Ocean & Recreation

Senate Committee on Transportation

Background: All snowmobiles owned, transported, or operated in the state must be registered annually with the Department of Licensing (DOL). The annual registration fee is established by the State Parks and Recreation Commission (Commission), in consultation with the Snowmobile Advisory Committee. The Snowmobile Advisory Committee advises the Commission on the planned development of snowmobile facilities and programs and consists of snowmobilers, cross-country skiers, and representatives from the Washington State Association of Counties and state agencies.

The snowmobile registration fee was adjusted in the

2001 Operating Budget by increasing the amount from \$20 to \$30 by September 30, 2002. Registration fees are deposited in the Snowmobile Account. The Legislature appropriates funds in the account to the Commission for snowmobile-related programs and activities such as trail grooming. The DOL estimates that there are 162 snowmobiles registered that were manufactured at least 30 years ago.

Summary: A vintage snowmobile is defined as a snowmobile that was manufactured at least 30 years ago. The annual registration fee for vintage snowmobiles is \$12. Vintage snowmobiles operated within the state must be registered with the DOL. The DOL is required to design a distinct registration decal for vintage snowmobiles in cooperation with the State Parks and Recreation Commission. The \$12 annual vintage registration fee is effective for registrations due on October 1, 2005, and thereafter.

Votes on Final Passage:

House	94	2	
Senate	42	0	(Senate amended)
House	94	2	(House concurred)

Effective: July 24, 2005

SHB 1747
C 105 L 05

Administering the state-funded civil representation of indigent persons.

By House Committee on Judiciary (originally sponsored by Representatives Wood, Rodne, Priest, Clements, Lantz, Williams, Darneille and Ormsby).

House Committee on Judiciary
House Committee on Appropriations
Senate Committee on Judiciary
Senate Committee on Ways & Means

Background: Various organizations, such as Columbia Legal Services, the Northwest Justice Project, and volunteer attorney programs, provide civil (not criminal) legal services to low-income people in Washington.

Although funding comes from a variety of sources, state funding for civil legal services generally comes from the Public Safety and Education Account (PSEA) and is administered by the Department of Community, Trade, and Economic Development (DCTED), which is an executive branch agency. The DCTED uses a distribution formula based on the distribution of low-income individuals by county.

State-funded providers may not use state funds for certain categories of cases and activities. A Civil Legal Services Oversight Committee was created in 1997, made up of one member from each of the minority and majority caucuses of the House of Representatives and one member from each of the minority and majority cau-

ses of the Senate. The oversight committee is responsible for reviewing the activities of state-funded civil legal services providers. The committee is required to meet at least four times each year and to accept public testimony at two of the meetings.

The Task Force on Civil Equal Justice Funding, which was created by the Washington Supreme Court, recommended moving the administration and oversight of civil legal services from the DCTED to the Administrative Office of the Courts.

Summary: The Legislature finds that civil legal aid to indigent persons is an important component of the state's responsibility to provide proper and effective administration of civil and criminal justice.

The Office of Civil Legal Aid (OCLA) is created as an independent agency of the judicial branch. Administration of state-funded civil legal services is transferred from the DCTED to the OCLA.

The Supreme Court must appoint a director of the OCLA from a list of three names provided by the Access To Justice Board (ATJB). The director will serve at the pleasure of the Supreme Court and will receive a salary to be determined by the new Civil Legal Aid Oversight Committee (Committee). The director must:

- contract with legal aid providers;
- monitor and oversee the use of state funding;
- report to the Committee and the ATJB on the use of state funds;
- report on the status of access to the civil justice system for low-income people; and
- submit a biennial budget request.

A new, 11-member oversight committee is created to replace the four-member oversight committee.

The Committee consists of:

- three members appointed by the Supreme Court from a list of names submitted by the ATJB;
- two members appointed by the Board for Judicial Administration;
- two senators, one from each caucus, appointed by the President of the Senate;
- two representatives, one from each caucus, appointed by the Speaker of the House;
- one member appointed by the Washington State Bar Association; and
- one member appointed by the Governor.

Members serve a three-year term, subject to a renewal of one additional three-year term. At the time of appointment, a member may not be employed by a state-funded legal aid provider. Members serve without compensation, except for travel reimbursement and other expenses.

The Committee must oversee the activities of the OCLA and review the director's performance. The Committee may make recommendations to the Supreme Court, the ATJB, and the Legislature regarding state-funded civil legal aid.

Votes on Final Passage:

House 96 0
 Senate 37 12

Effective: July 1, 2005

HB 1749

C 240 L 05

Strengthening review and correction of county election procedures.

By Representatives Green, Nixon, Hunt, Shabro, McDermott, Haigh, Moeller, Campbell, Simpson, Sells, Schual-Berke and Linville; by request of Secretary of State.

House Committee on State Government Operations & Accountability

House Committee on Appropriations

Senate Committee on Government Operations & Elections

Background: Reviews of election-related policies, procedures, and practices in a county must be conducted if the unofficial returns of a primary or general election indicate that a mandatory recount is likely for a state legislative position or a federal office or in a statewide election. Reviews are also to be conducted periodically in a county after a primary or election at the direction of the Secretary of State (Secretary) or at the county auditor's request.

These post-primary or post-election reviews are conducted by the election review staff of the Office of the Secretary of State in conformance with rules adopted by the Secretary and the Election Administration and Certification Board. A review may not include an evaluation, finding, or recommendation regarding the validity of any canvass of returns or of the outcome of a primary or election. The staff must provide a report of its findings and recommendations to the county's auditor and canvassing board.

Summary: Reviews of election-related policies, procedures and practices must be conducted in a county at least once every three years, or as often as possible dependent upon staffing or budget levels. The county auditor or the county canvassing board must respond to the review report in writing listing steps to be taken to correct any problems. Before the next primary or general election, the Secretary must visit the county and verify that the corrective action was taken.

Votes on Final Passage:

House 95 1
 Senate 42 0

Effective: July 24, 2005

SHB 1754

C 241 L 05

Authorizing county-wide mail ballot elections.

By House Committee on State Government Operations & Accountability (originally sponsored by Representatives Hunt, Nixon, McDermott, Haigh, Uptegrove, Moeller, Kenney, Chase, Simpson, Miloscia, Sells and Linville; by request of Secretary of State).

House Committee on State Government Operations & Accountability

Senate Committee on Government Operations & Elections

Background: A county auditor may designate a precinct as a mail ballot precinct if it has fewer than 200 active registered voters, excluding ongoing absentee voters. If the auditor designates a precinct as a mail ballot precinct, he or she must notify all registered voters in the precinct by mail that all future elections will be conducted by mail. If the number of active registered voters in the precinct increases to over 200, or the auditor decides to return to a polling place election environment, the auditor must notify voters by mail and provide the address of the polling place.

Summary: A county auditor may conduct all elections by mail ballot if he or she is given authorization to do so from the county legislative authority. The county legislative authority must give its authorization to conduct all elections by mail ballot to the auditor at least 90 days in advance of the first election to be conducted by mail. If the county legislative authority and the county auditor decide to return to a polling place environment, the county legislative authority must give its authorization to do so to the auditor at least 180 days in advance of the first election to be conducted in a polling place environment. The auditor must then notify all registered voters in the county and provide them with the polling place to be used.

Prior to converting to a mail ballot election, the auditor must notify all registered voters in the county that all elections will be conducted by mail. Individuals with disabilities must be given voting access in all vote by mail elections.

The Secretary of State must evaluate available technology to allow voters the ability to conveniently determine if their mail ballots were received and counted. The Secretary of State must report his or her findings to the Legislature by December 31, 2006. The report must contain the Secretary of State's recommendations on whether the technology should be implemented and, if so, how.

Votes on Final Passage:

House 58 38
 Senate 28 20 (Senate amended)
 House 83 13 (House concurred)

Effective: July 24, 2005

SHB 1756
C 376 L 05

Establishing objectives for certain fire department services.

By House Committee on Commerce & Labor (originally sponsored by Representatives P. Sullivan, B. Sullivan, Miloscia, Simpson, Nixon, Curtis, Conway and Wood).

House Committee on Commerce & Labor
Senate Committee on Government Operations & Elections

Background: Certain local governmental entities are authorized to establish fire departments and/or provide fire protection services. These entities include: (1) cities and towns; (2) fire protection districts and regional fire protection service authorities; and (3) port districts.

State law does not specify the level of fire protection service that these entities must provide. Instead, these entities determine whether to provide such services and what levels of service to provide.

Summary: The intent of the Legislature is that certain governmental entities (cities and towns, fire protection districts and regional fire protection service authorities, and port districts) set standards for addressing the reporting and accountability of substantially career fire departments, and specify performance measures applicable to response time objectives. These performance measures are comparable to research relating to substantially career fire department organization and deployment. The authority of these governmental entities to set levels of service is not modified or limited.

These governmental entities must maintain written policies specifying fire department services, organizational structure, expected number of employees, and functions. In addition, they must maintain written policies specifying turnout time, response time, and performance objectives. Finally, they must make annual evaluations of their levels of service, turnout times, and response times. Beginning in 2007, they must also issue annual reports that specify circumstances in which objectives are not being met, and address the steps necessary to achieve compliance. The Federal Aviation Administration's annual inspection and certification of airports is considered to meet the requirement that port districts maintain written policies, make annual evaluations, and issue annual reports.

Definitions are added for multiple terms, including "advanced life support," "aircraft rescue and fire fighting," "brain death," "fire suppression," "first responder," "flash-over," "marine rescue and fire fighting," "response time," "special operations," and "turnout time."

Votes on Final Passage:

House	95	0	
Senate	36	10	(Senate amended)
House	96	2	(House concurred)

Effective: July 24, 2005

2SHB 1758
C 487 L 05

Revising public disclosure law.

By House Committee on Appropriations (originally sponsored by Representatives Kessler, Nixon, Haigh, Chandler, Clements, Schindler, Hunt, Hunter, Hinkle, Takko, B. Sullivan, Miloscia, Buck and Shabro; by request of Attorney General).

House Committee on State Government Operations & Accountability
House Committee on Appropriations
Senate Committee on Government Operations & Elections

Background: The Public Disclosure Act (PDA) requires all state and local government agencies to make all public records available for public inspection and copying unless they fall within certain statutory exemptions. The provisions requiring public records disclosure must be interpreted liberally and the exceptions narrowly in order to effectuate a general policy favoring disclosure.

For example, records that are relevant to a controversy to which a state or local agency is a party, but would not be available to another party under the superior court rules of pretrial discovery, are exempt from public disclosure. The Washington Supreme Court has defined "relevant to a controversy" as "completed, existing, or reasonably anticipated litigation." *Dawson v. Daly*, 120 Wn.2d 782, 791 (1993).

I. Requirements for Maintaining Records. Public records must be made available for inspection and copying during normal office hours. State and local agencies may make reasonable rules and regulations to provide full access to public records, to protect public records from damage, and to prevent excessive interference with other essential functions of the agencies.

State and local agencies are required to maintain indexes providing identifying information regarding certain records. Local agencies do not have to provide an index if doing so would be unduly burdensome. However, such local agencies must issue and publish a formal order specifying the reasons maintaining an index would be unduly burdensome and make available any indexes maintained for agency use.

II. Responding to Requests. An agency must respond to requests for public records promptly. Within five business days of a request, an agency must:

- provide the record;

- acknowledge receipt of the request and provide a reasonable estimate of the time that is required to respond to the request. The agency may take additional time to clarify the intent of the request, to locate the requested information, to notify third persons or agencies affected by the request, or to determine whether the requested information is protected by an exemption; or
- deny the request.

The Washington Supreme Court recently ruled that a public agency does not have to comply with an overbroad request. *Hangartner v. City of Seattle*, 151 Wn.2d 439, 448 (2004). According to the court, a proper request for public records "must identify with reasonable clarity those documents that are desired, and a party cannot satisfy this requirement by simply requesting *all* of an agency's documents" (emphasis original). *Id.*

III. Copying Public Records. An agency must allow the public to use its facilities for copying public records unless to do so would unreasonably disrupt the operation of the agency. An agency may not charge for locating public documents and making them available for copying. However, an agency may impose a reasonable charge for providing copies of public records and for the use of agency equipment. Charges for photocopying may not exceed the actual per page cost published by the agency. If the agency has not published a per page costs for copying, the costs may not exceed 15 cents per page.

IV. Judicial Remedies. A person who is denied a public record or who believes an agency's time estimate is unreasonable may appeal the agency decision in the superior court of the county in which the record is maintained. In such court actions, the agency has the burden to prove, by a preponderance of the evidence, that the agency action was valid. If the person prevails in the action, he or she must be awarded all costs of maintaining the action, including reasonable attorney fees.

Summary: I. Requirements for Maintaining Records. By February 1, 2006, the Attorney General must adopt an advisory model rule for state and local agencies addressing:

- providing fullest assistance to requesters;
- fulfilling large requests in the most timely manner;
- fulfilling requests for electronic records; and
- any other issues pertaining to public disclosure as determined by the Attorney General.

II. Responding to Requests. An agency may not reject or ignore requests to inspect or copy public records solely on the grounds that the request is overly broad. The agency may make records available on a partial or installment basis as records that are part of a larger set of requested records are assembled or made ready for inspection or disclosure.

Every state and local agency must appoint and publicly identify an individual whose responsibility is to serve as a point of contact for members of the public in

requesting disclosure of public records and to oversee the agency's compliance with the public records disclosure requirements of the PDA. An agency's public records officer may appoint an employee or official of another agency as its public records officer. State agencies must publish contact information regarding the public records officer in the state register. Local agencies must publish the contact information in a manner reasonably calculated to give notice to the public.

III. Copying Public Records. An agency may require a deposit not to exceed 10 percent of the estimated cost of providing copies of a request and may charge a person per installment. An agency may cease fulfilling a request if an installment is not claimed or received.

IV. Judicial Remedies. An action against a county involving a person who is denied a public record or who believes an agency's time estimate is unreasonable may be brought in the superior court of the county or in either of the two judicial districts nearest to the county. Any action involving a person who is denied a public record or believes an agency's time estimate is unreasonable must be filed within one year of the agency's claim of exemption or the last production of a record on a partial or installment basis.

Votes on Final Passage:

House	89	6	
Senate	42	4	(Senate amended)
House			(House refused to concur)
Senate			(Senate receded)
Senate	47	0	(Senate amended)
House	97	0	(House concurred)

Effective: July 24, 2005

HB 1759

C 51 L 05

Designating the orca as the state official marine mammal.

By Representatives Appleton, Bailey, Tom, Chase, Takko, McCoy, Skinner, Sells, Darneille, Schual-Berke, Hasegawa, Green, O'Brien, Strow, Eickmeyer, Morris, Moeller, Linville, Cody, Rodne, Morrell, Hudgins, Quall, Williams, Dunn, Campbell and Santos.

House Committee on State Government Operations & Accountability
Senate Committee on Government Operations & Elections

Background: The Legislature has designated various plants and animals to represent and celebrate the spirit and diverse qualities of Washington State. Familiar designations include the western hemlock evergreen tree as the state tree and the rhododendron as the state flower. The Legislature has also designated a state grass, fruit,

bird, fossil, fish, insect, song, folk song, gem, tartan, and arboretum.

Summary: The Legislature intends to promote orca awareness and encourage protection of the natural marine habitat by designating the orca whale, *Orcinus orca*, as the official marine mammal of Washington.

Votes on Final Passage:

House 90 7
Senate 46 1

Effective: July 24, 2005

HB 1769
C 199 L 05

Authorizing jury source lists to be divided by jury assignment area.

By Representatives P. Sullivan, Simpson and Williams.

House Committee on Judiciary
Senate Committee on Judiciary

Background: At least once a year, the superior court of each county receives a jury source list that consists of registered voters, licensed drivers, and "identocard" holders living in the county. The lists are merged to create a master jury list for that county. Potential jurors are randomly selected from that list.

The Washington Constitution, Article I, Section 22, requires that in a criminal prosecution, the defendant shall have the right to be tried by an "impartial jury of the county" in which the offense was allegedly committed.

The Washington Supreme Court recently addressed the district court's jury statutes, which allow district courts to select jurors from the "area served by the court" in *State v. Twyman*, 143 Wn.2d 115 (2001). In that case, the jury was selected from three King County zip codes and not the whole of King County. The Court held that the district court's jury selection method did not violate the state Constitution.

The *Twyman* court referenced an earlier case, *Fugita v. Milroy*, 71 Wn. 592 (1913), which stated that the words "jury of the county" means the defendant "is entitled to have the venire extended to the body of the county, and that it may not be restricted to a less unit; at least, without express legislative sanction." Both cases involved courts of limited jurisdiction, and the Court did not address whether its decision would be different for superior court jury selections.

Summary: In a county with more than one superior court facility and a separate case assignment area for each facility, the jury source list may be divided into jury assignment areas. At the request of the majority of the judges of the superior court, the Administrative Office of the Courts may designate and adjust jury assignment area boundaries based on United States census data.

Votes on Final Passage:

House 97 0
Senate 47 0

Effective: July 24, 2005

HB 1771
C 287 L 05

Requiring school breakfast programs in certain schools.

By Representatives McDermott, Nixon, Tom, Santos, Simpson, Chase, Quall and Kenney.

House Committee on Education
House Committee on Appropriations
Senate Committee on Early Learning, K-12 & Higher Education

Background: Child Nutrition. The federal government, through its child nutrition programs, offers funding to help support school lunch, school breakfast, and summer feeding programs for school children. All school meals served under the federal School Breakfast Program and National School Lunch Program receive some level of federal support. Schools that choose to participate in the program receive cash subsidies from the United States Department of Agriculture for each meal they serve. In return, they must serve meals that meet federal requirements and must offer free or reduced-price meals to eligible children. Federal reimbursements are the highest for free or reduced-price school meals served to low-income students.

Summer feeding programs offer food assistance to children during the summer months when the School Breakfast Program and National School Lunch Program are not operating. The National Summer Food Service Program provides federal funding for lunch programs provided to summer school students.

School Meals in Washington. Until 2004, school districts in Washington could choose whether to offer school lunch and summer feeding programs. The 2004 Legislature, through the passage of ESB 6411, required school districts to begin offering school lunch and summer feeding programs if a certain percentage of the students qualify for free or reduced-price meals. Beginning with the 2005-06 school year, school districts must implement a school lunch program in elementary schools serving students in kindergarten through fourth grade if 25 percent of the students in the school qualify for free or reduced-price lunches. School districts may obtain a waiver from the requirement under circumstances that have yet to be determined.

School districts that have schools with summer academic, enrichment, or remedial programs must implement a summer food service program that is open to area children if 50 percent of the students in the summer program qualify for free or reduced-price lunches. The dis-

tricts may obtain a waiver from the requirement if there is a compelling reason not to open a summer food program. For schools with existing school lunch programs, summer food service programs must be implemented in the summer of 2005; for other schools, they must be implemented the summer following the implementation of a school lunch program.

The 1993 Legislature began the Meals for Kids free and reduced-price breakfast program as part of its education reform package. The program serves breakfast to public school students in districts that choose to participate. During the 1993-94 school year, districts were reimbursed about 19.5 cents per meal. By the 2003-04 school year, the state reimbursement rate had declined to 12 cents per meal. The Superintendent of Public Instruction (SPI) attributes the decline to a static biennial appropriation of \$5,000,000, coupled with an increased level of program participation by school districts. The SPI has requested an increased appropriation of \$2.6 million to increase the state reimbursement rate to 15 cents per meal for the 2005-07 biennium.

In addition to state funding for school breakfast programs, the federal government provides supplemental funding for the programs through a complex formula. The formula provides 23 cents for each paying student, 93 cents for each reduced price meal, and \$1.23 for each free meal. In addition, schools in which 40 percent or more of the students qualify for free or reduced-price lunches receive an additional 24 cents for each child who qualifies.

Presently, all but 36 school districts offer a school breakfast program. Two hundred and fifty-six schools, not all of them in the 36 districts, do not offer school breakfasts.

Summary: To the extent that funding is appropriated, school districts will implement school breakfast programs in schools in which more than 40 percent of the students qualify for free or reduced-price meals. The programs must be implemented by the 2005-06 school year. Schools in which school lunch programs began after the 2003-04 school year must begin a breakfast program by the second year following the commencement of their lunch program if 40 percent of the students qualify for free or reduced-price lunches. The districts must annually provide the SPI with information that will help determine which schools are required to participate in the breakfast program.

School districts may be exempted from the requirements if they can show the SPI good cause for that exemption. The SPI will consult with representatives of school directors, school food service, community-based organizations, and the Washington State Parent Teacher Association when designing the process and criteria for the exemptions.

The requirement that districts offer school breakfast and summer nutrition programs does not become a state

funding obligation and is not included in basic education. The terms "school breakfast program" and "severe-need school" are defined.

Votes on Final Passage:

House	60	34	
Senate	43	3	(Senate amended)
House	89	7	(House concurred)

Effective: July 24, 2005

SHB 1791

C 353 L 05

Creating a developmental disabilities community trust account.

By House Committee on Capital Budget (originally sponsored by Representatives Dunshee, Schual-Berke, Kenney, Hankins, Lovick, Morrell, Wood, Kagi, Simpson, McDonald, Eickmeyer, Appleton, O'Brien, Ormsby, DeBolt, Wallace, Upthegrove, Strow, Moeller, Jarrett, Kessler, Miloscia, Murray, Cody, Conway, McCune, Lantz, P. Sullivan, Tom, Ericks, Haigh, McDermott, Hasegawa and Linville).

House Committee on Capital Budget
Senate Committee on Ways & Means

Background: The Division of Developmental Disabilities (DDD) in the Department of Social and Health Services (DSHS) operates five Residential Habilitation Centers (RHCs), which provide 24-hour residential housing for qualified individuals with developmental disabilities needing institutional care. In addition, RHCs provide respite care and other specialized services to eligible individuals living in the community. Specific services provided at RHCs include occupational and physical therapy, limited job training, medical and dental care, pharmaceutical services, and all other services necessary to a population in an institutional setting, such as transportation, food service, recreation, personal hygiene, and social activities. The RHCs in operation are: Fircrest School, located in Shoreline; Frances Had-don Morgan Center, located in Bremerton; Lakeland Village, located in Medical Lake; Rainier School, located in Buckley; and Yakima Valley School, located in Selah.

Lakeland Village, the first RHC in the state, opened in 1915. At peak occupancy in 1967, 4,145 people with developmental disabilities lived in the state's six RHCs. At present, fewer than 1,000 of the state's 33,000 clients with developmental disabilities live in the five institutions, while the remaining 97 percent live in their communities.

In 2002, the Joint Legislative Audit and Review Committee (JLARC) completed a capital study of the RHCs. In the report, the JLARC concluded that Lakeland Village, Rainier School, and Yakima Valley School have excess property that can be sold with no impact on

current institutional operations. The JLARC estimates that the sale of the excess parcels at these three facilities would generate approximately \$7 million. Sale of timber is another potential revenue generating activity identified by the JLARC report.

The 2003-05 Operating Budget provided funds for transitional costs associated with downsizing the Fircrest School. The 2003-05 Capital Budget provided \$6 million for RHC consolidation related activities.

Summary: The Dan Thompson Memorial Developmental Disabilities Community Trust Account (Account) is created in the state treasury. All proceeds from the use of excess property identified in the 2002 JLARC capital study of the RHCs at Rainier School and Lakeland Village must be deposited into the account. Income may come from the lease of land, conservation easements, sale of timber, or other activities short of the sale of property. The disposal of excess property cannot impact current residential habilitation center operations.

The Account is authorized to retain its earnings from investments. Only investment income from the principal of the account may be spent. Expenditures are subject to legislative appropriation and must be used exclusively to provide family support and/or employment/day services to eligible persons with developmental disabilities. The Account should not be used to replace, supplant or reduce existing appropriations.

Statutory references to Washington State University agricultural operations on property at the Rainier School are repealed. This property is considered "excess" property.

By June 30, 2006, the DSHS must report on its efforts and strategies to provide income to the Account from activities on or lease of excess property identified in the JLARC study.

Votes on Final Passage:

House	97	1	
Senate	49	0	(Senate amended)
House			(House refused to concur)

Conference Committee

House	98	0
Senate	45	0

Effective: May 10, 2005
July 1, 2005 (Section 3)
July 1, 2006 (Section 4)

E2SHB 1794

C 258 L 05

Expanding access to baccalaureate degree programs.

By House Committee on Appropriations (originally sponsored by Representatives Kenney, Cox, Sommers, Fromhold, Priest, Sells, Moeller, Hasegawa, Conway, Ormsby, McCoy, Roberts, Kessler, Darneille, O'Brien, Murray, Dickerson, Lantz, Williams, Chase, Hunter, Lovick, Dunshee, Kagi, Morrell, Haigh, McDermott, Wood and Hudgins).

House Committee on Higher Education
House Committee on Appropriations
Senate Committee on Early Learning, K-12 & Higher Education
Senate Committee on Ways & Means

Background: Branch Campuses. *History.* In 1989, the Legislature established five branch campuses in growing urban areas, to be operated by the state's two public research universities: University of Washington (UW) Tacoma and Bothell and Washington State University (WSU) Vancouver, Tri-Cities, and Spokane. The campuses were authorized to offer only upper-division and graduate education in collaboration with local community and technical colleges which offered lower-division coursework to prepare students for transfer.

In 2004, after a series of reviews and studies regarding the role and mission of the branch campuses, the Legislature adopted Substitute House Bill 2707 which made a number of modifications to the statutes authorizing branch campuses, including removing WSU Spokane from designation as a branch campus. The legislation also directed each of the four remaining campuses to conduct a comprehensive study and make recommendations regarding the future evolution of the campuses. The campuses submitted their reports to the Higher Education Coordinating Board (HECB) in November 2004. The HECB was expected to review the campus proposals in the context of statewide goals for higher education and provide policy options to the Legislature in January 2005.

HECB Recommendations. According to the HECB, all four campuses should:

- remain affiliated with their respective parent universities, but be permitted to grow and evolve to meet regional and community needs;
- be funded with the same budgetary model as the regional universities;
- continue to expand their upper-division and graduate programs;
- be permitted to offer lower-division coursework linked to specific majors in fields not addressed by programs at local community colleges; and
- continue and expand co-admission and co-enrollment agreements with community colleges.

The HECB also made specific recommendations for each campus:

- The UW Bothell should expand its partnerships with Cascadia Community College and other colleges before admitting freshmen and sophomores directly. However, this topic should be studied further by the HECB with a report from its staff by December 31, 2005.
- The UW Tacoma should gradually develop into a four-year university consistent with its proposed plan and admit lower-division students directly beginning in Fall 2007.
- Washington State University Tri-Cities should continue its model collaboration with Columbia Basin College but not expand into a four-year university at this time. This topic should also be addressed by the HECB in its December 31, 2005 report. Washington State University Tri-Cities should foster partnership opportunities with the Pacific Northwest National Laboratories.
- Washington State University Vancouver should develop into a four-year university by expanding its offerings in all areas: upper-division, lower-division, and graduate/professional programs.

Applied Baccalaureate Degrees and Regional Access. In June 2004, the State Board for Community and Technical Colleges (SBCTC) undertook a baccalaureate capacity study that included analysis of statewide and regional demand for upper-division enrollment and review of options and costs for expanding capacity.

One of the study findings was a need to expand applied baccalaureate degree pathways for technical associate degree graduates. Approximately 10 percent of these graduates transfer to a four-year degree program. These include technicians moving from their specialty into management and those planning to work at a more advanced level in their professional or technical specialty. According to the study, fields with demand for an applied baccalaureate degree include nursing; accounting; engineering, radiologic, and information technology; and management of technology, public safety, and food services.

One of the options used by other states to meet this need is granting authority to community or technical colleges to award baccalaureate degrees. The SBCTC conducted a review of 23 community colleges in other states and concluded that Washington should also consider allowing a limited number of community or technical colleges to develop applied baccalaureate degree programs.

North Snohomish Island Skagit (NSIS) Consortium. Another study finding from the SBCTC was that certain regions of the state remain under-served due to the lack of a four-year campus or university center to provide upper-division capacity.

In 1996, the Legislature directed the HECB to

develop a plan for increasing higher education services in the North Snohomish, Island, and Skagit counties area. The HECB recommended that multiple institutions collaborate to provide instruction and degree programs on four community college campuses throughout the region and at one unidentified "hub" location. The City of Everett proposed that the consortium lease space in a new transit station, and the 1999 Legislature authorized funds to enable the consortium to tailor the leased space for educational purposes. Participating institutions began teaching classes at the Everett Station in March 2002.

In the Fall of 2004, 670 students enrolled in classes offered by two community colleges and four universities at the Everett Station. However, most program offerings are for associate degree or master's degree students. There are also several professional certificates offered. It is not possible to complete a bachelor's degree at the Everett Station.

The NSIS Consortium is funded by a \$1.96 million appropriation to Western Washington University which acts as the consortium's fiscal agent. Funding covers operating and management costs; it does not include student enrollment.

Summary: Branch Campuses. The top priority for each of the branch campuses is to expand courses and degree programs for transfer and graduate students. New degree programs should be driven by the educational needs and demands of students and the community, as well as the economic development needs of local businesses and employers. Expansion of baccalaureate education at the branch campuses must occur in accordance with proportionality agreements developed with the SBCTC that emphasize access for transfer students.

The Legislature recognizes various factors that affect costs at branch campuses and intends that, over time, they be funded more similarly to regional universities.

At the UW Tacoma and UW Bothell, a top priority is expansion of upper-division capacity for transfer students and graduate programs. Beginning in the Fall of 2006, each campus may offer lower-division courses linked to specific majors in fields not addressed at local community colleges. The UW Bothell may, and the UW Tacoma is required to, admit lower-division students in a co-admission or co-enrollment agreement with a community college, or through direct transfer for students who have accumulated about one year of credits. In addition, direct admission of freshmen and sophomores may proceed gradually and deliberately in accordance with the 2004 plans submitted to the HECB. The UW Bothell is also directed to seek additional opportunities to collaborate with Cascadia Community College.

Washington State University Tri-Cities will continue its innovative co-admission and co-enrollment options with Columbia Basin College and expand upper-division capacity for transfer students and graduate capacity and

programs. The campus will also seek additional opportunities to collaborate with the Pacific Northwest National Laboratories. Beginning in the Fall of 2006, the campus may offer lower-division courses linked to specific majors in fields not addressed at local community colleges. The campus may admit lower-division students in a co-admission or co-enrollment agreement with a community college. In addition, WSU Tri-Cities may directly admit freshmen and sophomores, but only for a bachelor's degree in biotechnology and subject to approval by the HECB. Direct admission of other freshmen and sophomores will be the subject of further study by the HECB.

Washington State University Vancouver is directed to expand upper-division capacity for transfer students and graduate capacity and programs, and continue to collaborate with local community colleges. Beginning in the Fall of 2006, the campus may admit lower-division students directly. By simultaneously admitting lower-division students, increasing transfer enrollment, and expanding graduate and professional programs, WSU Vancouver will develop into a four-year institution serving the Southwest Washington region.

The HECB will monitor and evaluate the addition of lower-division enrollment at the branch campuses and periodically report and make recommendations to the Legislature to ensure the campuses meet the statutory priorities.

Applied Baccalaureate Degrees. Up to four community or technical colleges are authorized to offer applied baccalaureate degrees on a pilot basis. The SBCTC selects pilot colleges from those who apply. The SBCTC convenes a task force that includes both community and technical colleges to develop selection criteria for the pilots. The criteria include:

- The college demonstrates capacity to make a commitment of resources to sustain a high quality program.
- The college has or can readily engage faculty with the necessary qualifications and expertise.
- The college can demonstrate demand for the proposed programs from both students and employers.
- The program fills a gap because it is not offered by a public four-year institution in the area.

After being selected, a pilot college may develop the curriculum for an applied baccalaureate degree. However, the SBCTC and the HECB must give final approval of the degree programs before the college enrolls students in upper-division courses. A pilot college cannot enroll students in upper-division courses before Fall 2006. Tuition for upper-division courses at the pilot colleges cannot exceed tuition at regional universities.

An applied baccalaureate degree is one specifically designed for individuals with an Associate of Applied Science degree in order to maximize the application of their technical credits, and is based on both theoretical

and applied knowledge in a technical field.

The SBCTC, subject to legislative appropriation, will select and allocate funds to three community or technical colleges to enter into an agreement with a four-year institution to offer bachelor's degrees on the college campus. The agreement must be approved by the HECB before taking effect. The selection is based on gaps in service delivery, capacity, and demand for programs.

NSIS Consortium. The Legislature finds that the NSIS consortium has not met the region's access needs for higher education and that the university center model of service delivery, centered on a community college campus with a single point of accountability, has proven more effective in developing degree programs and attracting students. Therefore, the Legislature intends to assign management and leadership responsibility for the NSIS Consortium to Everett Community College.

Everett Community College, in collaboration with community and business leaders, other higher education institutions, and the HECB, must develop an educational plan for the region based on the university center model. The plan must provide for projections of student demand, coordinated delivery of lower and upper-division courses, expansion of baccalaureate degree programs and high-demand degrees and certificates, and a timeline and cost estimates for moving the consortium to the college campus. Recommendations are due to the higher education and fiscal committees of the Legislature by December 1, 2005.

The HECB must define potential outcomes and develop performance measures for expanding access under the act. A progress report on the outcomes is due to the higher education committees of the Legislature by December 1, 2008.

Votes on Final Passage:

House	80	14	
Senate	42	7	(Senate amended)
House	93	2	(House concurred)

Effective: July 24, 2005

SHB 1798
C 407 L 05

Modifying motorist information sign panel regulatory provisions.

By House Committee on Transportation (originally sponsored by Representatives Simpson, Skinner, Lovick, Armstrong, B. Sullivan, Schindler, Uptegrove, Murray and Hudgins).

House Committee on Transportation
Senate Committee on Transportation

Background: The Washington State Department of Transportation (WSDOT) is authorized to erect and maintain motorist information sign panels within the

right-of-way of the highway system in order to provide the traveling public with information regarding gas, food, lodging, and tourist-related businesses available at or near an interchange. The WSDOT is required to charge reasonable fees to defray the cost of installing and maintaining the individual business signs on the motorist information panels. However, the WSDOT is not required to recover its costs for erecting and maintaining the information sign panels.

During the 2002 legislative session, a bill was enacted requiring the WSDOT to contract with a private contractor to administer the motorist information sign panel program. Under this law, the contractor would be solely responsible for the marketing, administration, financial management, sign fabrication, installation and maintenance of the information sign panels.

In addition, the contractor was authorized to set the market rate to be charged to businesses advertising on the information sign panels. Prior to this change, the WSDOT was charging \$100 per year for a business to advertise on a panel located on the interstate. This rate did not recover the entire cost to do the work. In states where a private contractor runs the motorist information sign panel program, fees to participating businesses range from \$650 to \$4,600 per year.

In November 2003, the WSDOT released a request for proposal to potential vendors. In mid-December, the Washington Federation of State Employees sought an injunction against the WSDOT awarding a contract for this program, arguing the changes to the program constituted an impairment of the union's contract. The courts granted the injunction until the case is decided.

In the 2004 Transportation Budget, the WSDOT was given authorization to restart the program to run through June 2005. As part of the budget, the Legislature specifically authorized the WSDOT to revise the fee schedules for the program in order to recover the costs of the program, subject to legislatively imposed maximum rates.

Summary: The WSDOT is required to charge sufficient fees to recover their costs for erecting and maintaining motorist information sign panels on the state highway system.

The authority for the WSDOT to contract out the motorist information sign program is repealed.

The motorist information sign program allows a "RV" logo to be placed on individual sign panels for participating businesses or destinations that can accommodate recreational vehicles.

The WSDOT is required to provide a report by December 15, 2005. The report is to provide an accounting for the revenues and expenditures associated with the motorist information sign program and the methodology for calculating the fees charged to participating businesses.

Votes on Final Passage:

House	93	0	
Senate	48	1	(Senate amended)
House	94	1	(House concurred)

Effective: July 24, 2005

ESHB 1799
PARTIAL VETO
C 408 L 05

Creating a task force on state public recreational lands and public safety.

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives B. Sullivan and Upthegrove).

House Committee on Criminal Justice & Corrections
Senate Committee on Natural Resources, Ocean & Recreation

Background: The State Parks and Recreation Commission (Commission) is classified by statute as a "limited authority Washington law enforcement agency." The Commission is charged, in part, with enforcing the state laws on or near public recreational lands. Park rangers must complete a training course developed by the Commission and are vested with police powers to enforce Washington laws. Park rangers enforce laws outside these areas only at the request of another agency.

A "limited authority Washington law enforcement agency" means any agency or unit or division of local or state government that has, as one of its functions, the apprehension or detection of persons committing infractions or violating traffic or specific criminal laws. Agencies so designated include, but are not limited to, the state Department of Natural Resources, Department of Social and Health Services, the state Gambling Commission and the state Department of Corrections.

A "general authority Washington law enforcement agency" is defined by statute as any agency or unit or division of local or state government that has, as one of its primary functions, the detection and apprehension of persons committing infractions or violating traffic or criminal laws in general. It also means any other unit of government expressly designated by statute as such an agency. General authority law enforcement agencies include the Washington State Patrol and the Department of Fish and Wildlife. Such law enforcement agencies may enforce any traffic or criminal law of the state throughout the territorial boundaries of the state.

Absent a special commission, the statute does not expressly grant park rangers permission to enforce the laws of Washington outside the territory of state recreational lands. The Commission may adopt policies and enforce rules pertaining to the use, care, and administration of state parks and parkways. In January 2005, the

Commission adopted a policy that requires park rangers to engage in law enforcement only within the boundaries of state park properties except: (1) when in fresh pursuit, following the commission of a felony (except such pursuit is not authorized for vehicle pursuits that involve speeds in excess of posted speed limits over significant distances); and (2) where specifically authorized by the Legislature.

Summary: A task force is created to study law enforcement issues on and near state parks and recreational lands, and to review public safety concerns associated with any identified law enforcement issues. The task force must submit a final report to the Legislature on its findings and recommendations by December 15, 2005.

Votes on Final Passage:

House	63	33	
Senate	43	4	(Senate amended)
House	64	34	(House concurred)

Effective: July 24, 2005

Partial Veto Summary: The Governor vetoed the section articulating the Legislature's finding that law enforcement functions at state parks and lands are insufficient to adequately protect the public and the state's natural resources.

VETO MESSAGE ON HB 1799-S

May 11, 2005

To the Honorable Speaker and Members,
The House of Representatives of the State of Washington
Ladies and Gentlemen:

I am returning, without my approval as to Section 1, Engrossed Substitute House Bill No. 1799 entitled:

“AN ACT Relating to park rangers employed by the state parks and recreation commission.”

Section 1 of Engrossed Substitute House Bill No. 1799 states the Legislature's finding that 'law enforcement functions at state parks and lands are insufficient to adequately protect the public and our natural resources.' I agree that the safety of people, property, and natural resources on our public lands is important, and that more can be done to improve safety. But I have high regard for our park rangers and others who enforce the laws and protect our public lands, and do not believe the Legislature's conclusion is warranted. I am also concerned such language, while not so intended, could be misused to increase taxpayers' liability for harm that should be the responsibility of those who violate our laws.

For these reasons, I have vetoed Section 1 of Engrossed Substitute House Bill No. 1799.

With the exception of Section 1, Engrossed Substitute House Bill No. 1799 is approved.

Respectfully submitted,



Christine O. Gregoire
Governor

Encouraging the ethical transfer of technology for the economic benefit of the state.

By House Committee on State Government Operations & Accountability (originally sponsored by Representatives Kenney, Haigh, Kessler, Morrell, Dickerson, Williams, P. Sullivan, Ericks, Anderson, McDermott, Wood, Linville, Moeller and Hudgins; by request of Governor Gregoire).

House Committee on State Government Operations & Accountability
Senate Committee on Labor, Commerce, Research & Development

Background: The Ethics in Public Service Act (State Ethics Act) prescribes ethical standards for state officers and state employees that might result in financial gain or conflict of interest. Prohibited activities include:

- having any interest or business which is in conflict with state duties;
- having an interest, either direct or indirect, in a contract, sale, lease, purchase, or grant that is under the officer's or employee's supervision;
- participating in a transaction involving the state in his or her official capacity with a person of which the officer or employee is an officer, agent, employee, or member, or in which the officer or employee owns a beneficial interest;
- accepting employment which might reasonably require the disclosure of confidential information obtained through state employment;
- accepting any compensation or benefit from sources other than the state for the performance of state duties;
- accepting anything of economic value given to influence the performance of state duties; and
- using state resources for personal benefit.

Technology transfer is the process that turns university discoveries and inventions into products that benefit the public and strengthen the state's economy. As an idea moves from a university laboratory to a licensing arrangement with a private company and to commercial development and production, success often depends on the continued involvement of the original faculty inventor.

In 1996, the State Ethics Act was amended to allow officers and employees of higher education institutions and the Spokane Intercollegiate Research and Technology Institute (SIRTI) to receive economic benefit from a contract or grant. Institutions of higher education and SIRTI must have a written administrative process, in compliance with federal law, to identify and manage, reduce, or eliminate conflicting interest in the transaction, and the state officer or employee must comply with the policy. The 1996 changes also allowed officers and

employees of higher education institutions and SIRTI to serve as (1) an officer, agent, employee, or member, or on the board of directors, board of trustees, advisory board, or committee or review panel, of any nonprofit institute, foundation, or fundraising entity; and (2) a member of an advisory board, committee, or review panel for a governmental or other nonprofit entity.

Summary: The State Ethics Act is amended, consistent with state policy, to encourage basic and applied scientific research. The universities may develop, adopt, and implement one or more written administrative processes that shall apply in place of the obligations imposed on the universities and university research employees under the following provisions of the State Ethics Act:

- financial interests in transactions;
- assisting in transactions;
- employment after public service;
- compensation for official duties or nonperformance;
- compensation for outside activities;
- honoraria;
- gifts;
- limitations on gifts; and
- use of persons, money, or property for private gain.

The universities must coordinate in the development of administrative processes to ensure the processes are comparable. University research employees who are in compliance with the administrative procedures are considered to be in compliance with the applicable ethics laws. The State Executive Ethics Board's authority is extended to enforce these policies.

The administrative processes developed relative to (1) financial interests in transactions; (2) compensation for official duties or nonperformance; (3) honoraria; (4) gifts; and (5) limitations on gifts must be consistent with and adhere to the current federal standards relating to promotion of objectivity in research.

The administrative processes developed pertaining to (1) assisting in transactions; (2) employment after public service; and (3) compensation for outside activities must include a comprehensive system for the disclosure, review, and approval of outside work activities by state university research employees while assuring that such employees are fulfilling their employment obligations to the state university.

The administrative processes developed with respect to use of persons, money, or property for private gain must include a reasonable determination of acceptable private uses having de minimus costs to the university and a method for establishing fair and reasonable reimbursement charges for private uses in excess of de minimus.

"University" is defined as the state universities and the regional universities and also includes SIRTI, the Washington Technology Center (WTC) and any other research or technology institute affiliated with a university. "University research employee" is defined as a state

officer or state employee employed by a university to the extent that the officer or employee is engaged in research, technology transfer, approved consulting activities related to research and technology transfer, or other incidental activities.

Votes on Final Passage:

House	97	0
Senate	48	0

Effective: July 24, 2005

SHB 1823
PARTIAL VETO
C 428 L 05

Providing financial assistance for the costs of underground petroleum storage tanks in rural communities.

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Kretz, Serben, McCune, Armstrong, Rodne, Buri, Clements, Cox, Sump, Haler, Pettigrew, Grant, Holmquist, Walsh, Strow, Haigh and Kristiansen).

House Committee on Financial Institutions & Insurance
House Committee on Appropriations
Senate Committee on Water, Energy & Environment

Background: In response to environmental problems posed by petroleum underground storage tanks (USTs), federal and state laws were enacted which required that these USTs be upgraded or replaced. These requirements created a problem for rural communities in particular because, although emergency vehicles and school buses relied upon rural gas stations for fuel, rural gas stations often did not generate the profit necessary to upgrade or replace the USTs. In 1991, the Pollution Liability Insurance Agency (PLIA) was directed by the Legislature to establish the UST Community Assistance Program (USTCAP).

Owners and operators of the USTs in rural areas who could demonstrate financial hardship and who were certified by the local government as meeting a vital local government, public health, or safety need were eligible for grants to enable continued operation. There have been 112 grants awarded by the PLIA to privately owned businesses, local government entities, and rural hospitals which met the criteria established by the Legislature. Of these, 99 were rural gas stations or convenience stores with gas stations.

The maximum amount of grant money available to a single owner or operator through the program was \$150,000. No more than \$75,000 could be spent on remediation or contamination. Construction on all of the grant sites was completed in 1995 but the PLIA continues to oversee them. According to the terms of the grants, a 15 year lien was placed on any privately owned business receiving these moneys to ensure that these

businesses continued to provide the service to the community that had been the purpose behind the program. If a grantee complies with the terms of the grant for a period of 15 years, at the end of that 15 year period the PLIA will sign a release of the lien.

The PLIA and its programs, including the USTCAP, do not receive state general funds. Rather, funding comes from two sources: (1) a pollution liability fee imposed on dealers making sales of heating oil to a homeowner or other consumer which is deposited into the Heating Oil Pollution Liability Trust Account; and (2) an excise tax on the wholesale value of petroleum which is deposited into the Pollution Liability Trust Account. A total of \$15 million from the Pollution Liability Trust Account was made available for the USTCAP.

Summary: It is recognized that the closing of gas stations in rural communities adversely affects local economies by reducing access to fuel for recreational needs as well as agricultural, commercial, and transportation needs as was stated in the original legislation.

The criteria for financial assistance for the USTCAP is revised to provide for an owner or operator of an UST who has discontinued use of the tank due to economic hardship. An owner or operator is eligible for a \$200,000 grant for each retailing location if the property:

- is located in an underserved rural area;
- was previously used by a private owner or operator to provide motor vehicle fuel; and
- is at least 10 miles from the nearest motor vehicle fuel service station.

An owner or operator must comply with the requirements previously imposed upon other private owners or operators receiving assistance through the USTCAP, including: applying for insurance and requesting financial assistance in a form and manner required by the PLIA; obtaining from the local government a determination that operation of the tanks meets a vital local government, or public health or safety need; and qualifying for the PLIA insurance coverage if such financial assistance were to be provided. In consideration of the grant, the owner or operator must also agree to sell petroleum products to the public, maintain the tank site for retail sale of petroleum products for at least 15 years, sell to local government entities on a negotiated cost-plus basis, and comply with all financial and environmental responsibilities.

From the Pollution Liability Insurance Trust Account, \$1 million is designated for the biennium ending June 30, 2007 to carry out the purpose of assisting an owner or operator meeting the criteria for financial assistance due to economic hardship.

Votes on Final Passage:

House	94	0
Senate	39	0

Effective: July 24, 2005

Partial Veto Summary: Vetoes the provision that authorizes the Pollution Liability Insurance Agency to spend up to \$1 million on grants.

VETO MESSAGE ON HB 1823-S

May 13, 2005

To the Honorable Speaker and Members,

The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning, without my approval as to Section 3, Substitute House Bill No. 1823 entitled:

“AN ACT Relating to assisting the economic development of underserved rural communities by assisting an owner or operator that has discontinued using an underground petroleum storage tank.”

This bill provides financial assistance grants to operators who have discontinued using underground storage tanks. Rural Washingtonians often drive long distances to refuel their vehicles, and I can appreciate the hardship that results from the closure of gas stations in remote areas of our state. Section 3 of the bill would authorize the Pollution Liability Insurance Agency to expend one million dollars during the 2005-07 Biennium for a financial assistance grant program, and would cap administrative costs at ten percent of the funds appropriated. The agency already has authority to expend non-appropriated funds for the grant program, so this section is not necessary. Further, since no funds have been appropriated for the grant program, the wording of this language would effectively prohibit the agency from making any expenditure for grant administration. To fulfill the Legislature’s intent regarding the size of this program and limits on administrative expenses, I hereby direct the agency to expend no more than one million dollars for the grant program during 2005-07, and to limit its administrative costs to no more than ten percent of grant expenditures.

For these reasons, I have vetoed Section 3 of Substitute House Bill No. 1823.

With the exception of Section 3, Substitute House Bill No. 1823 is approved.

Respectfully submitted,

Christine O. Gregoire
Governor

ESHB 1830

C 377 L 05

Establishing the capital projects review board.

By House Committee on State Government Operations & Accountability (originally sponsored by Representatives Hunt, Jarrett, Morrell, McDonald, Pettigrew, Hasegawa, Eickmeyer, Clibborn, Simpson and Ericks).

House Committee on State Government Operations & Accountability

House Committee on Capital Budget

Senate Committee on Government Operations & Elections

Senate Committee on Ways & Means

Background: Most public works projects are completed using the design-bid-build procedure, in which the archi-

tectural design phase of a project is separate from the construction phase. Under this process, an architectural firm is retained to design the facility and prepare construction documents. After the detailed design and construction documents are complete, the construction phase of the project is put out for competitive bid. A construction contract is then awarded to the lowest responsible bidder.

Alternative procedures for public works projects were first used on a very limited basis and then adopted in statute in 1994 for certain pilot projects. These alternative procedures included a design-build process and a general contractor/construction manager (GC/CM) process could be used on projects costing in excess of \$10 million.

The design-build procedure is a multi-step competitive process to award a contract to a single firm that agrees to both design and build a public facility that meets specific criteria. The contract is awarded following a public request of proposals for design-build services. Following extensive evaluation of the proposals, the contract is awarded to the firm that submits the best and final proposal with the lowest price.

The GC/CM method employs the services of a project management firm that bears significant responsibility and risk in the contracting process. The government agency contracts with an architectural and engineering firm to design the facility and, early in the project, also contracts with a GC/CM firm to assist in the design of the facility, manage the construction of the facility, act as the general contractor, and guarantee that the facility will be built within budget. When the plans and specifications for a project phase are complete, the GC/CM firm subcontracts with construction firms to construct that phase. Initial selection of GC/CM finalists is based on the qualifications and experience of the firm.

Under the 1994 legislation, a temporary independent oversight committee was created to review the utilization of design-build and GC/CM. The committee was composed of representatives from state and local agencies, the construction and design industries, labor organizations, and four members of the Legislature, one from each caucus. The committee report, issued on January 21, 1997, recommended that the authorization to use the alternative methods on a pilot basis be extended to June 30, 2001, and that certain modifications be made to the alternative contracting procedures to increase the efficiency and effectiveness of the methods. Those recommendations were adopted in 1997 and, also that year, the committee was eliminated. In 2001, the authorization to use alternative public works procedures again was extended to June 30, 2007.

The 2003-05 Capital Budget directed the Joint Legislative Audit and Review Committee (JLARC) to study the use of GC/CM contracting procedures in major public works projects. The study consists of a review of past

and current projects constructed using GC/CM contracting procedures to determine the feasibility of assessing the public benefits and costs. The final report will be presented in June 2005.

Summary: The Capital Projects Advisory Review Board (Review Board) is established to evaluate public capital projects construction processes and to advise the Legislature on policies related to alternative public works delivery methods.

Review Board membership includes the following members appointed by the Governor: one representative from construction general contracting; one representative from the design industries; two representatives from construction specialty subcontracting; one representative from a construction trades labor organization; one representative from the Office of Minority and Women's Business Enterprises; one representative from a higher education institution; one representative from the Department of General Administration; and one representative of a domestic insurer authorized to write surety bonds for contractors in Washington. All appointed members must be actively engaged in or authorized to use alternative public works contracting procedures.

Two at-large members will represent local public owners and will serve terms on a rotating basis. These members are appointed by the Association of Washington Cities, the Washington State Association of Counties, and the Washington Public Ports Association. A member of the Public Hospital District Project Review Board and a member of the School District Project Review Board also will be included on the Review Board as non-voting members.

Legislative members of the Review Board include two members of the House of Representatives, one from each major caucus appointed by the Speaker of the House of Representatives, and two members from the Senate, one from each major caucus appointed by the President of the Senate. Legislative members shall be non-voting.

The Review Board will convene as soon as practical after July 1, 2005, and will meet as often as necessary. The Department of General Administration must provide staff to support the Review Board.

The Review Board must develop and recommend to the Legislature: (1) criteria that may be used to determine effective and feasible use of alternative contracting procedures; (2) qualification standards for general contractors bidding on alternative public works projects; and (3) policies to further enhance the quality, efficiency, and accountability of capital construction projects through the use of traditional and alternative delivery methods and recommendations on expansion, continuation, elimination, or modification of alternative public works contracting methods. The Review Board must also evaluate future use of other alternative contracting procedures, including competitive negotiation contracts.

One demonstration project using the GC/CM or design-build alternative public works contracting procedures is authorized for any city that is located in a county authorized to use alternative public works or in a county that is a member of the Puget Sound Regional Council, has revenues that exceed \$60 million, and has a population greater than 25,000 but less than 45,000. The demonstration project must be valued over \$10 million and contracts for the demonstration project must be entered into before March 1, 2006.

Votes on Final Passage:

House 97 0
Senate 47 0 (Senate amended)
House 98 0 (House concurred)

Effective: July 24, 2005

HB 1832

C 107 L 05

Requiring the posting of cougar interactions with pets, livestock, or humans.

By Representatives Kretz, Blake, Grant, Holmquist, P. Sullivan, Buri, B. Sullivan, Kristiansen, Serben, Linville, McCune, Orcutt, Sump, Condotta, Cox, Walsh, Clements, Roach, Newhouse, Haler and Pearson.

House Committee on Natural Resources, Ecology & Parks

Senate Committee on Natural Resources, Ocean & Recreation

Background: Generally, the use of dogs to hunt or pursue cougars is unlawful in Washington. However, there are situations where the Fish and Wildlife Commission (Commission) is authorized to allow the use of dogs to hunt cougars. One such situation is when the Commission determines that there is a public safety need.

The use of dogs to hunt cougars when there is a public safety need must be limited to specific game management units and may be allowed only after the Commission has determined that there is no practical alternative to the use of dogs. Practical alternatives include seasons for hunting cougars without the aid of dogs, public education, cougar depredation permits, and relocation or euthanasia programs administered by the Department of Fish and Wildlife (Department).

The Commission may authorize the use of dogs in a public safety cougar removal effort if the Department believes, based on complaints or observation, that 11 interactions occurred between humans and cougars in a given year. Of those 11 confirmed interactions, at least four must have resulted in incidents where livestock or pets were killed or injured by the cougar.

If the necessary interactions occur, and no practical alternatives exist, the Department may allow for the use of dogs to take one cougar per 120 square kilometers in

rural or undeveloped areas, or one cougar per 430 square kilometers in urban or suburban areas. All public safety cougar removals must occur between December 1 and March 15 in most game management areas.

Summary: The Department must post the known details of all reported interactions between cougars and humans, pets, and livestock on their Internet website. The postings must contain the location and time of the incidents, as well as any known details when livestock are involved.

Votes on Final Passage:

House 95 0
Senate 47 0

Effective: July 24, 2005

HB 1837

C 455 L 05

Providing for child witnesses.

By Representatives Rodne, Lantz, McDonald, Moeller, Dickerson, Priest, Curtis, Morris, Woods, Shabro, Hasegawa, Kagi and Kenney.

House Committee on Judiciary

Senate Committee on Judiciary

Background: Child Testimony by Closed-Circuit Television. In 1990, the Legislature passed a statute authorizing the testimony of child witnesses to be taken outside the presence of the defendant via closed-circuit television under certain circumstances. Use of closed-circuit television for child victim testimony is available if:

- the child is under the age of 10;
- the case involves sexual or physical abuse of the child; and
- the court finds that requiring the child to testify in front of the defendant will cause the child to suffer serious emotional or mental distress that will prevent the child from reasonably communicating at the trial.

In addition, a number of other requirements must be met in order for the court to allow a child to testify via closed-circuit television. The court must find that the prosecutor made all reasonable efforts to prepare the child for testifying, such as counseling, court tours, and explaining the trial process. The court must balance the strength of the state's case without the testimony of the child against the defendant's constitutional rights. The court must also determine if a less-restrictive alternative exists to protect the child from the emotional distress of testifying.

If the court allows child testimony via closed-circuit television, the prosecutor, defense attorney, and a neutral and trained victim's advocate must always be in the room with the child when closed-circuit television is used.

The court may decide to remain in the room with the child or to preside over the courtroom. The defendant must be able to communicate constantly with the defense attorney during the testimony and has the right to recesses in order to consult with the defense attorney. All the parties in the room with the child must be on television if possible, otherwise the court must describe for the viewers the location of the parties in relation to the child.

This option of using closed-circuit television is not available in cases where the defendant is acting as his or her own attorney or when identification of the defendant is an issue.

Right to Confrontation. Both the state and federal constitutions provide an accused criminal defendant the right to confront the witnesses against him or her. Article II, section 22 of the Washington Constitution provides that "an accused shall have the right . . . to meet the witnesses against him face to face." The Sixth Amendment to the United States Constitution provides that "the accused shall enjoy the right . . . to be confronted with the witnesses against him."

In a 1998 decision, *State v. Foster*, the Washington Supreme Court upheld the constitutionality of the child victim closed-circuit television testimony statute in light of the constitutional right to confrontation. The Court determined that, while the right to confrontation generally requires the physical presence of the witness in the courtroom, this right is not absolute. The right of physical presence may be dispensed with only if it is necessary to further an important public policy and the reliability of the testimony is otherwise assured.

The Court held that the child victim closed-circuit testimony statute meets this test. The Court found that the purpose of protecting child abuse victims from the emotional trauma of testifying in the presence of the defendant is a sufficiently important public policy. In addition, the Court found that the procedure adequately ensures the reliability of the child's testimony because the child must be competent to testify and must testify under oath, is subject to cross-examination, and is visible so that the jury may see the child's demeanor during testimony.

Summary: The statute authorizing testimony by a child victim to be given via closed-circuit television outside of the presence of the defendant is expanded to include testimony by a child witness who is not the victim of the crime when the testimony describes:

- sexual or physical abuse of another child by another person; or
- a violent offense committed by or against a person known by and familiar to the child witness.

Votes on Final Passage:

House	98	0	
Senate	48	0	(Senate amended)
House	95	0	(House concurred)

Effective: July 24, 2005

HB 1838
C 34 L 05

Increasing the threshold for short board appeals before the shorelines and pollution control hearings boards.

By Representatives Linville, Grant and Hinkle; by request of Environmental Hearings Office.

House Committee on Natural Resources, Ecology & Parks

Senate Committee on Water, Energy & Environment

Background: The Shorelines Hearing Board is a six-member quasi-judicial body that exists primarily to hear appeals by those aggrieved by the shorelines permitting system. The six members of the Shorelines Hearing Board consist of three members from the Pollution Control Hearings Board, a designee of the Commissioner of Public Lands, and designees from both the Association of Washington Cities and the Association of Washington Counties.

The Shorelines Hearing Board is housed administratively within the Environmental Hearings Office (EHO). The EHO also houses the Pollution Control Hearings Board and other quasi-judicial bodies that serve as the first level of appeal from various decisions by state government and local governments involving environmental and land use issues.

Most appeals to the Shorelines Hearing Board involve all six members, with a minimum of four members required to agree on the disposition of the case. However, some appeals qualify for an expedited appeal. Appeals involving a single family residence, or an appurtenance to the residence like a dock or pier, qualify to be heard by only three members of the Shorelines Hearing Board. This smaller body within the larger Shorelines Hearing Board is known as a short board. For short board decisions to be binding, two of the three members must agree on the disposition of the case.

In addition to disputes that qualify to be heard by a short board, the Shorelines Hearing Board has the authority to designate other expedited processes. Allowed alternatives include mediation, testimony affidavits, and other processes that are less formal than the standard rules for courts in Washington.

The Pollution Control Hearings Board exists primarily to hear appeals arising from other environmental permitting decisions. Similar expedited appeals options are available to parties before this quasi-judicial body. Specifically, disputes involving a penalty of less than \$5,000 may be heard by a single member of the Pollution Control Hearings Board. The decision of that board member constitutes the final decision by the entire Pollution Control Hearings Board.

SHB 1847

Summary: The ability for the Shorelines Hearing Board to hear disputes in its smaller short board form is expanded to include appeals involving penalties of \$15,000 or less. Likewise, the financial threshold for the Pollution Control Hearings Board to hear a case involving a penalty in its smaller short board form is raised from \$5,000 to \$15,000.

Votes on Final Passage:

House 94 0
Senate 41 0

Effective: July 24, 2005

SHB 1847

C 409 L 05

Changing the membership of the statute law committee.

By House Committee on State Government Operations & Accountability (originally sponsored by Representatives Haigh, McDermott, Jarrett, Miloscia, Nixon, Green, Wallace and Hunt).

House Committee on State Government Operations & Accountability
Senate Committee on Government Operations & Elections

Background: The Office of the Code Reviser was created in 1951. The office is a legislative agency whose responsibilities include:

- codifying, indexing, and publishing the Revised Code of Washington, including harmonizing the statutes through administrative changes or suggested legislation;
- drafting bills on behalf of legislators, legislative committees, joint committees, state elected officials, and agencies;
- acting as the repository for various documents relating to administrative rulemaking; and
- publishing a variety of rulemaking-related publications, including the Washington Administrative Code and the State Register.

The Code Reviser is employed at will by the Statute Law Committee. The Statute Law Committee is also responsible for setting the Code Reviser's salary and employing the Code Reviser's staff. The Statute Law Committee is made up of the following members:

- a member of the Legislature who is also a lawyer;
- the chair of the House Judiciary Committee or a member serving on the committee who is a member of the same party as the chair;
- a member of the House Judiciary Committee who is not a member of the same party as the chair;
- the chair of the Senate Judiciary Committee or a member serving on the committee who is a member of the same party as the chair;

- a member of the Senate Judiciary Committee who is not a member of the same party as the chair;
- five lawyers designated by the Washington State Bar Association;
- a Justice of the Washington Supreme Court or a lawyer designated by the Chief Justice; and
- a lawyer appointed by the Governor.

The term of office for the lawyer members appointed by the Washington State Bar Association is six years. The term of office for the legislative members is two years. The term of office for the member appointed by the Chief Justice is at the pleasure of the Supreme Court. The term of office for the Governor's appointee is four years.

Summary: The membership of the Statute Law Committee is changed to:

- two members of the House of Representatives, one from each caucus, appointed by the Speaker of the House;
- two members of the Senate, one from each caucus, appointed by the President of the Senate;
- the Secretary of the Senate;
- the Chief Clerk of the House;
- the Staff Director of Senate Committee Services;
- the Staff Director of the Office of Program Research;
- a lawyer appointed by the Washington State Bar Association;
- a Justice of the Washington Supreme Court appointed by the Chief Justice; and
- a lawyer staff member of the Governor's office or a state agency.

The term of office for the member appointed by the Washington State Bar Association is two years. The term of office for the Secretary of the Senate, the Chief Clerk of the House, the staff Director of Senate Committee Services, and the staff Director of the Office of Program Research expires when the tenure of the position expires. The remaining committee members serve at the pleasure of the appointing authority.

Votes on Final Passage:

House 97 0
Senate 42 1 (Senate amended)
House 95 0 (House concurred)

Effective: May 11, 2005

EHB 1848

C 456 L 05

Addressing construction defect disputes involving multi-unit residential buildings.

By Representatives Springer, Tom, Lantz, Priest, Hunter, Jarrett, Clibborn, Serben, Fromhold, Rodne, Williams, Flannigan, Kessler, O'Brien and Simpson.

House Committee on Judiciary

Senate Committee on Judiciary

Background: The Washington Condominium Act (WCA) controls the creation, construction, sale, financing, management, and termination of condominiums.

A condominium consists of real property that has individually owned units and also has commonly held elements in which all the individual unit owners have an undivided common interest. A condominium may be created for any of a number of purposes, including residential use. A condominium is created by the recording of a "declaration." The person creating a condominium is referred to as the "declarant." A condominium may be created at the time of the construction of a new condominium building, or a condominium may be created by the conversion of an existing building, such as an existing apartment building.

The WCA also creates specific rights and responsibilities. The WCA creates implied warranties and authorizes the use of express warranties regarding the quality of materials and construction in a condominium. The WCA gives certain rights to owners and their associations regarding these warranties.

Express warranties are assertions that are made by the declarant with respect to a condominium and that are relied upon by a buyer.

Implied warranties are statutorily created in the WCA. Implied warranties by the seller of a condominium include warranties of quality that the units and common areas are:

- suitable for the ordinary uses of real estate of that type;
- free from defective materials;
- built in accordance with sound engineering and construction standards;
- built in a workmanlike manner; and
- built in compliance with applicable laws.

The WCA provides that any right or obligation under the WCA is enforceable by judicial proceeding. In a 2001 decision, *Marina Cove Condominium Owners Association v. Isabella Estates*, the Washington State Court of Appeals held that binding arbitration clauses in condominium agreements are unenforceable under the WCA. The Court held that the WCA does not authorize parties to agree to binding arbitration that prevents an appeal to a judicial process.

As part of condominium legislation passed in 2004, a Condominium Study Committee was created to look at two issues related to condominiums: (1) the use of independent third-party inspections during the construction of condominiums in order to reduce water penetration problems; and (2) the use of alternative dispute resolution procedures in condominium cases.

The Condominium Study Committee delivered its report to the Legislature at the beginning of the 2005 legislative session.

Summary: Inspections are required for the building enclosures of multiunit residential buildings during initial construction or rehabilitation, or during conversion of a building to condominium ownership.

The WCA is amended to provide for alternative dispute resolution mechanisms including arbitration, case schedule planning, mediation, and the use of neutral experts in resolving disputes over alleged breaches of condominium warranties.

Inspections. The changes in the inspection provisions apply to construction for which an initial or rehabilitative building permit is issued on or after August 1, 2005.

Building enclosure design documents must be submitted with any application for a building permit for the construction of a multiunit residential building. The documents must be stamped by an architect or engineer and must address waterproofing, weatherproofing, and other protections of the building from water or moisture intrusion. A building department may not issue a building permit unless the design documents have been submitted, but the department need not review or approve the documents.

The building enclosures of all multiunit residential buildings must be inspected during the course of construction. The inspection must determine through periodic review whether construction is in compliance with the enclosure design documents. In addition, the inspection must include testing windows and window installations for water penetration problems. The inspections must be performed by a person who has training and experience in design and construction of building envelopes, who is free of improper interference or influence, and who has not been an employee of the developer. Notwithstanding these restrictions, however, the inspections may be done by the architect or engineer who prepared the design documents or who is the architect or engineer of record on the project.

A building department may not issue a certificate of occupancy for a multiunit residential building until a building enclosure inspection report has been submitted. However, the department need not determine the adequacy of the inspection.

The design document and inspection requirements do not create a right of action or any liability against any architect, engineer or inspector. However, the developer and any architect, engineer, or inspector on a project may contractually agree on the extent of possible liability to the developer.

No evidentiary presumption is created regarding an inspection report.

No condominium unit may be sold without the required enclosure design documents and inspection report. In addition, in the case of a conversion of a building to residential condo units, special inspection provisions apply. Every condo conversion for which a public

offering statement is issued after August 1, 2005, must undergo an intrusive inspection of the building envelope. The inspection is to include testing such as removing siding to check for construction quality and for water penetration. A conversion inspection must include a report of the findings of the inspection and must include any recommended repairs. The report must be made a part of the public offering statement for the condo. If the building was subject to a covenant prohibiting conversion to condo units for at least five years, and less than five years have passed, any recommended repairs must be completed before the condo units may be sold.

For purposes of these inspection requirements, a multiunit residential building is a building with more than two attached dwelling units, but does not include hotels, motels, dormitories, care facilities, floating homes, or buildings with attached dwelling units each on a single platted lot. However, a developer may elect to have the inspection requirements apply to a building with only two attached dwelling units, a condo without attached dwelling units, or a building with attached dwelling units each on a single platted lot.

Condominium Act Alternative Dispute Resolution.

Once a lawsuit has been commenced alleging a breach of warranty under the WCA, several alternative dispute resolution provisions apply. These alternative dispute resolution provisions apply to any such lawsuit that is filed and served on or after August 1, 2005.

Case schedule plan. At least 10 days after filing and service, the parties must meet and confer on a case schedule to be proposed to the court. The proposed plan for the case is to cover schedules for the mandatory mediation process, possible selection of arbitrators, joinder of parties, investigations of the case, disclosure of repair plans and estimated costs, and each party's settlement demand or response.

Arbitration. Any party may demand arbitration not less than 30 nor more than 90 days after the lawsuit has been filed and served. Unless the parties agree otherwise, the case is to be heard within 14 months by a single court-appointed arbitrator if the case involves less than \$1 million or by three court-appointed arbitrators if the case involves more than \$1 million. Within 20 days after the arbitrator's decision is filed, either party may demand a trial de novo on appeal.

If the judgment of the court in a trial de novo is not more favorable to the appealing party than the arbitration award, the appealing party must pay the costs and fees, including reasonable attorney fees, of an adverse party. If the judgment is more than the arbitration award, the court may award those costs and fees to the appealing party unless the judgment is not more favorable than the most recent of any offers of judgment made. If both the trial de novo provisions and the offer of judgment provisions would result in the award of costs and fees, the offer of judgment provisions control.

Subcontractors may be joined in an arbitration upon the demand of any party who has a legal claim against the subcontractor if the work performed by the subcontractor is an issue in the arbitration.

Mandatory mediation. Unless the parties agree otherwise, mediation must begin within seven months of filing and service. The court or arbitrator will appoint the mediator unless the parties agree otherwise. Before mediation, the parties must meet and confer to attempt to resolve or narrow disputed issues. Each party must agree to provide a decision maker who has the authority to settle a dispute and who will be available throughout the mediation. Mediation ends upon written notice of termination by any party.

Neutral experts. If, after the parties have met and conferred, issues still remain, any party may request the court or arbitrator to appoint a neutral expert. Unless the parties agree otherwise, the neutral expert may not have been employed as an expert by a party within the previous three years. Unless the parties agree otherwise, the court or arbitrator will select the neutral expert and will determine matters such as the scope of the neutral expert's duties, the timing of inspections of the property by the neutral expert, and coordination of inspections by the neutral expert and the parties' experts. Unless the parties agree otherwise, the neutral expert is not to decide issues of the amount of damages or the costs of repair.

A neutral expert is not liable to the parties regarding his duties. There is no evidentiary presumption created regarding a neutral expert's report.

Payment of arbitrators, mediators, and neutral experts. Different rules apply regarding payment of arbitrators, mediators, and neutral experts depending on whether a condominium was built pursuant to a building permit issued before or after August 1, 2005. For the earlier built cases, the party who demands arbitration pays for both the arbitrator and the mediator, and the party who requests a neutral expert pays for the expert. If arbitration has not been demanded, the court decides on payment of the mediator. These payments are not subject to the cost shifting offer of judgment provisions discussed below. For the later cases, the same parties under the same situations must "advance" payment, but those payments are subject to possible shifting under the offer of judgment provisions.

Offers of judgment. Ultimate responsibility for the fees and costs of trial or arbitration may be affected by the acceptance or rejection of offers of judgment. Within 60 days after mediation is terminated, a condo declarant, condo association, or condo unit owner who is a party to the dispute in trial or arbitration may make an offer of judgment. Any such offer not accepted within 21 days is considered rejected and withdrawn.

A declarant's offer must include a demonstration of the ability to pay the judgment and any costs and fees,

including reasonable attorney fees, within 30 days of entry of the judgment. An association or owner who accepts an offer is considered the prevailing party and is entitled to the judgment and costs and fees.

If an offer or offers have been made, and the final judgment of the court or arbitrator is not more favorable to the offeree than was the last offer, then offeror is considered the prevailing party. If the final judgment is more favorable to the offeree, then the court is to decide any award of costs and fees in accordance with otherwise applicable law.

If a condo association has brought a claim, no award of costs and fees against the association may exceed 5 percent of the assessed value of the condo as a whole. If an individual unit owner has brought a claim, no such award against the owner may exceed 5 percent of the unit's assessed value.

If an association is a party to the dispute, then the association has sole responsibility for accepting or rejecting offers with respect to common elements of the condo.

Votes on Final Passage:

House	97	0	
Senate	46	1	(Senate amended)
House	98	0	(House concurred)

Effective: August 1, 2005

SHB 1854

C 288 L 05

Changing procedures on the withholding of the driving privilege.

By House Committee on Judiciary (originally sponsored by Representatives Lantz, Priest, Haler, Walsh and Williams).

House Committee on Judiciary
House Committee on Appropriations
Senate Committee on Judiciary
Senate Committee on Transportation

Background: There are numerous circumstances, both criminal and noncriminal, under which the Department of Licensing (DOL) is required by statute to suspend or revoke a person's driver's license. Some of the more common reasons are: (1) conviction of driving under the influence of alcohol or drugs; (2) failure to pay civil traffic infractions or appear at a requested hearing for an infraction; and (3) failure to comply with or pay criminal traffic citations.

Whenever a person is convicted of a criminal traffic offense requiring the withholding of the person's driving privilege, the court must immediately take possession of the person's driver's license and forward it to the DOL.

A person who receives a civil traffic infraction must respond within 15 days by: (1) paying the monetary pen-

alty; (2) requesting a hearing to explain mitigating circumstances; or (3) requesting a hearing to contest the infraction. If the person fails to pay the infraction or fails to appear at the requested hearing, the court must notify the DOL. If the person appears at the hearing and the court assesses a monetary penalty for the traffic infraction, the monetary penalty is payable immediately. If the person is unable to pay at the time, the court may grant an extension. Courts may also enter payment plans with the person. If the penalty is not paid within the granted time, the court must notify the DOL of the failure to pay.

When the DOL receives the information from the court, the DOL sends a notice to the driver that his or her license will be suspended or revoked 30 days after the mailing of the notice. The suspension or revocation remains in effect until the DOL receives notice from the court that the case has been adjudicated. The statutes do not provide for an administrative review of the DOL's action.

Recently, the Washington Supreme Court ruled that the statutes requiring the DOL to suspend a person's license for failing to appear, respond, or comply with the terms of a notice of traffic infraction or traffic citation violated constitutional due process requirements. *City of Redmond v. Moore*, 151 Wn.2d 664 (2004) (*Redmond*).

In that case, the defendants were arrested for driving with license suspended in the third degree (DWLS 3). Their licenses were suspended based on the failure to appear, pay, or comply with traffic infractions. The defendants argued that the statutes violate due process requirements because there is no opportunity for a hearing with the DOL either before or after the suspension to correct possible ministerial errors, such as misidentification, that might occur when DOL processes information obtained from the courts.

In determining whether the statutes provided adequate due process, the Court weighed the state's interests and the burden on the state in providing procedures against the private interest affected, the risk of erroneous deprivation of that interest, and the probable value of procedural safeguards. The Court concluded that the benefit of ensuring against wrongly depriving a person of his or her driving privileges outweighed the burden on the state to provide for administrative reviews. Therefore, the Court held that the statutes violated a person's right to due process and are unconstitutional.

Because the defendants' licenses should not have been suspended due to the unconstitutionality of the statutes, the defendants' criminal charges for DWLS 3 were dismissed. As a result of *Redmond*, law enforcement agencies are no longer citing drivers for the misdemeanor crime of DWLS 3.

Summary: Administrative review procedures are established that apply to license suspensions and revocations for infractions and offenses committed on or after the

effective date of this act. Payment plans for persons who are unable to pay civil fines for traffic infractions are made mandatory.

Administrative Review. Whenever the DOL is required by statute to withhold a person's driving privilege, the DOL shall either mail or personally serve written notice to the person. The notice must be sent at least 45 days before the date the suspension or revocation takes place. Within 15 days of the notice, the person may request in writing an administrative review. Failure to timely request a review forfeits the person's right to review, unless the DOL finds good cause.

The administrative review consists solely of the DOL reviewing the documents available to it. If the person requests an interview with the DOL, the DOL may conduct the review by telephone or other electronic means. The only issues the DOL will address are: (a) whether the records relied upon by the DOL identify the correct person; and (b) whether the information transmitted from the court or other agency regarding the person accurately describes the action taken by the court or agency.

The person whose driving privileges are to be withheld has the burden to show by a preponderance of the evidence that he or she is not subject to the suspension or revocation. During the administrative review process, the suspension or revocation is stayed.

The person may appeal the DOL's decision to superior court. The appeal is limited to a review of the record of the administrative review. During the appeal, the suspension or revocation is not stayed unless the court finds that the person is likely to prevail and the person will suffer irreparable injury without a stay.

The DOL may adopt rules that are necessary or convenient for implementing the procedures, including rules for expedited orders and expedited notice procedures.

Mandatory Payment Plans. Whenever a monetary penalty, fee, cost, assessment, or other monetary obligation for a civil traffic infraction is imposed and the court determines that the person is unable to immediately pay the amount in full, the court must enter into a payment plan with the person. However, if a person already has a payment plan for that same obligation or the person has been subject to another payment plan and has failed to make payments, the court may, but need not, implement another payment plan. A plan must be entered into within the later of one year after the effective date of this act or one year after the monetary obligation initially became due.

If the court has notified the DOL of the person's failure to pay and the person has subsequently entered into a payment plan and makes an initial payment, the court must notify the DOL that the infraction has been adjudicated. The DOL must rescind any suspension or revocation.

The court may allow conversion of all or part of the

monetary obligation if a community restitution program is available in the jurisdiction.

If payment is delinquent or the person fails to complete a community restitution program on or before the time established, the court must notify the DOL of the noncompliance, unless the court determines good cause and adjusts the plan. The DOL must suspend the person's driver's license until all monetary obligations are paid or until the DOL receives notice that the person has entered into a new plan.

If the court administers the payment plan, the court may charge a reasonable administrative fee to be retained by the city or county, not to exceed \$10 per infraction or \$25 per plan, whichever is less. The court may contract with outside entities to administer its plan. In those cases, the court may charge a fee, which may be calculated on a periodic, percentage, or other basis.

Votes on Final Passage:

House	93	0
Senate	48	0

Effective: July 1, 2005

SHB 1856

C 387 L 05

Requiring industrial insurance fund audits.

By House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Condotta, Wood, McCoy, Kessler, Campbell and Chase).

House Committee on Commerce & Labor
Senate Committee on Labor, Commerce, Research & Development

Background: The Department of Labor and Industries (Department) administers the Washington industrial insurance system. The Department's responsibilities include operating the state fund from which employers who are not self-insured purchase industrial insurance coverage.

The industrial insurance trust fund administered by the Department includes three basic funds: the Accident Fund, the Medical Aid Fund, and the Supplemental Pension Fund. The Accident Fund is used to pay time-loss benefits, permanent partial disability awards, and pensions. The Medical Aid Fund is used to pay medical and vocational rehabilitation benefits. The Supplemental Pension Fund is used to pay cost-of-living adjustments to workers receiving time-loss or pension payments.

All state fund employers pay premiums to the Department for these three funds. These employers deduct one-half of the premium for the Medical Aid Fund and the Supplemental Pension Fund from their employees' wages.

The State Auditor is required to audit state agencies at intervals determined by the State Auditor. Audits of

financial statements must include determinations regarding the validity and accuracy of accounting methods and standards used in the statement's preparation, as well as the accuracy of the statement.

Summary: The Department of Labor and Industries (Department) is required to prepare financial statements on various industrial insurance funds using generally accepted accounting principles (GAAP) and financial information based on statutory accounting principles.

Beginning in 2006, the State Auditor must conduct annual audits of the state fund, which must be coordinated with other Department audits that the State Auditor conducts. As part of the audit, the State Auditor may contract with firms qualified to perform a financial audit. The firms doing reviews must be familiar with accounting standards applicable to these accounts and have experience in workers' compensation reserving, discounting, and ratemaking.

The financial audit must include at least:

- an opinion on whether the financial statements were prepared in accordance with GAAP;
- an assessment of the financial impact of proposed rates on the funds' actuarial solvency, taking into consideration various factors, including insurance risks, actuarial assumptions, discount rates, reserving, retrospective rating programs, refunds, individual employer rate classes, as well as standard accounting principles used for insurance underwriting; and
- an actuarial opinion on whether the loss and loss adjustment expense reserves for the Accident Fund, Medical Aid Fund, and Pension Reserve Fund were prepared under generally accepted actuarial principles.

The State Auditor must issue an annual report on the results of the audits and reviews within six months of the end of the fiscal year. The report is made to the Governor, majority and minority caucus leadership in both chambers of the Legislature, the Office of Financial Management, and the Department. The Department, within 90 days of delivery of the report, must notify the State Auditor about measures it has taken or proposed in response to the report, if any.

Votes on Final Passage:

House	94	0	
Senate	46	0	(Senate amended)
House	95	0	(House concurred)

Effective: July 24, 2005

HB 1864

C 329 L 05

Modifying citizen oversight of toll charges.

By Representatives Kilmer, Woods, Lantz, Appleton, Green and Hasegawa.

House Committee on Transportation
Senate Committee on Transportation

Background: The Tacoma Narrows Bridge toll project is authorized in statute. Toll projects developed under statute require an advisory vote if there is opposition to the project demonstrated by the submission of petitions bearing at least 5,000 signatures opposing the project and delivered to the Washington State Department of Transportation (WSDOT) within 90 days after project selection. The WSDOT is required to conduct a study of traffic patterns and economic impact to determine the boundaries of the affected project area. The registered voters in the affected project area are eligible to participate in the advisory vote. The affected project area for the Tacoma Narrows Bridge project includes all of Clallam, Jefferson, Kitsap, and Thurston counties, and portions of Mason, Pierce, and King counties.

A citizen advisory committee is required for each project developed under the Public, Private Initiative statute. The nine committee members are appointed by the Governor and must be permanent residents of the affected project area. The Citizen Advisory Committee advises the Transportation Commission, the toll setting authority, on all matters relating to the setting of tolls. No toll charge may be imposed or modified unless the Citizen Advisory Committee has been given at least 20 days to review and comment on the proposed toll schedule.

The Tacoma Narrows Bridge project is currently under construction and is scheduled to begin collecting tolls in April, 2007. As of April 2005, the members of the Citizen Advisory Committee have not been appointed.

Summary: The members of the Tacoma Narrows Bridge Citizen Advisory Committee must be appointed proportionately from those areas which generate the most traffic as determined by a traffic analysis.

The Citizen Advisory Committee is given additional direction to examine the feasibility of toll discounts for frequent users, senior citizens, students, and electronic transponder users. In addition to the discounts, the Citizen Advisory Committee is to examine the trade-off of providing discounts versus the early retirement of the debt. The Citizen Advisory Committee is also directed to examine variable or time-of-day pricing.

Votes on Final Passage:

House	91	2	
Senate	44	0	(Senate amended)
House	95	0	(House concurred)

Effective: July 24, 2005

HB 1872

C 200 L 05

Revising provisions relating to ignition interlock devices.

By Representatives Ericks, O'Brien, Kretz, P. Sullivan, Buri, Sells and Simpson.

House Committee on Judiciary
Senate Committee on Judiciary

Background: Under legislation enacted in 1994, courts are given explicit authority to order that ignition interlocks or other devices be installed on the cars of certain drivers. Ignition interlocks are alcohol analyzing devices designed to prevent a person with alcohol in his or her system from starting a car. Other "biological or technical" devices may be installed for the same purpose. If a court orders the installation of one of these devices, the Department of Licensing is to mark the person's driver's license indicating that the person is allowed to operate a car only if it is equipped with such a device.

In some instances, the installation and use of interlocks are required following a period of suspension or revocation of a driver's license. Those instances are cases in which a person has been convicted of or given a deferred prosecution for drunk driving. Use of a device is required for specified periods of time following the restoration of the person's driver's license. For first, second, and third required uses, the periods are respectively one year, five years, and ten years. An interlock is also required as a condition of receiving a temporary or occupational license during a drunk driving-related suspension.

It is a misdemeanor crime for a person who is required to use an interlock to drive without one. It is also a gross misdemeanor crime for a third party to knowingly assist such a restricted person to drive without an interlock. The law does not, however, explicitly make it a crime for a restricted person to disable a device or to ask someone else to disable a device.

Summary: If a person is restricted to driving only with an interlock device, it is a gross misdemeanor for that person to tamper with the device, or to request a third party to tamper with the device, in order to circumvent the device.

The definition of "ignition interlock device" is amended to clarify that any biological or technical device that is to be required under the ignition interlock law must be certified by the Washington State Patrol.

Votes on Final Passage:

House 97 0
Senate 44 0

Effective: July 24, 2005

SHB 1876

C 236 L 05

Expanding voting rights of persons under guardianship.

By House Committee on State Government Operations & Accountability (originally sponsored by Representatives Green, Haler, Moeller, Darneille, Haigh, Miloscia and Upthegrove).

House Committee on State Government Operations & Accountability
Senate Committee on Government Operations & Elections

Background: The superior court of each county has the authority to appoint guardians for persons and/or estates of incapacitated persons. A person may be deemed incapacitated when the court determines that the individual poses a significant risk of personal or financial harm. Incapacity is a legal, not medical, determination.

An incapacitated person subject to a limited guardianship may not lose the right to vote unless the court determines that the person cannot rationally exercise the franchise. An incapacitated person subject to a full guardianship may not vote unless the court specifically finds that the person is rationally capable of exercising the franchise.

Summary: The Legislature finds that the right to vote is a fundamental liberty which should not be confiscated without due process, including clear notice and a meaningful opportunity to be heard. The Legislature additionally finds that any restriction of voting rights through guardianship proceedings should be narrowly tailored to meet the compelling interest of the state in ensuring that those who vote understand the nature and effect of their actions.

An incapacitated person under either limited or full guardianship will not lose the right to vote unless a court specifically determines the person to be incapable of rationally exercising the franchise in that the individual cannot understand the nature and effect of voting and cannot make an individual choice.

The court must make a clear determination regarding the voting rights of the individual when a guardianship is created.

Votes on Final Passage:

House 96 0
Senate 39 6

Effective: July 24, 2005

January 1, 2006 (Section 3)

SHB 1887

C 289 L 05

Modifying exemptions to the litter tax.

By House Committee on Finance (originally sponsored by Representatives Hasegawa, Orcutt and Chase).

House Committee on Finance
Senate Committee on Water, Energy & Environment
Senate Committee on Ways & Means

Background: The Litter Tax. The litter tax, at a rate of 0.015 percent, applies to the value of certain products manufactured and sold within the state and to the gross proceeds of certain products sold at wholesale or retail. The tax applies to the following categories of products:

- food for human or pet consumption;
- groceries;
- cigarettes and tobacco products;
- soft drinks and carbonated waters;
- beer and malt beverages;
- wine;
- newspapers and magazines;
- household paper and paper products;
- glass containers;
- metal containers;
- plastic or fiber containers;
- cleaning agents and toiletries; and
- sundry products of drugstores other than drugs.

Tax receipts are deposited to the Waste Reduction, Recycling, and Litter Control Account. Funds are used by the Department of Ecology for a litter patrol program employing youth to clean up public places and for public education and awareness programs relating to litter control and recycling, including development of markets for recycled products and cost of litter tax compliance. In fiscal year 2004, almost \$7 million in collections were reported.

In 2003, the Legislature enacted an exemption from the litter tax for food and beverages sold for consumption indoors on a business's premises. The exemption does not explicitly address certain similar situations, such as sales of food courts in malls, where food may be eaten in areas that are adjacent to restaurants but that are not actually owned by the restaurants, or in areas such as patios and other outdoor facilities that are part of a business's premises made available for dining.

Excise Taxation of Caterers. For excise tax purposes, caterers are treated like other restaurants that sell food at retail. Catering sales are subject to the retail sales tax, irrespective of where the caterer prepares the food and whether the caterer or the customer provides the ingredients for the food preparation. Caterers are also subject to the litter tax, even if the food and drink are provided in multiuse containers or on servingware that is the property of the caterer.

Summary: Sales of food or drinks are exempt from the litter tax if the items are sold for immediate consumption either indoors or outdoors at a seller's place of business or for immediate consumption indoors in an eating area adjacent to the seller's place of business. Sales of food or drinks are exempt from the tax if the items are sold by a caterer, served in containers that are designed to be used more than one time, and served on premises that are occupied or controlled by the customer.

Votes on Final Passage:

House	96	0
Senate	40	0

Effective: July 24, 2005

E2SHB 1888

C 378 L 05

Regulating internet fraud.

By House Committee on Appropriations (originally sponsored by Representatives Nixon, Morris, Hunter, B. Sullivan, Simpson, Ormsby, Morrell, Haler, Clibborn, Ericks, Williams, Darneille, Dunn, Dickerson, P. Sullivan, Green and Hudgins).

House Committee on Technology, Energy & Communications

House Committee on Appropriations
Senate Committee on Financial Institutions, Housing & Consumer Protection

Background: Unsolicited E-mail. In 1998, legislation was enacted regulating commercial electronic mail (e-mail) messages, collectively referred to as "spam." A commercial electronic mail message is an e-mail message sent for the purpose of promoting real property, goods, or services for sale or lease. In particular, the laws prohibit the sending of commercial e-mail from a computer located in Washington to an e-mail address of a Washington resident if the commercial e-mail uses:

- a false or misleading return address;
- a false or misleading subject line; or
- a third party's e-mail address (domain name) without permission.

The law not only prohibits the sender from sending a false or misleading commercial e-mail message, but also prohibits anyone who conspires with the sender or who assists in the transmission of a false or misleading commercial e-mail message.

A recipient or an Internet Service Provider may bring a civil action against a sender who violates the laws relating to commercial electronic mail messages. In the case of a suit brought by a recipient, the penalty is the greater of \$500 or actual damages incurred. In the case of a lawsuit brought by an Internet Service Provider, the penalty is the greater of \$1,000 or actual damages. A violation of the laws relating to commercial electronic

mail messages is also a violation of the Consumer Protection Act and may be enforced by the Attorney General. A violation of the Consumer Protection Act may result in a civil fine, treble damages, court costs, and attorneys' fees.

Phishing. The term "phishing" generally refers to a type of Internet activity that uses fraudulent e-mails and websites to solicit personal financial information from an e-mail recipient. Typically, a user receives an e-mail that appears to be from a familiar business or organization, such as an Internet Service Provider, bank, or online retailer. The message usually requests that the recipient update or validate his or her account information by clicking on a link embedded in the e-mail. Once the recipient clicks on the link, the user is taken to a fraudulent website where the user is asked to input personal and confidential information.

Summary: A person is prohibited from soliciting, requesting, or taking any action to induce another person to provide personally identifying information by means of a web page, electronic mail message, or otherwise using the Internet by representing oneself, either directly or by implication, to be a business or individual, without the authority or approval of such business or individual.

"Personally identifiable information" is defined as any of the following types of information:

- Social Security Number;
- driver's license number;
- bank account number;
- credit or debit card number;
- Personal Identification Number;
- automated or electronic signature;
- unique biometric data;
- account passwords; or
- any other piece of information that can be used to access an individual's financial accounts or to obtain goods or services.

An injured person may bring a civil action against a person or entity that directly violates these provisions and seek damages of up to \$500 per violation, or actual damages, whichever is greater.

An Internet Service Provider, an owner of a web page, or a trademark owner may bring a civil action against a person or entity that directly violates these provisions and seek to enjoin further violations, and may also recover \$5,000 per violation, or actual damages, whichever is greater. In addition, the court may increase the damage award up to three times (up to \$15,000) if the defendant has engaged in a pattern and practice of engaging in the prohibited activities. The court may also award costs and reasonable attorneys' fees to the prevailing party.

A violation of these provisions is defined as an unfair or deceptive act for purposes of applying the Consumer Protection Act.

Votes on Final Passage:

House	96	0	
Senate	49	0	(Senate amended)
House	95	0	(House concurred)

Effective: July 24, 2005

SHB 1891

C 59 L 05

Concerning reclaimed water permits.

By House Committee on Economic Development, Agriculture & Trade (originally sponsored by Representatives Hinkle, B. Sullivan, Buck and Haler).

House Committee on Economic Development, Agriculture & Trade

Senate Committee on Water, Energy & Environment

Background: Reclaimed water is an effluent derived from a wastewater treatment system that has been treated to be suitable for a beneficial use or a controlled use that otherwise would not occur. Reclaimed water may be used for a variety of nonpotable water purposes, including irrigation, agricultural uses, industrial and commercial uses, streamflow augmentation, dust control, fire suppression, surface percolation, and discharge into constructed wetlands.

The Washington Department of Health (DOH) and the Washington Department of Ecology (DOE) were required to adopt a single set of standards, procedures, and guidelines for industrial and commercial uses and land applications of reclaimed water. The DOH issues permits to water generators for commercial or industrial uses of reclaimed water. The DOE issues reclaimed water permits for land applications of reclaimed water. A reclaimed water permit for these types of uses may only be issued to a municipal, quasi-municipal, or other governmental entity or to the holder of a water quality waste discharge permit.

Summary: A private utility may obtain a reclaimed water permit for industrial and commercial uses and land applications of reclaimed water. "Private utility" is defined for this purpose to include all private and public utilities that provide sewerage and/or water service and do not qualify as municipal corporations. A private utility may be owned by a corporation, a cooperative association, mutual organization, or an individual person(s).

Before deciding whether to issue a reclaimed water permit to a private utility, the DOH or the DOE may require information that is reasonable and necessary to determine whether the private utility has the financial and other resources to assure the reliability, continuity, and supervision of the reclaimed water facility.

Votes on Final Passage:

House	95	0
Senate	49	0

Effective: July 24, 2005

SHB 1893

C 493 L 05

Providing for a certification endorsement for teachers of the deaf and hard of hearing.

By House Committee on Education (originally sponsored by Representatives McDermott, Kenney and Dickerson).

House Committee on Education

Senate Committee on Early Learning, K-12 & Higher Education

Background: During 2003, the House Children and Family Services Committee assembled a work group on deaf education in Washington. The work group's purpose was to consider the respective roles of and relationships among the Washington School for the Deaf (WSD), local school districts, educational service districts, community services, and community resources, in the delivery of effective education to hearing impaired children throughout the state. In addition, the work group considered different appropriate service delivery models for hearing impaired children.

The work group included representation from parents and teachers of hearing impaired children, the Governor, the Superintendent of Public Instruction (SPI), educators, the Board of Trustees of the WSD, the Washington Sensory Disabilities Services, and the Infant Toddler Early Intervention Program. In addition, four members of the Senate, a member of the House Education Committee, and the members of the House Children and Family Services Committee served on the work group.

The work group held three meetings over the course of the interim to discuss a range of issues, including service delivery in the state from newborn hearing screening and early intervention services through the P-12 system, technological advances relating to hearing impairment, and research on outcomes and costs related to hearing impairment. At its final meeting, the members developed consensus statements that reflected the basic principles agreed upon by all of the members of the work group. They also adopted goals and policy recommendations based upon those consensus statements. One of the goals of the work group was the certification of teachers who have the educational and communication skills required to meet the needs of hearing impaired students.

The State Board of Education (SBE) establishes certification requirements for teachers and educational staff associates. Teachers must be endorsed in a particular area of expertise from a list adopted by rule by the SBE. Special Education is one of the endorsements available to teachers. An endorsement in the specialty area of edu-

cation designed exclusively for hearing impaired students is not included on the list of permissible endorsements.

Summary: The agency responsible for teacher certification, with advice from the Professional Educator Standards Board (PESB), must develop endorsement requirements for teachers of hearing impaired students. The standards for the endorsement will be based on the skills and knowledge necessary to serve the education and communication needs of these students. When establishing the rules for the endorsement, the agency will consider special education endorsement requirements to have been met by applicants who intend to teach hearing impaired students if the applicants have a baccalaureate or master's degree from a teacher training program that has been approved by the Council on Education of the Deaf.

Votes on Final Passage:

House	96	0	
Senate	44	0	(Senate amended)
House			(House refused to concur)
Senate	47	1	(Senate amended)
House			(House refused to concur)
Senate	41	0	(Senate amended)
House	91	1	(House concurred)

Effective: July 24, 2005

SHB 1895

C 299 L 05

Modifying duties of the joint committee on energy supply and energy conservation.

By House Committee on Technology, Energy & Communications (originally sponsored by Representatives Morris, Hudgins, McCoy and B. Sullivan).

House Committee on Technology, Energy & Communications

House Committee on Capital Budget

Senate Committee on Water, Energy & Environment

Background: Joint Committee on Energy Supply. The Joint Committee on Energy Supply is composed of eight legislative members and is chaired by a member elected by the Membership. It must meet at the following times: (1) at least once a year; (2) at the call of the chair to receive information related to a state or regional energy supply situation; (3) during a condition of energy supply alert or energy emergency; or (4) upon the call of the chair when the Governor acts to terminate an energy supply alert or energy emergency.

Upon the Governor's declaration of an energy supply alert or energy emergency, the Joint Committee on Energy Supply must review the Governor's plans and make recommendations. The Joint Committee on Energy Supply is also charged with approving or disap-

proving any requests by the Governor to extend an energy supply alert or energy emergency.

Energy Audits. State agencies and school districts are required to conduct preliminary energy surveys and audits of their buildings. The Department of General Administration (Department) tracks and reports the installation of any energy conservation measures that result from the audits.

Washington Economic Development Finance Authority (WEDFA). The WEDFA is an independent agency within the executive branch of state government. The WEDFA may issue nonrecourse economic development bonds on both a taxable and tax-exempt basis. The WEDFA does not receive any governmental financial support, either direct or indirect for its bonds, nor does it receive any appropriation of state funds for its administration.

Summary: Intent. The Legislature recognizes that implementing conservation measures across all levels of government will create actual energy conservation savings, maintenance and cost savings to state and local governments, and savings to the state economy. The Legislature intends that conservation measures be identified and aggregated within a government entity or among multiple government entities to maximize energy savings and project efficiencies.

Joint Committee on Energy Supply and Energy Conservation. The Joint Committee on Energy Supply is renamed the Joint Committee on Energy Supply and Energy Conservation (Committee).

Energy Audits and Conservation Measures. Aggregated energy audits and conservation measures are authorized for municipalities. Municipalities may conduct energy audits and implement cost-effective energy conservation measures among multiple government entities.

Reporting. All municipalities must report to the Department on whether they implemented during the previous biennium, cost-effective energy conservation measures aggregated among multiple government entities. The reports must be submitted to the Department by September 1, 2007, and by September 1, 2009. In collecting the reports, the Department must co-operate with the appropriate associations that represent municipalities.

The Department must prepare a report summarizing the reports submitted by municipalities. The Department must submit the report to the Committee by December 31, 2007, and by December 31, 2009.

Financing. Financing to implement conservation measures may be carried out with bonds issued by the WEDFA.

Votes on Final Passage:

House	94	0	
Senate	46	0	(Senate amended)
House	96	0	(House concurred)

Effective: July 24, 2005

E2SHB 1896

C 307 L 05

Limiting geoduck harvest in parts of Hood Canal.

By House Committee on Appropriations (originally sponsored by Representatives Appleton, Eickmeyer, Chase and Haigh).

House Committee on Select Committee on Hood Canal
 House Committee on Appropriations
 Senate Committee on Natural Resources, Ocean & Recreation
 Senate Committee on Ways & Means

Background: The state's geoduck resources and commercial geoduck fishery are generally managed jointly by the Washington Department of Fish and Wildlife (WDFW) and the Washington Department of Natural Resources (DNR) pursuant to a Memorandum of Understanding (MOU). The MOU gives the WDFW primary responsibility for conducting resource assessments and setting the total amount of geoduck that can be harvested annually. The DNR has primary responsibility according to the MOU for managing the state harvest and sale of geoducks, including planning and location of state sales.

Hood Canal is a glacier-carved fjord approximately 60 miles in length with approximately 180 miles of shoreline. Portions of Hood Canal have had low dissolved oxygen concentrations for many years. The University of Washington recorded low dissolved oxygen concentrations in the 1950s. In recent years, low dissolved oxygen concentration conditions and significant fish death events have been recorded on Hood Canal. The 2004 dissolved oxygen concentrations in southern Hood Canal were the lowest recorded concentrations for the water body.

Summary: The Department of Natural Resources (DNR) must conduct several studies regarding geoducks in Hood Canal. First, the DNR must conduct a study, by comparing prior population surveys with current surveys, to determine if changes to the Hood Canal geoduck populations have occurred over time. Second, the DNR must assess the relationship between the Hood Canal's geoduck population levels and its environmental conditions, including dissolved oxygen concentrations. Third, the DNR must conduct a study to establish an age profile and analyze the shell oxidation rate of Hood Canal geoduck.

For these studies the DNR must choose geoduck beds or establish index or sampling stations that are representative of the Hood Canal's northern, central, and southern areas. The index stations for the second study must be located near the Department of Ecology's water sampling stations. The DNR must submit reports

describing study results by January 1, 2006, for the first study and by December 1, 2007, for the second and third studies.

Votes on Final Passage:

House	91	3
Senate	42	0

Effective: July 24, 2005

ESHB 1903
C 425 L 05

Creating a job development fund.

By House Committee on Capital Budget (originally sponsored by Representatives Ericks, Haler, Linville, Springer, Kilmer, Morrell, O'Brien, Schual-Berke, P. Sullivan, Simpson, Pettigrew, Jarrett, Wallace, Sells, Strow, Grant, Upthegrove, Kessler, Dunn, Fromhold, Appleton, Chase, Green, Moeller, Hasegawa and Takko).

House Committee on Economic Development, Agriculture & Trade

House Committee on Capital Budget

Senate Committee on International Trade & Economic Development

Senate Committee on Ways & Means

Background: Community Economic Revitalization Board. The Community Economic Revitalization Board (CERB) program was created in 1982 to provide direct loans and grants to counties, cities, and special purpose districts for economic development-related infrastructure improvements. The CERB financing is available for public improvements that include the acquisition, construction, or repair of domestic and industrial water, sewer and storm water infrastructure; bridge, railroad, electricity, telecommunication, and road improvements; buildings and structures; port facilities; and feasibility studies. The CERB financing must be necessary to either bring a new business into a community or expand or retain an existing business that is already located in the community.

The CERB has 15 voting members. There are two members from the House of Representatives appointed by the Speaker of the House, and chosen from each of the two major caucuses. There are two members from the Senate, appointed by the President of the Senate, and chosen from each of the two major caucuses. The Governor appoints a recognized private or public sector economist, a port district official, one county official, one city official, one representative of a federally recognized Indian tribe and one representative of small business from each of the following geographic areas: (a) the area west of Puget Sound; (b) the area east of Puget Sound and west of the Cascade range; (c) the area east of the Cascade range and west of the Columbia River; and (d) the area east of the Columbia River. In addition, the

Governor appoints one executive from large businesses on each side of the Cascades. The Director of the Department of Community, Trade & Economic Development, the Director of the Department of Revenue, the Commissioner of the Employment Security Department and the Secretary of Transportation all serve as nonvoting advisory members.

Public Works Trust Fund. The Public Works Trust Fund (PWTF) Program was created in 1985 to provide loans to counties, cities, and certain special purpose districts, which do not include school and port districts, to improve existing public infrastructure. The PWTF loans are available for the planning, acquisition, construction, repair, reconstruction, replacement, rehabilitation, or improvement of streets and roads, bridges, water systems, or storm and sanitary sewage systems, and solid waste facilities, including recycling facilities. In order to qualify for financial assistance under the PWTF, the county, city, and special purpose district must: (1) impose an excise tax on the sale of real estate of at least .25 of 1 percent; (2) have developed a long-term plan for financing public works needs; and (3) be using all local revenue sources that are reasonably available for funding public works.

The PWTF is capitalized through dedicated taxes and loan repayments. A portion of the taxes on water and sewer rates as well as the real estate excise tax goes to the PWTF. In addition, the proceeds from a tax on refuse collection of 3.6 percent is allotted to the PWTF.

Summary: The Job Development Fund Grant Program is created and will be administered by the CERB. The CERB will establish a competitive process to request proposals for and prioritize public infrastructure projects. The public infrastructure project must have a primary objective to stimulate community and economic development. For the purposes of the Job Development Fund Grant Program, "public infrastructure projects" means a project of a local government or federally recognized Indian tribe for the planning, acquisition, construction, repair, reconstruction, replacement, rehabilitation or improvements of bridges, roads, domestic and industrial water, earth stabilization, sanitary sewer, storm sewer, railroad, electricity, telecommunications, transportation, natural gas, buildings or structures and port facilities.

The CERB will develop criteria to evaluate and rank applications. Among the priorities for project ranking the CERB must consider are the relative benefits provided to the community by the jobs the project would create. This includes, but should not be limited to, the total number of jobs a project would create after it is completed. The CERB must also consider the rate of return of the state's investment in the project, including the expected increase in state and local tax revenues associated with the project. The community's present level of economic activity and the existing local financial capacity to increase economic activity must also be con-

sidered. Finally, the CERB must consider whether a project is a partnership of multiple jurisdictions.

An applicant must demonstrate that the requested assistance will directly stimulate community and economic development by facilitating the creation of new jobs or the retention of existing jobs. An examination of the applicant's existing assets that may be applied to the project shall also be considered. An applicant must also demonstrate that no other timely source of funding is available for the project at a reasonably similar cost. A project may not receive funding from the Job Development Fund if the project would result in a development or expansion that would displace existing jobs in any other community in the state. The CERB must also develop performance and evaluation criteria to review how well successful applicants met the community and economic development objectives stated in their applications. Job Development Fund grants may only be awarded to those applicants that have entered into or expect to enter into a contract with a private developer that will result in the creation or retention of jobs when the project is completed.

The maximum grant available from the Job Development Fund for any single project is \$10 million and may not exceed 33 percent of the total cost of the project. The nonstate portion of the total project costs may include cash, the value of real property when acquired solely for the purpose of the project, and in-kind contributions.

The CERB and the Joint Legislative Audit and Review Committee (JLARC) shall develop performance criteria for each grant and evaluation criteria to be used to evaluate both how well successful applicants met the community and economic development objectives stated in their applications, and how well the Job Development Fund program as a whole performed in creating and retaining jobs.

For the 2005-07 biennium, the CERB may solicit and rank applications; however, to the extent funding is provided in the 2005-07 Capital Budget, the list of selected projects does not have to be submitted to the Legislature for approval unless otherwise required in the 2005-07 Capital Budget appropriation.

For the 2007-09 biennium, the CERB shall request an appropriation of \$50 million from the public works assistance account and submit to the Legislature and the Governor a prioritized list of recommended projects for biennial appropriation. The CERB may provide an alternate prioritized list of projects for an additional \$10 million in funds. The Legislature may remove projects from the CERB's recommended list, but may not change the order of priority for the projects and may add projects from the alternate list in order of priority.

By September 1, 2010, the JLARC shall submit a report to the appropriate legislative committees. At a minimum, the report must evaluate the effectiveness of

the Job Development Fund Grant Program and include a project by project review. In addition, JLARC must include in the report the impacts to the availability of low-interest and interest-free loans to local governments under the Public Works Trust Fund resulting from appropriations to the Job Development Fund.

The JLARC is directed to conduct an inventory of all state public infrastructure programs and funds. Where appropriate, the inventory must evaluate the return on investment for economic development infrastructure projects. The inventory is due to the appropriate legislative committees by December 1, 2006.

The Job Development Fund Program expires June 30, 2011.

Votes on Final Passage:

House	54	41	
Senate	40	9	(Senate amended)
House			(House refused to concur)

Conference Committee

Senate	39	7
House	59	39

Effective: July 24, 2005

HB 1915
C 208 L 05

Authorizing the governor to enter into cigarette tax contracts with additional tribes.

By Representatives McIntire, Conway, Clements, McCoy, Williams and Chase; by request of Department of Revenue.

House Committee on Finance
Senate Committee on Ways & Means

Background: The rate for the cigarette tax is 142.5 cents per pack of 20 cigarettes. Retail sales and use taxes are also imposed on sales of cigarettes. Revenue from the first 23 cents of the cigarette tax goes to the State General Fund. The next 8 cents are dedicated to water quality improvement programs through June 30, 2021, and to the State General Fund thereafter. The next 101 cents go to the Health Services Account. The remaining 10.5 cents are dedicated to youth violence prevention and drug enforcement. Retail sales and use taxes are also imposed on sales of cigarettes. The total rate for state and local sales and use taxes varies from 7 percent to 8.6 percent, depending on the location.

Under federal law, the cigarette tax does not apply to cigarettes sold on an Indian reservation to an enrolled tribal member for personal consumption. However, sales made by tribal cigarette retailers to non-tribal members are subject to the tax. Enforcement of state cigarette taxes with respect to tribal retail operations has involved considerable difficulty and litigation, with mixed results.

In 2001, the Governor was authorized to enter into

contracts concerning the sale of cigarettes with federally recognized Indian tribes located within Washington. Contracts must be for renewable terms of eight years or less. Cigarettes sold on Indian lands under a contract are subject to a tribal cigarette tax and are exempt from state cigarette and sales and use taxes.

In general, cigarette contracts must:

- limit tribal retailing to sales of cigarettes by tribes or Indians in Indian country;
- prevent sales to any person under the age of 18 years;
- require that the tribal cigarette tax be used for essential government services;
- require the use of tribal cigarette tax stamps;
- include provisions for tax compliance;
- require that tribal retailers purchase cigarettes only from approved sources; and
- include a procedure for correcting violations of the contract and provision for

termination of the contract should violations not be resolved.

The original cigarette contract legislation authorized the Governor to enter into contracts with the Squaxin Island Tribe, the Nisqually Tribe, the Tulalip Tribes, the Mukleshoot Indian Tribe, the Quinault Nation, the Jamestown S'Klallam Indian Tribe, the Port Gamble S'Klallam Tribe, the Stillaguamish Tribe, the Sauk-Suiattle Tribe, the Skokomish Indian Tribe, the Nooksack Indian Tribe, the Lummi Nation, the Chehalis Confederated Tribes, and the Upper Skagit Tribe. Subsequent legislation authorized contracts with the Yakama Nation, the Suquamish Tribe, the Snoqualmie Tribe, the Swinomish Tribe, the Quileute Tribe, the Samish Indian Nation, and the Kalispel Tribe.

Summary: The Governor may enter into cigarette tax contracts with the Confederated Tribes of the Colville Reservation, the Cowlitz Indian Tribe, the Lower Elwha Klallam Tribe, and the Makah Tribe. The terms of the contracts must be the same as for previously authorized contracts.

Votes on Final Passage:

House	96	0
Senate	44	0

Effective: July 24, 2005

EHB 1917

C 410 L 05

Improving stability in industrial insurance premium rates.

By Representatives Conway, Wood and Chase.

House Committee on Commerce & Labor
Senate Committee on Labor, Commerce, Research & Development

Background: The Department of Labor and Industries (Department) administers the Washington industrial insurance system. The Department's responsibilities include operating the state fund from which employers who are not self-insured purchase industrial insurance coverage.

Industrial Insurance Funds. The State Industrial Insurance Fund administered by the Department includes three basic funds: the Accident Fund, the Medical Aid Fund, and the Supplemental Pension Fund. The Accident Fund is used to pay time-loss benefits, permanent partial disability awards, and pensions. The Medical Aid Fund is used to pay medical and vocational rehabilitation benefits. The Supplemental Pension Fund is used to pay cost-of-living adjustments to workers receiving time-loss or pension payments.

All state fund employers pay premiums to the Department for these three funds. These employers deduct one-half of the premium for the Medical Aid Fund and the Supplemental Pension Fund from their employees' wages. On average, the employees' share is approximately 25 percent of the total composite premium (the total premium for all three funds).

Industrial Insurance Contingency Reserve. The State Industrial Insurance Fund includes a contingency reserve targeted, under Department policy, at about 10 percent of the trust fund liabilities. The contingency reserve is the amount in the Medical Aid Fund and the Accident Fund that exceeds the benefit, claims administration, and other liabilities of the funds. These liabilities include an actuarial calculation of estimated future claim and administrative costs for injuries already incurred on a discounted basis.

Industrial Insurance Premium Rate-Setting. The Department must classify industries according to hazard and set industrial insurance premium rates for each classification at the lowest level necessary to maintain actuarial solvency of the Medical Aid Fund and the Accident Fund in accordance with recognized insurance principles. Premium rates for the Supplemental Pension Fund are set on a "current payment" basis because this fund does not accumulate reserves.

Workers' Compensation Advisory Committee. The Workers' Compensation Advisory Committee (WCAC) is a statutory committee composed of 10 members appointed by the Director of the Department. The members include three members representing state fund

employers, one member representing self-insured employers, three members representing employees of state fund employers, one member representing employees of self-insured employers, and two non-voting ex officio members representing the Department and the Board of Industrial Insurance Appeals. The Department representative chairs the WCAC. The WCAC is charged with conducting a continuing study of any aspects of workers' compensation that it determines requires its consideration.

Summary: The Department of Labor and Industries (Department), in setting industrial insurance premium rates, must set rates designed to attempt to limit fluctuations in premium rates (in addition to maintaining actuarial solvency of the Medical Aid Fund and the Accident Fund).

After the State Auditor issues the first report on its audit of the industrial insurance system that will be required if either Substitute House Bill 1856 or Substitute Senate Bill 5614 are enacted, the Workers' Compensation Advisory Committee (WCAC) must review the report. If the WCAC deems it appropriate, the WCAC may make recommendations to the Department concerning the level of contingency reserve that is appropriate to maintain actuarial solvency of the Accident Fund and the Medical Aid Fund, limit premium rate fluctuations, and account for economic conditions. The recommendations may also address the circumstances under which the Department should give premium dividends or temporarily reduce rates when surplus funds exist in the trust funds. The WCAC may update its recommendations based on future audit reports of the State Auditor.

These provisions apply to industrial insurance premium rates that take effect on or after January 1, 2008.

Votes on Final Passage:

House 96 0
Senate 41 0

Effective: July 24, 2005

SHB 1918
C 108 L 05

Implementing a recommendation of the joint legislative audit and review committee with regard to industrial insurance.

By House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Wood and Chase).

House Committee on Commerce & Labor
Senate Committee on Labor, Commerce, Research & Development

Background: Industrial insurance is a no-fault state workers' compensation program that provides medical and partial wage replacement benefits to covered work-

ers who are injured on the job or who develop an occupational disease. Employers who are not self-insured must insure with the state fund operated by the Department of Labor and Industries (Department).

When an accident occurs to a worker, the worker has a duty under the Industrial Insurance Act to report the accident "forthwith" to the employer or supervisor in charge of the work. The employer, in turn, has a duty to report the accident and resulting injury "at once" to the Department if the worker has received medical treatment, has been hospitalized or disabled from work, or has died as the apparent result of the injury.

Workers must also file a claim application with the Department or self-insured employer, together with a certificate of the attending health services provider. The attending provider must inform the worker of his or her rights under the Industrial Insurance Act and assist the worker in filing the claim application.

In its 1998 Workers' Compensation System Performance Audit, the Joint Legislative Audit and Review Committee (JLARC) made a number of recommendations concerning the workers' compensation system, including Recommendation 2:

The Department should adopt an alternative system for the reporting of injuries under which the worker would report to the employer and the employer would report to the Department. An educational effort should be launched to promote this method of reporting.

In June 2002, the Department implemented an Occupational Health Services Project (Project) developed in partnership with the Workers' Compensation Advisory Committee and the University of Washington. Under the program, two Centers of Occupational Health and Education have been established, one in Renton, Washington, and one in Spokane, Washington. These centers have several objectives, including providing interdisciplinary occupational health training and mentoring, working directly with community providers, and facilitating communication among providers, workers, employers, and the industrial insurance system. The University of Washington provides process improvement services to the Project and will undertake a formal evaluation of the Project.

Summary: The Legislature finds that the JLARC Workers' Compensation System Performance Audit reported that:

- a significant cause for delayed benefit payments and lack of employer involvement in claims was the manner in which claims were reported;
- adopting a system in which the employee first reports to the employer and the employer reports to the Department would speed the first payment of benefits and involve the employer in the claim from the beginning; and

- the new reporting system should be an alternative to the current system in which the worker reports to the physician.

The Department is required to develop an initiative to encourage workers to report industrial insurance injuries to the employer and the employer, in turn, to report the injuries to the Department, including taking steps to educate workers and employers about the benefits of prompt reporting.

By December 1, 2006, the Department must:

- develop and make statutory recommendations for an alternative system of reporting injuries under which the worker would report to the employer and the employer would report to the Department. Upon passage of the legislation, the Department must immediately begin an educational effort to promote this method of reporting; and
- report to the Legislature on a study of (1) the claims that are not reported promptly, (2) the effect of the educational initiative on whether the number of claims reported to employers increased, whether there was a reduction in delays in benefit payments, and whether there was an improvement in employer involvement in assisting with claims management and an increase in appropriate return-to-work for injured workers, and (3) the efforts of the Centers of Occupational Health and Education in early reporting and early notification of employers.

If an attending health services provider files a claim application on behalf of an injured worker, the provider may fax the application to the Department. When the Department has received an application, the Department must promptly notify the employer and, if the employer is a state fund employer, must instruct the employer to submit a report of accident and provide the employer with a telephone number for assistance with the report. The Department must also send a copy of the application to the employer if the employer has not received a copy.

Votes on Final Passage:

House	97	0
Senate	45	0

Effective: July 24, 2005

June 30, 2007 (Sections 3-6)

SHB 1934

C 458 L 05

Increasing penalties for assaulting a peace officer with a stun gun.

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Lovick, Ahern, Dickerson, Santos, O'Brien, Williams, Simpson, Ericks and Chase).

House Committee on Criminal Justice & Corrections

Senate Committee on Judiciary

Background: Assault. In general, a person commits assault if he or she knowingly or intentionally batters another person, attempts to do so, or causes apprehension of an immediate assault. There are four degrees of assault. Simply assaulting another person is assault in the fourth degree (a gross misdemeanor), but may be elevated to assault in the third degree (a class C felony with a seriousness level of III) if the person assaults any of several categories of people carrying out official duties including: law enforcement officers, firefighters, or transit workers.

The crimes of assault in the first and second degrees include seriously harmful conduct such as harming an unborn quick child, knowingly exposing another to HIV, or assaulting another with a deadly weapon. Assault in the second degree is a class B felony with a seriousness level of IV and assault in the first degree is a class A felony with a seriousness level of XII. Both offenses are strikes under Washington's "Three Strikes and You're Out" law where persistent offenders are sentenced to life in prison without the possibility of parole.

Courts sentence defendants under the Sentencing Reform Act based on the seriousness level of the offense and the offender's prior criminal history. For example, a first-time offender committing a level IV offense would receive a presumptive sentence range of three to nine months in jail, while the same offender committing a level XII offense would roughly receive a seven to 10 year sentence in prison.

Assault of a law enforcement or peace officer with a projectile stun gun constitutes third degree assault under most circumstances. If the stun gun was used under circumstances where it was readily capable of inflicting substantial bodily harm, a court could consider it a deadly weapon and its use may constitute second degree assault or a deadly weapon sentencing enhancement.

Summary: Assault of a Peace Officer with a Projectile Stun Gun. The specific crime of assault of a peace officer with a stun gun is added to third degree assault. The seriousness level for assault with a stun gun is raised to a level IV, equivalent to the seriousness level of assault in the second degree.

A projectile stun gun is defined as an electronic device that projects wired probes attached to the device that emit an electrical charge and that is designed and primarily employed to incapacitate a person or animal.

Projectile Stun Gun Study Committee. A Projectile Stun Gun Study Committee is established to review the sale and use of projectile stun guns within Washington. The committee shall be composed of:

- two senators, one from each caucus in the Senate;
- two representatives, one from each caucus in the House of Representatives;

- one police chief and one elected sheriff appointed by the Washington Association of Sheriffs and Police Chiefs;
- one representative appointed by the Association of Washington Cities;
- one representative appointed by the Washington State Association of Counties; and
- one representative appointed by the Department of Health.

The committee is responsible for evaluating public safety issues created by projectile stun guns and must make recommendations regarding whether they should be regulated. Specifically, the committee must review the following issues:

- public safety issues related to projectile stun guns when used by the general public;
- ownership limitations, such as age and criminal record restrictions;
- the practicality of requiring criminal background checks prior to allowing the purchase of a projectile stun gun and who would perform such criminal background checks;
- manufacturing requirements, such as voltage limits and whether to require that projectile stun guns disperse traceable coded materials;
- what use and possession limitations should be placed on projectile stun guns;
- whether mandatory training should be required to purchase a projectile stun gun;
- what penalties shall be assessed to individuals that unlawfully sell, possess, or use projectile stun guns;
- the feelings of the general public about the use of projectile stun guns as an alternative to traditional firearms as means of self-protection; and
- any other issue the committee finds relevant to the regulation of projectile stun guns in Washington.

Staff support is provided by Senate Committee Services and the Office of Program Research.

Legislative members of the study committee are to be reimbursed for travel expenses. Nonlegislative members, except those representing an employer or organization, are also entitled to be reimbursed for travel expenses. A committee report, containing findings and proposed legislation, if any, must be delivered to the full Legislature, not later than December 31, 2005.

Votes on Final Passage:

House	91	6	
Senate	44	0	(Senate amended)
House	97	1	(House concurred)

Effective: July 24, 2005

SHB 1936

C 459 L 05

Allowing members of the public employees' retirement system plans 1 and 2 employed as emergency medical technicians to transfer to the law enforcement officers' and fire fighters' retirement system plan 2.

By House Committee on Appropriations (originally sponsored by Representatives Upthegrove, Hinkle, Simpson, Priest, Miloscia, Schual-Berke, P. Sullivan, Williams, Hasegawa and O'Brien).

House Committee on Appropriations
Senate Committee on Ways & Means

Background: Emergency Medical Technicians (EMTs) employed by local governments in health departments or other divisions of local governments are members of the Public Employees' Retirement System (PERS). The Law Enforcement Officers and Fire Fighters' Retirement System (LEOFF) is limited in membership to specific employers, employees, and only those employees with specific training and performing specific jobs. Generally, LEOFF is limited to full-time, fully-authorized general authority law enforcement officers and full-time, fully-compensated fire fighters employed by fire departments. Emergency Medical Technicians employed by local governments in fire departments who are also qualified fire fighters are members of LEOFF.

All employees first employed in PERS-eligible positions since 1977 have been enrolled in PERS Plan 2/3, which allows for an unreduced retirement allowance at age 65. All employees first employed in LEOFF-eligible positions since 1977 have been enrolled in LEOFF Plan 2 (LEOFF 2), which allows for an unreduced retirement allowance at age 53. Those first employed in PERS and LEOFF-eligible positions before 1977 may be eligible to resume participation in PERS 1 or LEOFF 1 upon resumption of eligible employment.

Several local government EMTs had their jobs moved from various local government entities to fire departments. Upon meeting all the requirements to become fire fighters, such as training and applicable examinations, these EMTs employed at fire departments become members of LEOFF.

In 2003, House Bill 1202 was enacted, permitting members of LEOFF whose jobs as EMTs were moved into fire departments the opportunity to transfer past service credit from PERS into LEOFF. The LEOFF members who elect to transfer service credit earned as an EMT in PERS are required to pay the difference between the contributions that they paid into PERS, and the contributions that they would have paid into LEOFF, plus interest.

Members with service in both PERS 2 and LEOFF 2 may use the portability provisions of state retirement law to combine years of service and average salary for purposes of retirement eligibility, but the retirement ages of

each plan still apply to the benefit receivable from each plan. The consequence of this is that only a reduced PERS 2/3 benefit is available to a member with service in PERS 2 and LEOFF 2 at the LEOFF 2 normal retirement age.

Summary: The definition of "fire fighter" in LEOFF is amended to include any person who is employed on a full-time, fully compensated basis as an emergency medical technician by a city, town, county or district. Members of PERS 2 employed as EMTs are transferred to LEOFF 2 for purposes of future service.

An EMT transferred to LEOFF 2 may also elect to transfer past service earned as an EMT in PERS into LEOFF 2. For the period of past service a member transfers, the member must pay the difference between the employee contributions made to PERS, and the contributions that would have been made had the service been performed in LEOFF 2, plus interest. The employee must complete this payment within five years of applying to the Department of Retirement Systems to transfer the past service credit.

Upon an employee's completing the required payment, the member's service credit and accumulated contributions, and an equal amount of employer contributions are transferred from PERS 2 to LEOFF 2. Within five years of the employee completing payment for the transfer of service credit, the employer is required to pay into LEOFF 2 an amount sufficient to ensure that the contribution rates for LEOFF 2 plan will not increase due to the transfer of service.

The act expires July 1, 2013.

Votes on Final Passage:

House	93	0
Senate	47	0

Effective: July 24, 2005

SHB 1938

C 247 L 05

Addressing the employment and retirement rights of members of the armed forces called to active duty.

By House Committee on Appropriations (originally sponsored by Representatives Hinkle, Darneille, Morrell, Ericks and O'Brien).

House Committee on Appropriations
Senate Committee on Ways & Means

Background: While all of Washington's state-sponsored retirement systems provide credit for interruptive military service, only two plans provide military service credit for non-interruptive military service. Non-interruptive military service credit, often referred to as prior military service credit, applies to military service before joining PERS 1 or the Washington State Patrol Retirement System Plan 1, for up to 5 years of credit after 25

years of plan membership, and after the member pays the full actuarial value of the service credit. The Teachers' Retirement Service 1 members are not authorized to receive credit for prior military service.

Federal law provides employment and re-employment rights to members of the military, including the federal Uniformed Services Employment and Reemployment Rights Act (USERRA), and Washington law is currently in conformance with these federal requirements. The USERRA addresses the rights of employees to benefits, including pension benefits, upon reemployment with their employers after serving in the military.

Summary: The definition of "veteran" used for both interruptive and non-interruptive military service credit in PERS 1 is amended to include Operation Noble Eagle, Operation Enduring Freedom, and Operation Iraqi Freedom.

A member of PERS 1 qualifies for non-interruptive military service credit while a member is actively serving honorably, in addition to after being honorably discharged, or being discharged for physical reasons with an honorable record.

A member of PERS 1 qualifies for military service credit after completing 25 years of creditable service without returning to covered employment. A member who would have become eligible for a retirement benefit if they had continued working for a PERS 1 employer for a period that he or she is serving as a veteran may apply to the Department of Retirement Systems for military service credit.

Votes on Final Passage:

House	94	0	
Senate	47	0	(Senate amended)
House	98	0	(House concurred)

Effective: May 3, 2005

SHB 1945

C 109 L 05

Providing assistance in identifying recalled sprinkler system parts.

By House Committee on Commerce & Labor (originally sponsored by Representatives Holmquist, Simpson, Curtis, Condotta, Dunshee and Darneille).

House Committee on Commerce & Labor
Senate Committee on Labor, Commerce, Research & Development

Background: The state Director of Fire Protection (the state Fire Marshal) administers licensing and certification requirements, and sets license and certificate fees for fire sprinkler contractors and fire sprinkler certificate of competency holders. Contractors pay initial application fees ranging from \$35 to \$500, and annual fees ranging

SHB 1951

from \$100 to \$1,500. (Contractor license fees vary depending on the level of licensing.) Certificate holders pay initial application fees of \$25, and annual fees of \$25. These fees are deposited into the Fire Protection Contractor License Fund. This fund is used only for purposes of licensing and regulating fire protection sprinkler system contractors. It is subject to allotment, but not appropriation.

Summary: The purposes for which the Fire Protection Contractor License Fund may be used are broadened. The fund may be used to assist in identifying fire sprinkler system components that are subject to recalls or voluntary replacement programs, as well as for licensing and regulating fire protection sprinkler system contractors. Assistance must include, but is not limited to, helping identify recalled components, helping to make sure consumers are aware of recalls and voluntary replacement programs, and training and assisting local fire authorities, the industry, and the public. Recalls and voluntary replacement programs must be by manufacturers, testing laboratories, or the federal Consumer Product Safety Commission.

Votes on Final Passage:

House	97	0
Senate	47	0

Effective: July 24, 2005

SHB 1951

C 379 L 05

Regarding vision exams for school-aged children.

By House Committee on Education (originally sponsored by Representatives Quall, Talcott, Haler, Morrell, Campbell, O'Brien, Hankins, Kagi and McDermott).

House Committee on Education

Senate Committee on Early Learning, K-12 & Higher Education

Background: Rules adopted by the Washington Department of Health require school districts to provide screenings for the visual acuity of all children in kindergarten, and grades one, two, three, five, and seven. In addition, visual acuity screenings must be provided for any child showing signs of possible vision loss referred to the school or district by a parent, guardian or school employee. If resources permit, schools are directed to screen children at other grade levels. Screening must be performed by persons competent to administer the screening procedures as a function of their professional background and training or as a function of their special training and demonstrated competence under supervision.

Summary: The Department of Health is directed to convene a work group for the purpose of reevaluating and making recommendations for changes to procedures

used for visual screening of students in public schools. The work group must consider: the benefits of complete eye examinations for all children; when visual screenings, complete eye exams, or both should be done; and what screening techniques are most appropriate. The work group must consult with the Office of the Superintendent of Public Instruction, the State Board of Health, the Optometric Physicians of Washington, and the Washington Academy of Eye Physicians and Surgeons. A preliminary report to the Legislature and the State Board of Health is due December 1, 2005, and final recommendations are due December 1, 2006.

Votes on Final Passage:

House	93	0	
Senate	48	0	(Senate amended)
House	94	1	(House concurred)

Effective: July 24, 2005

HB 1958

C 110 L 05

Extending certain limited fisheries buyback programs.

By Representatives Buck and B. Sullivan.

House Committee on Natural Resources, Ecology & Parks

Senate Committee on Natural Resources, Ocean & Recreation

Background: Closed Fisheries. A closed fishery is a fishery with a set number of licenses held by defined participants. The commercial sea urchin and sea cucumber fisheries have been closed since the year 2000. The Director of the Department of Fish and Wildlife (DFW) is authorized to issue licenses for these fisheries only to individuals who held a license for the fishery in the previous year. The issuance of a license to a new applicant has been prohibited since 2000; therefore, notwithstanding limited exceptions, all holders of a sea urchin or sea cucumber commercial license have held their licenses for at least four consecutive years.

License Buyback. Along with closing the sea urchin and sea cucumber commercial fisheries, the 1999 Legislature also established a program to buyback, or retire, licenses from qualified participants in these fisheries. The DFW is required to use earmarked funds to retire these licenses, if the license holder voluntarily agrees to not renew his or her license the following year. The earmarked funds must be used to retire licenses until the number of fishers participating in either the sea cucumber or sea urchin fishery drops to 25. When that number is achieved, the funds must be used for management and enforcement in the sea urchin or sea cucumber fishery.

Fund Generation. The funds that are earmarked for license retirement are held in the Sea Urchin Dive Fish-

ery Account and the Sea Cucumber Dive Fishery Account respectively. Each fishery is assessed a series of fees and taxes that are directed into the appropriate account.

Through the 2005 season, each license renewal for either fishery is assessed a fee of \$100. Since licenses are issued annually, this is in essence an annual fee for the license holders. In addition, a fee of either \$500 or \$2,500 is assessed if the license holder either designates a different person, known as an alternate operator, to fish under his or her license, or if the license holder transfers the license outright to another person.

The two dive accounts also receive revenue from specific excise taxes. For sea cucumbers and sea urchins, the commercial fishers are required to pay in tax the value of their harvest multiplied by 4.6 percent. Of that percentage, 0.543 percent is earmarked for the retirement account for the appropriate fishery, with the remainder being deposited into the State General Fund. This earmark is set to expire at the end of 2005, and the excise tax paid by commercial sea cucumber and sea urchin fishers is set to be reduced by the amount currently earmarked for the fishery's retirement accounts.

Summary: The date when the sea cucumber and sea urchin \$100 licence renewal fee and the portion of the excise tax dedicated to sea cucumber and sea urchin license retirements expires is extended from 2005 until 2010.

Votes on Final Passage:

House	96	0
Senate	47	0

Effective: July 24, 2005

2SHB 1970

C 384 L 05

Improving government management, accountability, and performance.

By House Committee on Appropriations (originally sponsored by Representatives P. Sullivan, Springer, Miloscia, Upthegrove, Morrell, Haigh, O'Brien, Linville and Takko; by request of Governor Gregoire).

House Committee on State Government Operations & Accountability

House Committee on Appropriations

Senate Committee on Government Operations & Elections

Senate Committee on Ways & Means

Background: A number of programs have been instituted to improve government efficiency and accountability.

Legislation was enacted in 1996 establishing a performance-based budgeting system for state agencies. Agencies are expected to: (1) establish mission state-

ments and set goals; (2) develop strategies to achieve goals; (3) set outcome-based objectives; (4) provide continuous self-assessment of each program; (5) link budget proposals with their mission statements and goals; and (6) objectively determine the success in achieving goals.

The Governor issued Executive Order 97-03 in 1997 requiring all state agencies to develop and implement programs to improve the quality, efficiency, and effectiveness of public services they provide using quality improvement, business process redesign, employee involvement, and other quality improvement techniques.

Executive Order 05-02 was recently issued instituting a government management, accountability and performance system (GMAP). Under GMAP, agencies are required to:

- develop clear, relevant and easy-to-understand performance measures;
- demonstrate how programs contribute to the priorities important to citizens;
- gather, monitor, and analyze program data;
- evaluate program effectiveness;
- hold regular problem-solving sessions;
- allocate resources based on strategies that work; and
- make regular reports on performance to the Governor.

Summary: State agencies are required to develop and implement a quality management, accountability, and performance system. Managers and staff at all levels, including front-line employees, must be involved and training must be provided.

Agencies must ensure that the agency's system:

- uses strategic business planning for the purpose of establishing goals, objectives, and activities consistent with the priorities of government;
- engages stakeholders and customers in establishing service requirements and improve service delivery systems;
- includes clear, relevant and understandable measures for each activity;
- gathers, monitors and analyzes activity data;
- uses data to evaluate program effectiveness;
- establishes performance goals and expectations for employees that reflect the agency's objectives;
- uses activity measures to report progress in reaching agency objectives;
- holds regular problem-solving sessions to develop and implement plans for addressing gaps; and
- allocates resources based on strategies to improve performance.

Agencies are required to report quarterly to the Governor, and the Governor must report performance of state agency programs annually to the citizens of the state. The Governor's report must include progress made toward the priorities of government and improvements in agency management systems, fiscal efficiency, process efficiency, asset management, personnel management,

statutory and regulatory compliance, and management of technology systems.

Agencies are directed to integrate all quality management, accountability, and performance systems undertaken through executive order or other authority.

Beginning no later than 2008, agencies must apply at least once every three years to the Washington State Quality Award, or similar organization, for an independent assessment of its quality management, accountability, and performance system.

For purposes of these provisions, "state agency" includes a state agency, department, office, officer, board, commission, bureau, division, institution, or institution of higher education, and all offices of executive branch state government-elected officials. "State agency" does not include agricultural commissions established by law.

Votes on Final Passage:

House 75 20
Senate 46 0 (Senate amended)
House 66 31 (House concurred)

Effective: July 24, 2005

SHB 1987
C 494 L 05

Regarding alternative assessments.

By House Committee on Education (originally sponsored by Representatives Priest, Ormsby, Curtis and Anderson).

House Committee on Education
Senate Committee on Early Learning, K-12 & Higher Education
Senate Committee on Ways & Means

Background: By law, beginning with the class of 2008, most public school students will be required to meet state standards in reading, writing, and mathematics in order to graduate. The students may meet this requirement by either passing the high school Washington Assessment of Student Learning (WASL) in those content areas or by successfully completing an alternative assessment approved by the Legislature.

Summary: By January 15, 2006, the Office of the Superintendent of Public Instruction (OSPI) will conduct a review of the course requirements and assessments that lead to industry certification in two or more career and technical certification programs. The purpose of the review is to determine the extent to which certification requirements are aligned with the high school WASL. The review will also evaluate the statewide availability and utilization of the certifications. Based on the review, the OSPI will determine if the certifications should be used as alternatives to the WASL for the purposes of high school graduation. The OSPI will also develop a

process for evaluating other industry certification programs to determine whether they can be used as assessment alternatives.

Votes on Final Passage:

House 95 0
Senate 46 0 (Senate amended)
House (House refused to concur)
Senate (Senate receded)
Senate 44 2

Effective: July 24, 2005

SHB 1995
C 330 L 05

Concerning historic public facilities.

By House Committee on Capital Budget (originally sponsored by Representatives Lantz, Skinner, Hunt, Moeller and Upthegrove).

House Committee on Capital Budget
Senate Committee on Ways & Means

Background: The Department of General Administration (GA) owns and manages a number of public and historic facilities in Thurston County including the state capitol grounds, the Visitor Center, the Governor's Mansion and the public spaces in the Legislative, O'Brien, Cherberg, Pritchard, and Temple of Justice buildings. The state capitol grounds include the main capitol campus, Sylvester Park, Heritage Park, Marathon Park, Centennial Park, Capitol Lake, the Interpretive Center, Deschutes Parkway, and the landscape, memorials, artworks, fountains, streets, sidewalks and lighting in each of these areas. In addition, the GA is responsible for the stewardship of the interior furnishings and finishes at the state capitol, and the historic stone exteriors of buildings such as the Insurance, Dolliver, and old capitol buildings. The GA rents these buildings to state agencies for the delivery of programs and to conduct the state's business.

The directors of the GA and the Office of Financial Management have the statutory authority to determine and establish rates to fund the operation of non-assigned public spaces in Thurston County. While the statute does not specifically address what buildings, grounds, or other elements are considered "non-assigned public spaces," the GA has interpreted the law to mean the public and historic facilities of the state capitol, and has taken the lead in planning for and directing the care and maintenance of these places. A charge levied for each Thurston County full-time equivalent (FTE) state employee funds the operation and maintenance of the public and historic facilities.

Summary: State capitol public and historic facilities include: (1) the east, west and north capitol campus grounds, Sylvester Park, Heritage Park, Marathon Park,

Centennial Park, the Deschutes River Basin commonly known as Capitol Lake, the Interpretive Center, Deschutes Parkway, and the landscape, memorials, artwork, fountains, streets, sidewalks, lighting, and infrastructure in each of these areas; and (2) the public spaces and the historic interior and exterior features of the following buildings: the Visitor Center, the Governor's Mansion, the Legislative Building, the John L. O'Brien Building, the Cherberg Building, the Newhouse Building, the Pritchard Building, the Temple of Justice, the Insurance Building, the Dolliver Building, Capitol Court, and the old capitol buildings, including the historic state-owned furnishings and works of art commissioned for or original to these buildings. Aquatic lands in the Capital Lake area that are managed by the Department of Natural Resources are not included in the definition of "state capitol public and historic facilities."

The GA is responsible for the stewardship, preservation, operation, and maintenance of the state capitol public and historic facilities subject to the policy direction of the State Capitol Committee. In administering this responsibility, the GA is directed to apply the U.S. Secretary of the Interior's standards for the treatment of historic properties.

Funding for the current and future maintenance and operational needs of the state capitol public and historic facilities will be authorized in the operating budget from the General Administration Services Account. Funding for development and preservation needs will be authorized in the capital budget from the Capitol Building Construction Account to the extent that revenue is available, or the State Building Construction Account.

The GA is authorized to seek grants, gifts, or donations to support the stewardship of state capitol public and historic facilities. In addition, the GA may purchase historic state capitol furnishings and artifacts or sell historic state capitol furnishings and artifacts that have been designated as state surplus by the Capitol Furnishings Preservation Committee.

Votes on Final Passage:

House	96	0	
Senate	47	0	(Senate amended)
House	95	0	(House concurred)

Effective: July 24, 2005

EHB 1998
C 495 L 05

Creating the apple award program.

By Representatives P. Sullivan and Santos.

House Committee on Education
House Committee on Capital Budget
Senate Committee on Early Learning, K-12 & Higher Education

Senate Committee on Ways & Means

Background: Each year public school students in the fourth, seventh, and 10th grades must take the Washington Assessment of Student Learning (WASL) in reading, writing, and mathematics. Beginning in the 2005-06 school year, the WASL in reading and mathematics will be added in the third, fifth, sixth, and eighth grades as well. Students in the fifth, eighth, and 10th grades must also take the science WASL.

The 2004 Legislature provided \$100,000 in the capital budget for Apple Award Construction Achievement Grants. The grants were provided to the four public elementary schools that had the greatest increase in the percentage of students who met the state standards in reading, writing, and mathematics on the WASL from the 2002-03 to the 2003-04 school year. Each school received \$25,000 to use for capital construction in the school or in the community. The decision on how to use the money was made by the students.

The schools that won the awards were:

- Garden Heights Elementary, Moses Lake School District - play shelter.
- Coulee City Elementary, Coulee Hartline School District - no decision yet but the students are considering an interactive white board, an outdoor garden area, and a snow cone machine.
- Wishkah Valley Elementary, Wishkah Valley School District - no decision yet but students are leaning toward an electronic sign.
- Green Mountain Elementary, Green Mountain School District - may be multipurpose room stage improvements.

Summary: The Apple Award program is created to honor public elementary schools that have the greatest combined average increase in the percentage of students who meet the state standard in reading, writing, and mathematics on the fourth grade WASL. The program will be administered by the State Board of Education.

Each school selected for the award will receive \$25,000 to use for capital construction projects that have been selected by the school's students and approved by the school board. The projects may occur at the school or on public land in the community, city, or county. Funding for the awards is contingent upon amounts appropriated for that purpose.

Votes on Final Passage:

House	93	0	
Senate	46	0	(Senate amended)
House	95	1	(House concurred)

Effective: July 24, 2005

HB 1999
C 331 L 05

Clarifying civil liability for traffic infractions when vehicle title is transferred.

By Representatives Nixon, Flannigan, McDonald and Wood.

House Committee on Transportation
Senate Committee on Transportation

Background: The owner of a vehicle who makes a bona fide sale or transfer of the vehicle is not subject to civil liability or criminal liability for the operation of the vehicle thereafter if they have fulfilled certain requirements regarding the transfer of the vehicle.

In addition, there is specific statutory language relieving the previous owner of an abandoned vehicle of liability for the vehicle if the previous owner properly filed a report of sale or transfer with a date of sale prior to the date of impoundment.

Summary: An individual who makes a bona fide sale or transfer of a vehicle, delivers possession of it to a purchaser, endorses and delivers both the certificate of ownership and the certificate of registration, and properly files a report of sale or appropriate registration documents with the Department of Licensing is relieved of liability for certain traffic infractions. These infractions include parking infractions, high-occupancy toll lane violations, violations recorded by automatic traffic safety cameras, and any other traffic infractions where liability is based on identification of the vehicle rather than the driver. Liability for infractions that occur after the date of a sale that meets these sale requirements falls on the purchaser of the vehicle.

When liability for a traffic infraction based on the identity of the vehicle is determined to reside in a vehicle registered to a car rental company, there is a 30-day window from the time the company is informed of the traffic infraction. Within this time frame, the car rental company may either provide, under oath, the name and address of the person driving the vehicle or state, under oath, that they are unable to determine who was driving or renting the vehicle at the time the infraction occurred. Mailing this statement within the 30-day window relieves the car rental company of liability for the infraction. In lieu of identifying the vehicle operator, the company may also choose to pay the applicable penalty.

Votes on Final Passage:

House	94	0	
Senate	47	0	(Senate amended)
House	90	0	(House concurred)

Effective: July 24, 2005

E2SHB 2015
C 460 L 05

Changing provisions relating to judicially supervised substance abuse treatment.

By House Committee on Appropriations (originally sponsored by Representatives Kagi, O'Brien, Hinkle, Fromhold, Darneille, Upthegrove, Tom, Kenney and Dickerson).

House Committee on Criminal Justice & Corrections
House Committee on Appropriations
Senate Committee on Judiciary

Background: The Drug Offender Sentencing Alternative (DOSA) is an alternative sentencing program that allows a court to waive imposition of an offender's sentence within the standard sentencing range.

If the court determines that a DOSA sentence is appropriate for an offender then it may impose an alternative sentence that includes confinement in a state facility for one-half of the midpoint of the standard sentencing range. While in confinement, the offender must complete a substance abuse assessment and receive, within available resources, substance abuse treatment and counseling.

The offender must spend the remainder of the midpoint of the standard sentencing range in community custody following incarceration. The community custody portion of the sentence must include alcohol and substance abuse treatment which has been approved by the Division of Alcohol and Substance Abuse (DASA) of the Department of Social and Health Services. Offenders may also be required to adhere to crime related prohibitions and affirmative conditions as part of their sentence, as well as pay a \$30 per month fee while on community custody to offset the cost of monitoring.

DOSA Eligibility. An offender is eligible for the prison-based DOSA program if he or she:

- is convicted of a felony that is not a sex or violent offense and the violation does not involve a sentence enhancement;
- has no current or prior convictions for a sex offense;
- has no current or prior convictions for a violent offense;
- would receive a standard sentence range for the current offense which is greater than one year;
- is not subject to a deportation detainer or order; and
- has committed a Violation of the Uniform Controlled Substance Act (VUSCA) where the offense only involves a small quantity of drugs as determined by the court.

If an offender violates or fails to complete the DOSA sentencing conditions, a violation hearing must be held by the Department of Corrections (DOC). If the DOC finds that conditions have been willfully violated, the offender may be reclassified to serve the unexpired term of his or her sentence as ordered by the sentencing judge.

If an offender is reclassified to serve the unexpired term of his or her sentence, the offender will be subject to all rules relating to earned early release time.

Summary: In addition to the original prison-based DOSA, where incarceration in prison is a portion of a DOSA sentence, a new residential chemical dependency treatment-based alternative (residential treatment DOSA program) is created. Courts have the option to sentence a nonviolent offender with a substance abuse addiction to either the current prison-based DOSA or the new residential chemical dependency treatment-based alternative.

DOSA Eligibility. In addition to the current DOSA eligibility requirements, both DOSA programs require that:

- the offender not have been convicted of a violent offense in the last 10 years;
- the offender has never been convicted of a sex offense;
- the standard sentence range for the current offense is greater than one year for the offense that the offender is charged with; and
- the offender has not received a DOSA sentence more than once in the prior ten years before the current offense.

A motion for a DOSA sentence may be made by the court, the offender, or the state. If the court determines that the offender is eligible for a DOSA sentence, the court may order an examination of the offender. The examination report must contain information on the offender's addiction issues to be addressed and a proposed treatment plan. The treatment plan must contain: (1) a proposed DASA licensed or certified treatment provider; (2) the recommended frequency and length of treatment, including both residential chemical dependency treatment and community-based treatment; (3) a proposed monitoring plan, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members and others; and (4) recommended crime-related prohibitions and affirmative conditions. After receipt of the examination report, the court may impose a DOSA sentence (either prison-based DOSA or the new residential chemical dependency treatment-based alternative) if it is determined to be appropriate.

Costs of the examinations and preparing treatment plans may be paid from funds provided to a county from the criminal justice treatment account.

The court may bring an offender participating in a DOSA program back into court at any time on its own initiative to evaluate the offender's progress in treatment or to determine if any violations of the conditions of the sentence have occurred. If the offender is brought back to court, the court may modify the terms of the community custody or impose sanctions. The sanctions may include ordering the offender to serve a term of total con-

finement within the standard range of the offender's current offense at any time during the period of community custody if the offender violates the conditions of the sentence or if the court finds that the offender is failing to make satisfactory progress in treatment. If an offender is ordered to serve a term of total confinement then he or she will receive credit for any time previously served.

Residential Chemical Dependency Treatment-Based Alternative (DOSA) Sentence, Treatment, & Sanctions.

If a court determines a DOSA sentence is appropriate for an offender, the court may order the offender to a prison-based DOSA sentence or a residential chemical dependency treatment-based alternative DOSA sentence. The residential chemical dependency treatment-based alternative is only available to an offender if the midpoint of his or her standard sentence range is twenty-four months or less. If a residential chemical dependency treatment-based alternative DOSA sentence is ordered then the court must impose a term of community custody equal to one-half of the midpoint of the standard sentence or two years, whichever is greater. The community custody sentence is conditioned upon the offender entering and remaining in a certified residential treatment program for a period of three to six months as set by the court.

In addition, the court must impose, as conditions of community custody, treatment and any other conditions as stated in the offender's treatment and monitoring plans. An offender may also be required to adhere to crime related prohibitions and affirmative conditions as part of his or her sentence. If the court imposes a residential community custody sentence, the DOC must, within available resources, make chemical dependency assessments and treatment available to the offender.

The court must schedule a treatment termination hearing three months prior to the offender's anticipated completion date of community custody. Prior to the treatment termination hearing, the treatment provider and the DOC must submit written reports to the court and parties regarding the offender's compliance with treatment and monitoring requirements, and recommendations regarding the offender's termination from treatment.

At the treatment termination hearing, the court may: (1) authorize the DOC to terminate the offender's community custody on the scheduled expiration date; (2) modify the conditions of the community custody and continue the hearing to a date before the expiration date of the offender's community custody; or (3) impose a term of incarceration equal to one-half of the midpoint of the standard sentence range, followed by a term of community custody. If the court imposes a term of incarceration, the DOC must, within available resources, make chemical dependency assessment and treatment services available to the offender during the terms of total confinement and community custody.

Votes on Final Passage:

House 58 37
Senate 46 1 (Senate amended)
House 64 34 (House concurred)

Effective: October 1, 2005

HB 2028

C 111 L 05

Regarding the advisory committee of the office of public defense.

By Representatives Kagi and Darneille; by request of Office of Public Defense.

House Committee on Judiciary
Senate Committee on Judiciary

Background: The Office of Public Defense (OPD), which was created in 1996 and scheduled to sunset in 2009, administers state-funded indigent defense services for criminal appeals.

The Director of the OPD is appointed by the Washington Supreme Court. The Director is supervised by an 11-member advisory committee consisting of judicial representatives, legislators, attorneys, and lay people. The chair and two other members are appointed by the Supreme Court, one member is appointed by the Court of Appeals, two nonattorney members are appointed by the Governor, four members are appointed by the Legislature, and one member is appointed by the Washington State Bar Association.

During an appointee's term on the advisory committee, the appointee may not be an appellate judge or appellate court employee, or be a prosecutor or prosecutor employee, or provide indigent defense services except on a pro bono basis.

For various reasons, temporary judges are sometimes used to hear cases in the Court of Appeals. The chief justice of the Supreme Court may appoint any regularly elected superior court judge or any retired superior, appellate, or Supreme Court judge to serve as a pro tem judge on the Court of Appeals.

Summary: An appointee of the OPD advisory committee may serve as a pro tem appellate court judge.

Votes on Final Passage:

House 97 0
Senate 47 0

Effective: July 24, 2005

HB 2058

C 237 L 05

Regarding notice requirements for school employees convicted of sexual offenses.

By Representatives Quall, Talcott, P. Sullivan, Anderson, Appleton, O'Brien, Lovick, Darneille, Haigh, Holmquist and Ericks.

House Committee on Education
Senate Committee on Early Learning, K-12 & Higher Education

Background: As a condition of employment, school personnel undergo a background check. This background check is intended to reveal any pre-employment convictions. After the initial background check, a school district employer is notified of any convictions occurring during employment to the extent required by law.

Whenever a person is convicted of or pleads guilty to particular types of crimes, the prosecuting attorney must determine whether the person holds a teaching or administrative certificate or is employed by a school district. If the person holds a certificate or is employed by a school district, the prosecuting attorney must notify the Washington State Patrol (WSP). The WSP then must notify the Office of the Superintendent of Public Instruction (SPI), who must report the information to the State Board of Education (SBE) and to the school district where the person is employed.

The types of crimes to which these reporting requirements apply include a specific list of felony sex offenses. These reporting requirements, however, are triggered only when a minor is the victim of the particular sex offense. In cases where a school employee is convicted of an offense against a person other than a minor, no requirement exists to notify the school district employer.

Summary: The modifying phrase "where a minor is the victim" is removed from the category of offenses which, if committed by a school employee, require notice to a school district employer. [If a school employee or certificated person is convicted of or pleads guilty to a felony sex offense, regardless of whether a minor was the victim of the offense, the prosecuting attorney must notify the WSP. The WSP then must notify the SPI, who must notify the SBE and the school district where the person is employed.]

Votes on Final Passage:

House 94 0
Senate 44 0

Effective: July 24, 2005

SHB 2061

C 238 L 05

Requiring disposition to be held in juvenile court in certain circumstances when a case is automatically transferred to adult court.

By House Committee on Juvenile Justice & Family Law (originally sponsored by Representatives Darneille, Moeller and Dickerson).

House Committee on Juvenile Justice & Family Law
Senate Committee on Human Services & Corrections

Background: In general, the juvenile court has exclusive original jurisdiction over juveniles under age 18 who are charged with a criminal offense, traffic infraction, or violation. However, in some situations, the case is transferred to adult court and juvenile court does not have jurisdiction.

A case must be transferred to adult court through an automatic transfer procedure that permits the case to be filed directly into adult court and never enter juvenile court. A case may also be transferred to adult court if a court holds a decline hearing and decides to decline juvenile court jurisdiction.

A case may be automatically transferred to adult court if the juvenile is 16 or 17 years old and the alleged offense is a:

- serious violent offense; or
- violent offense and the offender has a criminal history consisting of:
 - one or more prior serious violent offenses;
 - two or more prior violent offenses; or
 - three or more of any combination of the following offenses: any class A felony, any class B felony, vehicular assault, or manslaughter in the second degree, all of which must have been committed after the juvenile's 13th birthday and prosecuted separately.

If a case is automatically transferred to the adult court, and the prosecutor reduces the charge to an offense that does not require automatic transfer of jurisdiction, the case must be returned to juvenile court, where all further proceedings will be held.

However, in a recent Washington Court of Appeals case, *State v. Manro*, the court found the juvenile automatic transfer of jurisdiction statute requires that if a person is found not guilty of the charge that was the basis of the automatic transfer, but is found guilty of a second count that was not an automatic transfer charge, or if the person were found guilty of a lesser included offense, the case would not be sent to juvenile court for disposition. Instead, the adult court would retain jurisdiction regardless of whether the offense for which the juvenile was convicted was one requiring automatic transfer.

The juvenile court loses jurisdiction over a juvenile when the juvenile turns age 18, unless the court extends juvenile court jurisdiction by issuing a written order. In

no event may the juvenile court extend jurisdiction over any juvenile offender beyond the juvenile's 21st birthday.

Summary: If a juvenile offender case is transferred to adult court pursuant to the automatic transfer of jurisdiction statute, and the juvenile is then charged with multiple counts in adult court, the case will be returned to juvenile court for disposition if the juvenile is found not guilty in the adult criminal court of the charge for which he or she was transferred or is convicted in the adult criminal court of a lesser included offense that is not one requiring automatic transfer.

If the juvenile has turned 18 years of age during the adult criminal court proceedings, the juvenile court must enter an order extending juvenile court jurisdiction.

Votes on Final Passage:

House	96	0
Senate	42	0

Effective: July 24, 2005

HB 2064

C 290 L 05

Clarifying provisions relating to automatic transfer of jurisdiction from juvenile court.

By Representatives Roberts, McDonald, Darneille, Moeller, Ericks, Lantz, McCune, Dickerson and Kagi.

House Committee on Juvenile Justice & Family Law
Senate Committee on Human Services & Corrections

Background: In general, the juvenile court has exclusive original jurisdiction over juveniles under age 18 who are charged with a criminal offense, traffic infraction, or violation. However, in some situations, the case is transferred to adult court and juvenile court does not have jurisdiction.

A case may be transferred to adult court through an automatic transfer procedure that permits the case to be filed directly into adult court and never enter juvenile court. A case may also be transferred to adult court if a court holds a decline hearing and decides to decline juvenile court jurisdiction.

A case must be automatically transferred to adult court if the juvenile is 16 or 17 years old and the alleged offense is a:

- serious violent offense; or
- violent offense and the offender has a criminal history consisting of:
 - one or more prior serious violent offenses;
 - two or more prior violent offenses; or
 - three or more of any combination of the following offenses which were committed after the juveniles 13th birthday and were prosecuted separately: any class A felony, any class B felony, vehicular assault, or manslaughter in the second degree.

In a recent Washington Supreme Court case, *State v. Salavea*, the court found that whether an offense may be transferred to adult court is determined by the date the prosecutor files the charges rather than the date of the offense. The court looked at the statute and found that if the Legislature intended that the determination of whether to automatically transfer a case to adult court be based on the age of the offender at the time the offense took place, it could have used language to indicate this intent. The fact that the Legislature failed to add this language was viewed as an intent to have the transfer determination be based upon the date the case was filed.

Summary: A juvenile must be 16 or 17 years old at the time the offense is committed in order for the automatic transfer of jurisdiction statute to apply.

Votes on Final Passage:

House	96	0
Senate	45	0

Effective: July 24, 2005

SHB 2073
C 508 L 05

Revising juvenile sentencing alternatives.

By House Committee on Juvenile Justice & Family Law (originally sponsored by Representatives Dickerson, Moeller and Chase).

House Committee on Juvenile Justice & Family Law
Senate Committee on Human Services & Corrections

Background: A juvenile offender who is adjudicated of an offense may be given a sentence by the court based on the statutorily available sentencing options. The majority of the sentences imposed by the juvenile court are standard range sentences. Standard range sentences are calculated based on a grid system using the offender's prior criminal history and the seriousness of the current offense.

If the court finds that a standard range sentence is not appropriate in a specific case the court may impose a statutorily available alternative sentence. In 2003, ESSB 5903 was enacted and created several new sentencing options, including the Mental Health Disposition Alternative (MHDA).

The MHDA permits a court to impose a suspended sentence based upon the offender's compliance with mental health treatment. The eligibility requirements for the sentencing alternative are as follows:

- the juvenile must be subject to a standard range sentence of 15 to 65 weeks;
- the offender has a current diagnosis of an axis I psychiatric disorder (excluding a diagnosis solely of a conduct disorder, oppositional defiant disorder, substance abuse disorder, paraphilia, or pedophilia);

- there is an appropriate treatment option available in the community;
- the plan for the offender identifies and addresses requirements for successful participation and completion of the treatment intervention program; and
- the offender, the offender's family, and the community will benefit from the use of the disposition alternative based upon assessments and evaluations conducted for the use of the court. The court should also consider the opinion of the victim.

A juvenile offender is ineligible for the MHDA if he or she is convicted of a sex or violent offense.

If the court imposes the MHDA, the court will impose a sentence including confinement of up to 65 weeks. The court will suspend the sentence, place the juvenile on community supervision for up to one year, require participation in treatment interventions, and impose one or more local sanctions. Local sanctions may include requirements such as up to 30 days of confinement in the detention facility, community service, payment of fines, or probation requirements such as attending school and curfew.

If the juvenile fails to comply with the terms of the MHDA the court may impose sanctions, or may revoke the MHDA and impose the original sentence.

Summary: The eligibility requirements for the Mental Health Disposition Alternative (MHDA) are changed. The requirement that the juvenile offender be subject to a standard range sentence between 15 and 65 weeks is eliminated. A juvenile may now be eligible for the disposition alternative if he or she receives a Department of Social and Health Services Juvenile Rehabilitation Administration (JRA) commitment sentence of any length.

The offenses which are ineligible for the sentencing alternative are changed. An offender who is adjudicated of any of the following offenses is ineligible for the disposition alternative:

- a firearm offense;
- an offense category A+, A, or A- offense, or the attempt, conspiracy, or solicitation to commit a class A+, A or A- offense;
- manslaughter in the Second Degree;
- a sex offense; or
- any offense category B+ or B offense when the offense includes the infliction of bodily harm, or if the juvenile was armed with a deadly weapon.

The JRA is required to pay the costs incurred by the juvenile courts for mental health and psychiatric evaluations, as well as supervision and treatment cost, subject to funds appropriated for this purpose.

Votes on Final Passage:

House	96	0	
Senate	47	0	(Senate amended)
House	98	0	(House concurred)

Effective: July 24, 2005

SHB 2081

C 478 L 05

Creating an aquatic rehabilitation zone designation as a framework for Hood Canal recovery programs.

By House Committee on Select Committee on Hood Canal (originally sponsored by Representatives Eickmeyer, McCoy, Chase, Appleton and Haigh).

House Committee on Select Committee on Hood Canal
Senate Committee on Natural Resources, Ocean & Recreation

Background: Hood Canal is a glacier-carved fjord approximately 60 miles in length with approximately 180 miles of shoreline. Portions of Hood Canal have had low dissolved oxygen concentrations for many years. The University of Washington recorded low dissolved oxygen concentrations in the 1950s. In recent years, low dissolved oxygen concentration conditions and significant fish death events have been recorded on Hood Canal. The 2004 dissolved oxygen concentrations in southern Hood Canal were the lowest recorded concentrations for the water body.

The Puget Sound Action Team (PSAT) is a state agency that develops and coordinates water quality programs in Puget Sound. The Hood Canal Coordinating Council (HCCC) is a group of county and tribal governments established to address water quality problems and natural resource issues in the Hood Canal watershed. In May 2004, the PSAT and HCCC prepared a report - the *Preliminary Assessment and Corrective Action Plan (PACA)* - assessing human-influenced nitrogen sources for Hood Canal. The PACA identifies six major categories of sources and specifies recommendations for corrective actions for these categories.

Research and monitoring related to Hood Canal's low dissolved oxygen concentrations is being conducted. The Department of Ecology's marine waters monitoring program and the University of Washington's Puget Sound Regional Synthesis Model (PRISM) program involve testing at numerous Hood Canal stations. In addition, Hood Canal monitoring and research are being conducted by the United States Geological Survey and various local agencies and organizations. Further, a group of federal, state, local, and tribal agencies and non-profit organizations have established the Hood Canal Dissolved Oxygen Program (HCDOP), a three-year effort to coordinate Hood Canal monitoring, analysis, and modeling results.

Summary: Aquatic rehabilitation zones (ARZs) may be designated by the Legislature for areas whose surrounding marine water bodies pose serious environmental or public health concerns. The first ARZ, known as ARZ One, is created for the watersheds that drain into Hood Canal south of a line projected from Tala Point in Jefferson County to Foulweather Bluff in Kitsap County.

The ARZ provisions are codified as a new chapter in Title 90 RCW. These new statutory provisions do not alter, diminish, or expand existing jurisdictional authorities in other statutes or affect application of other statutory requirements or programs not specifically referring to ARZs.

The ARZ provisions do not apply to forest practices regulated under the state's Forest Practices Act.

Legislative findings identify the substantial environmental, cultural, economic, recreational, and aesthetic importance of Hood Canal. Legislative findings also specify concerns regarding Hood Canal's low dissolved oxygen concentrations and identify research and monitoring efforts that are occurring with respect to this condition. Legislative findings also recognize a need for the state to take action to address Hood Canal's low dissolved oxygen concentrations. Legislative intent is specified to establish an ARZ as a statutory framework to address this condition as solutions are identified.

Votes on Final Passage:

House	56	38	
Senate	48	0	(Senate amended)
House	63	33	(House concurred)

Effective: May 16, 2005

SHB 2085

C 354 L 05

Regarding the cleanup of waste tires.

By House Committee on Transportation (originally sponsored by Representatives Simpson, Hankins, Murray, Haler, Morris, Ormsby, B. Sullivan, Dickerson, Chase, Wood and Ericks).

House Committee on Transportation
Senate Committee on Water, Energy & Environment
Senate Committee on Ways & Means

Background: A \$1 fee was assessed on the retail sale of each new vehicle replacement tire sold from October 1989 until September 1995. The fee was collected by the tire seller, who was entitled to retain 10 percent of all fees collected. Revenue generated by the fee was used to fund state and local efforts to remove discarded tires from unauthorized dump sites, to fund local enforcement, to fund local pilot projects for on-site tire shredding, to implement a public education program, to produce marketing studies on tire recycling, and to fund a tire study. In 2002, the Legislature enacted a requirement that the Department of Ecology (DOE) track and report the annual and cumulative increases and decreases in the state's tire recycling rates.

Individuals who engage in the business of transporting or storing waste tires are required to be licensed by the DOE. To obtain a license, the business must assure the DOE that it is in compliance with the law and post a

bond of \$10,000. A violation of licensing requirements is punishable as a gross misdemeanor.

Summary: The \$1 tire fee on the sale of new replacement tires is reinstated beginning July 1, 2005. Tire retailers may retain 10 percent of the fee and must remit the remainder to the Department of Revenue. Any retailer that converts the fee to his own use is guilty of a gross misdemeanor. Retailers that do not collect the fee or fail to remit the fee to the DOR are personally liable to the state for the amount of the fee. A retailer who fails to collect the fee, with the intent to violate the provisions of this Act, is guilty of a misdemeanor.

The Waste Tire Removal Account is created in the state treasury. It is an appropriated account and moneys may be used for the cleanup of unauthorized waste tire piles and measures to prevent future accumulation of unauthorized waste tire piles.

An appropriation of up to \$150,000 is made to the Office of Financial Management for oversight of a detailed study to identify and collect information on tire cleanup sites in the state. The DOE is directed to conduct the study, which is to be delivered to the Legislature by November 15, 2005.

The study must include at least the following elements:

- identification of existing tire cleanup sites in Washington;
- the estimated number of tires in each tire cleanup site;
- a map identifying the location of each one of the tire cleanup sites;
- a photograph of each one of the tire cleanup sites;
- the estimated cost for cleanup of each tire site by cost component;
- the estimated reimbursement of costs to be recovered from persons or entities that created or have responsibility for the tire cleanup site;
- identification of the type of reimbursements for recovery by each of the tire cleanup sites;
- the estimated time frame to begin the cleanup project and the estimated completion date for each tire cleanup site;
- an assessment of local government functions relating to unauthorized tire piles, including cleanup, enforcement, and public health;
- identification of local government needs for each one of the counties; and
- a statewide cleanup plan based on multiple funding options between 20 cents and 60 cents for each new tire sold at retail in the state starting on July 1, 2005. The plan shall include the estimated time frame to begin each of the tire cleanup sites and the estimated completion date for each one of the sites. In addition, the plan must include a process to be followed in selecting entities to perform the tire site cleanups. The 2006 Legislature will determine the final

distribution of the tire cleanup fee and the appropriations for this statewide tire cleanup plan.

The DOE is directed to begin a pilot project for the clean up of a tire pile in Goldendale, Washington.

Some changes are made to the requirements for obtaining a license from the DOE to transport or store waste tires. A business must accept liability for and authorize the DOE to recover any costs incurred in any cleanup of waste tires transported or newly stored by the applicant in violation of the law. The amount of the bond that must be posted by licensed businesses will be determined by the DOE in an amount sufficient to cover the liability for cost of cleanup of waste tires. However, the current bond amount of \$10,000 is maintained until January 1, 2006. Licensees must also be registered in Washington as a business, have a federal identification number and report annually to the amount of tires transported and their disposition. Failure to report will result in revocation of the license.

Persons who transport or store waste tires without a license will be liable for the costs of cleanup of any waste tires transported or stored. Once waste tires are legally transferred to a permitted recycler, the transferring business has no further liability relative to the transferred tires.

Votes on Final Passage:

House	76	17	
Senate	41	4	(Senate amended)
House	75	20	(House concurred)

Effective: July 1, 2005

HB 2088
C 35 L 05

Adding a ninth member to the state fire protection policy board.

By Representatives Lantz, Haigh and Simpson.

House Committee on State Government Operations & Accountability
Senate Committee on Government Operations & Elections

Background: In 1985, the Legislature created the State Fire Protection Policy Board (Board). The Board assumed the duties of the former Office of the State Fire Marshal and the Fire Services Training Division in the Commission for Vocational Education. In 1995, the Legislature transferred all the powers, duties, and functions of the Department of Community, Trade, and Economic Development pertaining to fire protection to the Washington State Patrol, including oversight over the Board.

The Board is responsible for developing a comprehensive state policy regarding fire protection services, including the adoption of a master fire training and edu-

cation plan and the development of a master plan for constructing fire training facilities. The Board must also monitor fire protection in the state and develop objectives and priorities to improve fire protection.

The eight-member Board appointed by the Governor consists of the following:

- one representative of fire chiefs;
- one representative from the insurance industry;
- one representative of cities and towns;
- one representative of counties;
- one full-time, paid, career fire fighter;
- one volunteer fire fighter;
- one representative of fire commissioners; and
- one representative of fire control programs of the Department of Natural Resources.

Appointed members of the Board serve three-year terms and initial board members are appointed for the following terms of office:

- three members are appointed for one year;
- three members are appointed for two years; and
- four members are appointed for three years.

In 1995, three Board positions were eliminated and one position was added. State law permitted the Board members holding these positions to serve the remainder of their terms in office before the positions were eliminated.

The Washington State Association of Fire Marshals is a statewide fire prevention organization composed of seven divisions working on national codes, state codes, legislative issues, professional development, communications, fire marshals forum, and fire investigation.

Summary: An additional member representing the State Association of Fire Marshals is added to the State Fire Protection Policy Board. The provision is removed that eliminated three board positions upon expiration of the terms of certain members holding office in 1995.

Votes on Final Passage:

House	96	0
Senate	48	0

Effective: July 24, 2005

ESHB 2097

C 479 L 05

Establishing a management program for Hood Canal rehabilitation.

By House Committee on Select Committee on Hood Canal (originally sponsored by Representatives Eickmeyer, Upthegrove, Hunt, B. Sullivan, Chase, Ericks, McCoy, Hunter, Pettigrew and Appleton).

House Committee on Select Committee on Hood Canal
Senate Committee on Natural Resources, Ocean & Recreation

Background: Hood Canal is a glacier-carved fjord approximately 60 miles in length with approximately 180 miles of shoreline. Portions of Hood Canal have had low dissolved oxygen concentrations for many years. The University of Washington recorded low dissolved oxygen concentrations in the 1950s. In recent years, low dissolved oxygen concentration conditions and significant fish death events have been recorded on Hood Canal. The 2004 dissolved oxygen concentrations in southern Hood Canal were the lowest recorded concentrations for the water body.

The Puget Sound Action Team (PSAT) is a state agency that develops and coordinates water quality programs for Puget Sound. The Hood Canal Coordinating Council (HCCC) is a group of county and tribal governments established to address water quality problems and natural resource issues in the Hood Canal watershed. In May 2004, the PSAT and HCCC prepared a report - the *Preliminary Assessment and Corrective Action Plan (PACA)* - assessing sources of human-influenced nitrogen introduced into Hood Canal. The PACA identifies six major categories of human-influenced nitrogen sources and specifies recommendations for corrective actions for these categories.

Research and monitoring related to Hood Canal's low dissolved oxygen concentrations is being conducted. The Department of Ecology's marine waters monitoring program and the University of Washington's Puget Sound Regional Synthesis Model (PRISM) program involve testing at numerous Hood Canal stations. In addition, Hood Canal monitoring and research are being conducted by the United States Geological Survey and various local agencies and organizations. Further, a group of 20 federal, state, local, and tribal agencies and nonprofit organizations have established the Hood Canal Dissolved Oxygen Program (HCDOP), a three-year effort to coordinate Hood Canal monitoring, analysis, and modeling results.

Summary: Development of a Hood Canal rehabilitation program is authorized for Jefferson, Kitsap, and Mason Counties. The program is authorized within the area designated as an aquatic rehabilitation zone (ARZ) in legislation authorizing these zones [SHB 2081]. This area

includes watersheds that drain into Hood Canal south of a line projected from Tala Point in Jefferson County to Foulweather Bluff in Kitsap County.

The PSAT is designated as the state lead agency for the Hood Canal rehabilitation program. The HCCC is designated as the program's local management board. In addition to serving as the local management board, the HCCC also must serve as the lead entity and regional recovery organization for Hood Canal summer chum and assist in coordinating Hood Canal watershed planning activities. The PSAT's and the HCCC's program activities are subject to the availability of funds appropriated for this purpose.

The PSAT and HCCC must participate in program development, and each must approve and co-manage program projects. The PSAT and the HCCC each may receive and disburse funds for projects, studies, and activities related to Hood Canal's low dissolved oxygen concentrations. The PSAT and HCCC must jointly coordinate a process to prioritize projects, studies, and activities for which the PSAT receives state funding specifically allocated for Hood Canal corrective actions. The PSAT and HCCC must develop funding criteria based on the likely value in addressing and resolving Hood Canal's low dissolved oxygen concentrations. Final project approval requires the consent of both the PSAT and the HCCC.

In developing the program and establishing the funding criteria, the PSAT and HCCC must solicit participation by federal, tribal, state and local agencies as well as universities and nonprofit organizations with expertise related to rehabilitation program activities. The local management board may include state and federal agency representatives or additional persons as nonvoting board members or may receive technical assistance and advice from them in other venues. The local management board also may appoint technical advisory committees as needed.

Reporting requirements are specified. The local management board must assess, with participating local and tribal governments, concepts for a regional governance structure and report the findings and recommendations to the appropriate legislative committees by December 1, 2007. The local management board also must submit a quarterly progress report to its participating counties, tribes, and state agencies. In addition, the local management board must submit an annual report to the appropriate legislative committees.

To fulfill its responsibilities, the local management board may have staff; enter into contracts; accept and disburse funds; make recommendations to local governments regarding potential regulations, programs, and incentives; pay necessary expenses; and choose a fiduciary agent.

Regulatory restrictions are specified. The rehabilitation program provisions do not provide the PSAT or the

HCCC any regulatory authority. In addition, the HCCC (as the local management board) may not exercise authority over land or water within individual counties or otherwise preempt local government authority.

Authority of other entities is preserved. Any of the local management board's participating counties and tribes, any federal, tribal, state, or local agencies, or any universities or nonprofit organizations may continue individual Hood Canal rehabilitation efforts and activities. The local management board provisions do not preclude any local governments from entering into interlocal agreements. In addition, the rehabilitation program provisions do not prohibit any federal, tribal, state, or local agencies, universities, or nonprofit organizations from receiving funding for specific projects that may assist in Hood Canal rehabilitation.

The rehabilitation program provisions do not apply to forest practices regulated under the state's Forest Practices Act.

Legislative findings identify the substantial environmental, cultural, economic, recreational, and aesthetic importance of Hood Canal. Legislative findings also specify concerns regarding Hood Canal's low dissolved oxygen concentrations and identify numerous research, monitoring, and study efforts that are occurring with respect to this condition. Legislative findings also recognize a need for the state to take additional action to address Hood Canal's low dissolved oxygen concentrations. Legislative intent is specified to designate state and local entities to develop and coordinate Hood Canal rehabilitation program and funding.

The Hood Canal rehabilitation program provisions are codified in the new statutory chapter created in the ARZ legislation [SHB 2081].

Votes on Final Passage:

House	58	36	
Senate	35	13	(Senate amended)
House	94	2	(House concurred)

Effective: May 16, 2005

HB 2101
C 380 L 05

Changing provisions relating to registration of sex and kidnapping offenders who are students.

By Representatives Pearson, Lovick, McDonald and Chase.

House Committee on Juvenile Justice & Family Law
Senate Committee on Human Services & Corrections

Background: The Washington State Sex Offender Registration Law began in 1990. The law was later amended in 1997 to include kidnapping offenders in the registration program.

In Washington, a person is required to register as a

sex offender if he or she has been convicted of a sex offense, a kidnapping offense, or has been found not guilty by reason of insanity of a sex offense or kidnapping offense.

The law in Washington defines a sex offense to include the following:

- a felony that is a violation of the offenses listed in the chapter pertaining to sex offenses including rape, child molestation, sexual misconduct with a minor, indecent liberties, voyeurism, and sexually violating human remains;
- incest;
- a felony that is a violation of the chapter pertaining to sexual exploitation of a minor except the offense of possession of depictions of a minor engaged in sexually explicit conduct;
- a felony or gross misdemeanor that is a criminal attempt, solicitation, or conspiracy to commit such crimes;
- a felony with a finding that the felony was committed with a sexual motivation;
- comparable out-of-state convictions and convictions from prior to 1976;
- sexual misconduct with a minor in the second degree; and
- communication with a minor for immoral purposes.

If a person is convicted of a sex offense he or she must register as a sex offender with the county sheriff. The person must provide the following information to the sheriff:

- name;
- address;
- date and place of birth;
- place of employment;
- crime for which convicted;
- date and place of conviction;
- aliases used;
- social security number;
- photograph;
- fingerprints;
- if the person lacks a fixed residence, where he or she plans to stay; and
- the name of the institution of higher education if the person is enrolled or employed at that institution of higher education.

Failure to register as a sex offender is a crime. If the underlying offense for which the person is required to register is a felony sex offense, felony kidnapping, or comparable out-of-state felony, the failure to register constitutes a class C felony offense. The offense is an unranked class C offense and is punishable by up to 12 months confinement and a \$10,000 fine.

If the underlying offense for which the person is required to register is an offense other than a felony sex offense, felony kidnapping, or comparable out-of-state felony, failure to register is a gross misdemeanor. A

gross misdemeanor is punishable by up to one year in confinement and a \$5,000 fine.

Summary: A person who is required to register as a sex offender must notify the county sheriff if he or she is attending or planning to attend a public or private school, including a state school for the blind, deaf or sensory handicapped. The sheriff is then required to promptly notify the school of the person's intent to attend the school.

The school principal who receives notice of a student who is registered as a level II or III sex offender who is attending, or planning to attend, the school is required to further disclose the information to all teachers of the student, and those who the principal determines supervise the student or need to know for security purposes. If the student is a level I sex offender the principal may only disclose the information to personnel who need to know for security purposes.

Any information received by the principal or school personnel is confidential and may not be further disseminated except as provided by law.

A liability limitation is created for law enforcement which states that there is no additional liability imposed upon a peace officer, including the county sheriff or law enforcement agency, for failing to release information required under the sex offender registration statute.

The Safety Center for the Office of the Superintendent of Public Instruction is required to review the training that would be required to implement the bill and is required to report to the Legislature by January 1, 2006.

Votes on Final Passage:

House	97	0	
Senate	49	0	(Senate amended)
House	96	0	(House concurred)

Effective: September 1, 2006

SHB 2124
C 318 L 05

Increasing state participation in public transportation service and planning.

By House Committee on Transportation (originally sponsored by Representatives Murray, Jarrett, Simpson, Hudgins, Upthegrove, Sells, Wallace, Dickerson, B. Sullivan, Moeller, Kenney and Hasegawa).

House Committee on Transportation
Senate Committee on Transportation

Background: Within the Department of Transportation (DOT), the Division of Public Transportation and Rail (Division) has responsibility for providing financial and technical assistance to local transit agencies. The Division also provides support and planning for passenger rail and freight rail, including subsidies for AMTRAK Cascade Services.

State grant funding for local public transportation is about \$42 million in the 2003-05 biennium. This represents about 1 percent of transit agency revenue. State funds provide support for special needs services, rural mobility for areas without transit services, trip reduction grants, and vanpools. The Division also administers federal grant funds for rural public transportation, elderly and disabled service grants, intercity service, and reverse commute for job access.

Together with the DOT's Urban Planning Office, the Public Transportation Division represents the DOT in discussions with local and regional transportation planning and service agencies. They also provide coordinated system planning through the Washington Transportation Plan.

There are 26 transit systems operating in Washington. Transit agencies plan on a six-year cycle, and plans must show how they will fund program needs. Regional transportation planning organizations plan for the long term, providing guidance for transit investments.

Summary: The Office of Transit Mobility (Office) is created in the DOT. The Office must report quarterly to the Secretary of Transportation and annually to the Transportation Committees of the Legislature.

The primary goals of the Office are to connect and coordinate transit services and planning, and to maximize opportunities to use public transportation to improve the efficiency of transportation corridors.

The duties of the Office include:

- developing a statewide strategic plan that creates common goals for transit agencies and reduces competing plans for cross-jurisdictional service;
- developing a park and ride lot program;
- encouraging long-range transit planning;
- providing public transportation expertise to improve linkages between regional transportation planning organizations and transit agencies;
- strengthening policies for inclusion of transit and transportation demand management strategies in route development and corridor plan standards, and budget proposals;
- recommending best practices to integrate transit and demand management strategies with regional and local land use plans in order to reduce traffic and improve mobility and access;
- producing recommendations for the public transportation section of the Washington Transportation Plan; and
- participating in all aspects of corridor planning, including freight planning, ferry system planning, and passenger rail planning.

In forming the Office, the Secretary is directed to use existing resources to the greatest extent possible.

The Office is directed to establish measurable performance objectives for evaluating the success of its initiatives and progress toward accomplishing the overall

goals of the Office.

Local and regional transportation agencies are directed to adopt common transportation goals. The Office is given the responsibility to review local and regional plans to ensure the efficient integration of multi-modal and multi-jurisdictional planning.

The DOT must establish a regional mobility grant program to identify projects that reduce delay for people and goods and improve connectivity between counties and regional population centers.

The DOT must biennially review the Public Transportation Division's existing grant programs and methods for allocating grant funds to determine whether the results are effective and equitable.

The act is null and void unless new transportation revenues are enacted.

Votes on Final Passage:

House	52	42	
Senate	28	18	(Senate amended)
House	59	33	(House concurred)

Effective: July 24, 2005

ESHB 2126

C 381 L 05

Providing accommodations to dependent persons who are victims and witnesses.

By House Committee on Judiciary (originally sponsored by Representatives Lantz, Kenney, Kessler, Rodne, Linville, Hankins, Grant, Takko, Newhouse, Williams, Flannigan, Sells, Ormsby, Chase and Serben).

House Committee on Judiciary
Senate Committee on Judiciary

Background: Definitions of Dependent Persons and Vulnerable Adults. There are various statutes making it a crime to mistreat a dependent person. A "dependent person" is defined in the criminal mistreatment laws as a person who, because of physical or mental disability or because of extreme advanced age, is dependent upon another for the basic necessities of life. The basic necessities of life means food, water, shelter, clothing, and medically necessary health care. A vulnerable adult, resident of a nursing home, or resident of an adult family home is presumed to be a dependent person. A person is a "vulnerable adult" if the person: (a) is 60 years old or older who has the functional, mental, or physical inability to care for him or herself; (b) is found incapacitated under the guardianship laws; (c) has a developmental disability; (d) is admitted to any residential care facility that is required to be licensed by the state; or (e) is receiving services from home health, hospice, or home care agencies or an individual provider.

Rights of Victims and Witnesses. In 1981, the Legislature enacted statutes establishing certain rights for

victims and witnesses of crimes. Those rights generally address issues around keeping the victim informed and making it easier for the victim to participate in court proceedings. In 1985, the Legislature enacted similar statutes establishing rights for child victims and witnesses. Among the rights specifically for child victims and witnesses are provisions for advocates to be present in court and during interviews with the child and a provision to prohibit disclosure of certain identifying information for child victims.

The failure to provide notice of these rights does not result in civil liability as long as the failure to notify was in good faith and without gross negligence. The rights enumerated are not to be construed as creating substantive rights and duties, and, in an individual case, the rights are subject to the discretion of the law enforcement agency, prosecutor, or judge.

Depositions. Court rules, statutes, and case law allow the taking of a witness's deposition in criminal trials.

Under the court rule, upon a showing that the witness may be unable to attend a hearing or refuses to discuss the case with counsel, the court may allow a deposition if the witness's testimony is material and necessary to prevent a failure of justice. The party taking the deposition must notify the other party in writing of the time and place, and the party receiving notice may ask the court to adjust the time and place. A deposition may not be used against a defendant who has not had notice of and an opportunity to participate in or be present at the deposition. The deposition may be used by any party to contradict or impeach the testimony of the witness who was deposed. Court rules and case law allow depositions to be recorded by video tape.

Summary: A new chapter is created to provide rights to dependent persons who are victims and witnesses of crimes and allow for videotape depositions of dependent persons.

The definition of a dependent person is the same as that term is used in the criminal mistreatment laws, and it includes the presumption that a vulnerable adult, resident of a nursing home, or resident of an adult family home is a dependent person.

Rights of Victims and Witnesses Who Are Dependent Persons. A list of rights are enumerated for dependent persons who are victims or witnesses of crimes. The rights are the same as those listed for victims and witnesses and child victims and witnesses, except there is no provision regarding the victim's identifying information. The rights listed are not to be construed as creating substantive rights and duties, and each case is subject to the discretion of law enforcement, the prosecutor, or the judge.

Depositions. Prior to the commencement of a trial, the court may allow the prosecutor or defense to take a videotape deposition of the dependent person if it is

likely that the dependent person will be unavailable to testify at trial. The court's finding of likely unavailability must be based upon, at a minimum, recommendations from the dependent person's doctor or anybody else with direct contact with the dependent person and based on the dependent person's specific behavior. The party seeking the deposition must provide reasonable written notice to the other party, who shall have the opportunity to be present and cross-examine the dependent person. The deposition may be used at trial if the dependent person is unavailable and the other party had notice of and an opportunity to be present at the deposition.

Liability. Failure to provide notice of the rights or to assure these rights to the dependent person shall not result in civil liability if the failure was in good faith.

Votes on Final Passage:

House	93	0	
Senate	45	0	(Senate amended)
House	96	0	(House concurred)

Effective: July 24, 2005

HB 2131

C 201 L 05

Concerning the master licensing service.

By Representatives Conway and Springer; by request of Department of Licensing.

House Committee on Commerce & Labor
 House Committee on Appropriations
 Senate Committee on Government Operations & Elections

Background: The Master License Service (MLS) within the Department of Licensing is charged with providing a consolidated "one-stop" state and local government business licensing service. Certain state agencies are required to participate in the MLS, but cities and counties are not. Ten state agencies and five cities, involving over 100 different licenses, participate in the MLS.

The participating agencies are:

- Department of Labor and Industries
- Department of Revenue
- Department of Agriculture
- Liquor Control Board
- Department of Health
- Employment Security Department
- Department of Ecology
- Washington State Lottery
- Secretary of State's Office
- Department of Licensing

The participating cities are:

- Richland
- Sammamish
- Spokane Valley

- Tumwater
- Bellevue

Under the MLS, each participating agency/city includes its new and renewable licenses as part of this single process. The MLS manages all paperwork between the business license applicant or license holder and the partner agency/city. The MLS maintains a centralized business licensing data system on behalf of the agencies/cities; all have access to their records and information. The MLS collects funds for all licenses and transmits funds to the appropriate agencies/cities. Businesses are able to apply for business licenses via the Internet, by mail, or at any one of the MLS participating agencies/cities.

Summary: The Department of Licensing (Department) is directed to administer a performance-based grant program to provide funds to public agencies that issue business licenses and wish to join the Department's Master License Service.

The Department may determine the order and amounts of the grants considering certain criteria, which include the readiness of the public agency to participate, the number of renewable licenses, and the reduced regulatory impact to businesses subject to licensure relative to the overall investment required by the Department.

The Department must invite and encourage local jurisdictions that issue business licenses to participate in the program. The total amount of grants may not exceed \$750,000 in any fiscal year. The Master License Account is the source of funds for the grant program.

Votes on Final Passage:

House	96	0
Senate	40	1

Effective: July 24, 2005

SHB 2156
C 430 L 05

Creating a joint task force on child safety.

By House Committee on Children & Family Services (originally sponsored by Representatives Hinkle, Kagi, Nixon, Pettigrew, McDonald, Dickerson, Pearson, Springer, Rodne and Williams).

House Committee on Children & Family Services
House Committee on Appropriations
Senate Committee on Human Services & Corrections

Background: If there are allegations of abandonment, abuse or neglect, or no parent who is capable of caring for a child, the state may investigate the allegations and initiate a dependency proceeding in juvenile court. If the court finds the statutory requirements have been met, the court will find the child to be a dependent of the state.

Whenever the court orders a dependent child to be removed from the home, the court will enter a disposi-

tional plan which will include the obligations of the parties including the parents, the supervising agency or Department of Social and Health Services (Department), and the child. The dispositional order will contain an order for the placement of the child either within the home or outside of the home. If the child is placed outside the home, he or she may be placed with a relative or in non-relative foster care.

Within 60 days of assuming responsibility for the child, the Department is required to provide the court with a permanency plan for the child. The permanency plan will contain the desired goal for the child which may include a plan to return the child home, adoption, long-term placement, or guardianship, including a dependency guardianship. The court must hold the permanency planning hearing when a child has been in out-of-home care for nine months. The hearing must take place within 12 months of the current placement.

The status of all dependent children must be reviewed by the court every six months. During the review the court will examine the progress of the parents in meeting the requirements of the dispositional plan. At this hearing the court may return the child to the home if the parent has made sufficient progress.

If the parent fails to make progress in curing the parental deficiencies which led to the dependency, or if one of the statutory aggravating factors exist, a termination petition may be filed. If the court finds the statutory grounds for termination are met, the court will terminate the parental rights and the parent will no longer have rights, privileges, or obligations toward the child.

Summary: A task force is created to review issues pertaining to the health, safety and welfare of children receiving services from child protective services and child welfare services.

The task force membership includes members from the Legislature, Washington Council for the Prevention of Child Abuse and Neglect, child fatality review committees, the Department, public defenders, Office of Family and Children's Ombudsman, Washington Association of Sheriffs and Police Chiefs, Department of Health, Attorney General, Superior Court Judges Association, social workers, foster parents, birth parents, Washington state Indian tribes, and organizations that serve children involved in the child welfare system.

The joint task force will make recommendations to the Legislature and the Governor on the following issues:

- state and federal statutes regarding child safety, placement, removal from the home, termination of parental rights, and reunification with parents;
- current and ongoing Department work groups or work plans regarding child safety, placement, removal from the home, termination of parental rights, and reunification with parents;

- the purpose and value of child protection teams and whether any changes should be made;
- best practices regarding children removed from parents at birth and placed in out-of-home care, transition services for families, and standards for return to home placement including situations where a child has been placed out-of-home and returned to home multiple times;
- the training that is offered to social workers regarding child development and whether any changes should be made;
- best practices regarding sharing of information;
- best practices for assessing and addressing chemical dependency issues of parents;
- the effectiveness of current home-based service providers currently used and whether any changes should be made;
- best practices addressing family cultural and tribal issues and the role, if any, of social worker training or bias in safety assessment and placement decisions; and
- other issues deemed relevant to improving child safety outcomes.

Preliminary findings are due to the Legislature by Dec. 31, 2005 and a final report is due September 1, 2006.

Votes on Final Passage:

House	94	0	
Senate	49	0	(Senate amended)
House			(House refused to concur)
Senate	48	0	(Senate amended)
House	97	0	(House concurred)

Effective: May 13, 2005

E2SHB 2163

PARTIAL VETO

C 484 L 05

Establishing a homeless housing program.

By House Committee on Appropriations (originally sponsored by Representatives Ormsby, Holmquist, Miloscia, Williams, Flannigan, Chase, Dickerson, Sells, Ericks, Dunn, Wood, Green, Linville, Springer, Pettigrew, Kenney, O'Brien, Santos, Kagi, Fromhold and Schual-Berke).

House Committee on Housing
 House Committee on Appropriations
 Senate Committee on Financial Institutions, Housing & Consumer Protection
 Senate Committee on Ways & Means

Background: Washington Homeless Initiatives. Washington does not have a coordinated statewide plan to reduce homelessness, nor does the state have financial resources allocated to the statewide reduction of the

homeless population. Some Washington communities have undertaken local counts of homeless individuals, and the Department of Community, Trade and Economic Development (DCTED) through its Homeless Management Information System tracks homeless individuals in four counties, with the long-term goal of tracking the homeless population statewide. There is no method, however, for calculating the total number of homeless individuals in the state, nor for tracking homeless individuals in relation to their housing status.

Operation and Maintenance of Low-Income Housing Projects. County auditors are required by statute to record deeds and other instruments that are to be filed and recorded with the county. The fees to be charged for recording are set forth in statute. A \$10 surcharge to recordings of certain documents exists to support low-income housing projects (referred to as the "Low-Income Housing Surcharge Program").

The auditor is allowed up to 5 percent of the funds collected under the Low-Income Housing Surcharge Program. Of the remaining funds, the Housing Trust Fund receives 40 percent of the revenue generated. Sixty percent of the revenue generated is to be turned over to the counties for low-income housing programs and projects.

Summary: Homeless Housing Program. The Legislature recognizes that the provision of housing and housing related services to the homeless should be administered at the local level, yet also recognizes the state's responsibility to coordinate, support and monitor efforts to address homeless issues.

Reducing homelessness in Washington (statewide and in each individual county) by 50 percent within 10 years is a goal of the Department of Community, Trade and Economic Development (DCTED) and individual local governments which choose to participate in the homeless housing program. The DCTED must work collaboratively with other state agencies and receive consultation and advice on its Homeless Housing Program and homeless strategic plan from the Interagency Committee on Homelessness (created by this act), the Affordable Housing Advisory Board, non-profit homeless service providers and local governments.

Although goals are state and county specific, city governments may choose to assume responsibility for reducing homelessness within their own boundaries. Such cities are held to the same program requirements as are participating Washington counties. The DCTED, as well as all participating counties and any participating cities, must prepare 10-year plans to reduce homelessness. Local government performance in meeting goals of the plan will be assessed annually by DCTED, the Interagency Council on Homelessness and the Affordable Housing Advisory Board.

Homeless Program Performance Measures. Specific performance measures will be created by DCTED and will include:

- 1) By the end of year one a comprehensive census must be finalized and will report on all homeless individuals in Washington.
- 2) By July 1, 2015, the homeless population statewide in each county will be reduced by 50 percent.

Homeless Housing Program Funding. The Homeless Housing Program is funded by a \$10 surcharge for each document recorded by the county auditor with the exception of documents recording a birth, marriage, divorce or death.

Participation of Local Governments. The participation of local governments in the homeless housing program is voluntary. Counties and cities that choose to participate will receive a share of the \$10 surcharge to implement programs to address homelessness in their areas. Participating local governments are also eligible to apply for portions of the state's share of the surcharge through the Homeless Housing Grant Program. Counties may decline to participate in this program by forwarding a resolution to DCTED (a city need only forward a resolution if it intends to participate). If a county declines participation, all of the funds otherwise due to the county under this act will be remitted monthly by the county auditor to DCTED which will subcontract with another eligible entity to create and execute a plan to reduce homelessness in that county. The DCTED may retain 6 percent of the local share of the funds for administration of the county program in such instances. A city within a non-participating county may still assert its right to manage its own homeless housing program within its boundaries and shall receive monthly transmittals from the county auditor of its share of the local fund surcharge.

Distribution of Homeless Program Funds. Local Government Share. The auditor must retain 2 percent of the \$10 surcharge for collection of the fee. Of the remaining funds, 60 percent of the funds will remain within the participating county of origin. Any city which assumes responsibility for reducing homelessness within its boundaries receives a percentage of the surcharge equal to the percentage of the city's local portion of the real estate excise tax. Six percent of local funds may be used for administrative costs related to the homeless housing program. The remainder of the funds are to be used for local programs and projects directly related to the accomplishment of goals outlined in the county's 10-year strategic plan to reduce homelessness. Programs eligible for funding by counties and/or cities include:

- shelter expansion;
- homeless supportive services;
- eviction prevention programs; and
- supportive and transitional housing.

In addition to funds received through the 60 percent share of the \$10 surcharge, participating counties and cities are eligible to apply to the DCTED for funding through the Homeless Housing Grant Program. Such funds are designed to "augment" the local government's

investments in homeless housing programs.

For the purposes of the Homeless Housing Program, each local government is guided by a Homeless Housing Task Force which is responsible for developing the jurisdiction's ten-year homeless housing plan (by December 31, 2005), choosing programs and projects to be funded through the local government's share of the surcharge fee program, and reporting on performance outcomes to the DCTED. This council could be created specifically for the purpose of fulfilling the objectives of the Homeless Housing Program or could consist of an existing group of individuals willing to assume responsibility for the program. Participating cities may adopt the county's Task Force as its own and may adopt a 10-year plan based upon the county 10-year plan.

State Share. The remaining funds of the total \$10 surcharge will be remitted to the DCTED. Twelve and one-half percent of these funds may be used for program administration, the remaining 87.5 percent is to be distributed through the Homeless Housing Grant Program. The DCTED's responsibilities include:

- creation of the state homeless housing strategic plan;
- coordinating and implementing an annual statewide homeless census;
- implementing and administering a data management and tracking system;
- developing an on-line information and referral system for homeless housing;
- funding and managing the Homeless Housing Grant Program, which is available to participating counties and cities to augment program funds;
- providing technical assistance to counties and cities related to their homeless housing plans; and
- overseeing the statewide Homeless Housing Program and reporting on its progress annually to the Governor.

Homeless Census. The DCTED will coordinate an annual homeless census. This census will, as much as possible, be coordinated with existing homeless census projects. Data collected from the census will be used to develop and amend the DCTED's and local government's 10-year plans.

Quality Management. The Affordable Housing Advisory Council and the Interagency Council on Homelessness will assess DCTED's and participating local government's performance annually. The DCTED must implement an organizational quality management system by the end of year four.

Low-Income Housing Surcharge Program. *Distribution of Low Income Program Funding.* A county may retain up to 5 percent of the funds collected for the administration and local distribution of the surcharge funds. A county will receive "all of the remaining funds" after the county has received its first 5 percent for administrative costs and the DCTED has received its 40 percent distribution.

Votes on Final Passage:

House 51 45
 Senate 28 18 (Senate amended)
 House 50 48 (House concurred)

Effective: August 1, 2005

Partial Veto Summary: The section creating the Inter-agency Council on Homelessness was vetoed.

VETO MESSAGE ON HB 2163-S2

May 16, 2005

To the Honorable Speaker and Members,
 The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning, without my approval as to Section 4, Engrossed Second Substitute House Bill No. 2163 entitled:

“AN ACT Relating to preventing and ending homelessness in the state of Washington.”

Section 4 requires the Governor to create a cabinet level interagency council to include at least seven state agencies. The section specifies that membership is to consist of the directors of those agencies, and does not offer latitude for those directors to delegate membership to staff. Unfortunately, the interagency council is just one of many work groups the Legislature has proposed this year requiring cabinet directors to participate in certain activities. Agency directors cannot do everything themselves and must be allowed to appropriately delegate certain tasks to staff.

Although I am vetoing this section, I am directing the directors of each of the seven agencies named in Section 4 of this bill to ensure that a senior staff member from their agency is clearly designated as that agency’s lead on homelessness issues and designated to coordinate with the staff at the Department of Community Trade and Economic Development who will be developing the state’s homeless housing plan.

For these reasons, I have vetoed sections 4 of Engrossed Second Substitute House Bill No. 2163.

With the exception of sections 4, Engrossed Second Substitute House Bill No. 2163 is approved.

Respectfully submitted,



Christine O. Gregoire
 Governor

HB 2166
 C 60 L 05

Creating the joint legislative committee on water supply during drought.

By Representatives Newhouse, Linville, Kristiansen, Hankins, Grant, Holmquist and Haler.

House Committee on Economic Development, Agriculture & Trade

Senate Committee on Water, Energy & Environment

Background: The Department of Ecology (DOE) declares drought emergencies by administrative order in Washington. Before it can declare a drought emergency, the DOE must determine an area: (1) is experiencing or expected to experience less than 75 percent of normal

water supply; and (2) is expected to suffer undue hardships (such as crop failures, municipal water shortages, and fish passage barriers) as a result of the dry conditions. The Governor must provide written approval for the DOE to issue a drought order.

As of March 2005 the DOE reports that recent warmer and drier-than-average weather patterns have reduced snow-pack levels across the state from less than 50 to approximately 20 percent of average. The National Weather Service’s forecast indicates a continuation of above-normal temperatures and below-normal precipitation in the Pacific Northwest and concludes drought conditions should persist from Washington and Oregon into western Montana.

Summary: The Joint Legislative Committee on Water Supply During Drought (Committee) is created. The Committee may request and review information relating to the state’s water supply conditions. The Committee also may request and review information relating to the actual or anticipated economic, environmental, and other impacts of decreased water supply. The Committee may make recommendations to the Legislature on budgetary and legislative actions to improve the state’s drought response programs and planning.

The Governor’s Executive Water Emergency Committee, the DOE, the Water Supply Advisory Committee, and state agencies with water management or related duties must cooperate in responding to Committee requests. When a drought conditions order is in effect, the DOE must provide the Committee with at least monthly reports describing drought response activities of the DOE and other state and federal agencies participating on the Water Supply Availability Committee. The report must include information regarding applications for, and approvals and denials of, emergency water withdrawals and temporary changes or transfers of water rights.

The Committee includes eight legislative members, four from the House of Representatives and four from the Senate. The members are appointed biennially by the Speaker of the House of Representatives and the President of the Senate respectively. The Committee must include the chairs of the water resources committees of each legislative chamber and two members from each major political party for each chamber.

The Committee must elect a chair and vice-chair. The chair must be a member of the House of Representatives in even-numbered years and a member of the Senate in odd-numbered years. The Committee is convened at the call of the chair when a drought conditions order is in effect or when the chair determines, in consultation with the DOE, that a drought conditions order is likely to be issued within the next year.

Committee members serve until successors are appointed or until they are no longer members of the

SHB 2169

Legislature. Vacancies are filled by appointment from the same political party.

Votes on Final Passage:

House 97 0
Senate 48 0

Effective: April 14, 2005

SHB 2169

C 509 L 05

Creating a pilot project authorizing small counties to regulate day care.

By House Committee on Children & Family Services (originally sponsored by Representatives Walsh, Grant, Buri, Cox and Haler).

House Committee on Children & Family Services
Senate Committee on Human Services & Corrections

Background: The Department of Social and Health Services (DSHS) is required to license agencies providing care for children outside of their homes as identified by state law. The purpose of this licensing requirement is to assure the users of those agencies, their parents, the community at large, and the agencies themselves that adequate minimum standards are maintained by all agencies caring for children in order to safeguard the health, safety, and well-being of those children receiving care.

Among the agencies identified in state law as subject to licensing by the DSHS are family daycare providers, which are defined as child daycare providers who regularly provide child daycare for not more than 12 children in the provider's home in the family living quarters.

Summary: Notwithstanding the requirement that the DSHS license agencies providing care for children outside of their homes, counties with a population of 3,000 or less may adopt and enforce ordinances and regulations for family daycare providers as a 12-month pilot project. Before a county may regulate family daycare providers, it must adopt ordinances and regulations that address, at a minimum, the following:

- the size, safety, cleanliness, and general adequacy of the premises;
- the plan of operation;
- the character, suitability, and competence of a family daycare provider and other persons associated with a family daycare provider directly responsible for the care of children served;
- the number of qualified persons required to render care;
- the provision of necessary care, including food, clothing, supervision, and discipline;
- the physical, mental, and social well-being of children served;
- educational and recreational opportunities for children served; and

- the maintenance of records pertaining to children served.

The county must notify the DSHS in writing 60 days prior to adoption of the family daycare regulations. The transfer of jurisdiction must occur when the county has notified the DSHS in writing of the effective date of the regulations, and is limited to a period of 12 months from the effective date of the regulations. Regulation by counties of family daycare providers are to be administered and enforced by those counties. The DSHS may not regulate these activities nor bear any civil liability for the 12-month pilot period. Upon request, the DSHS must provide technical assistance to any county that is in the process of adopting family daycare regulations, and after the regulations become effective.

Any county regulating family daycare providers pursuant to the bill is required to report to the Governor and the appropriate committees of the Legislature concerning the outcome of the pilot project upon expiration of the 12-month pilot period. The report must include the adopted ordinances and regulations and a description of how those ordinances and regulations address the specific areas of regulation identified in the bill.

Votes on Final Passage:

House 89 7
Senate 46 2 (Senate amended)
House (House refused to concur)
Senate 47 1 (Senate amended)
House 96 1 (House concurred)

Effective: May 17, 2005

HB 2170

C 486 L 05

Concerning proceeds from the real estate excise tax.

By Representatives Springer, Dunshee, Clibborn and Morrell.

House Committee on Capital Budget
Senate Committee on Ways & Means

Background: Washington's indebtedness is limited by both a statutory and a constitutional debt limit. The State Treasurer may not issue any bonds that would cause the debt service on the new, plus existing, bonds to exceed 7 percent of general state revenues averaged over three years in the case of the statutory limit and 9 percent under the constitutional limit.

For purposes of the debt limit, "general state revenues" is defined in the State Constitution and by statute. General state revenues traditionally has been defined to be more limited than revenue going to the State General Fund; revenue identified in statute as being for specific purposes or going into dedicated accounts typically has not been considered general state revenues. The same definition is used for both the constitutional and statutory

debt limits except that the statutory definition includes the portion of the Real Estate Excise Tax (REET) deposited in the State General Fund for the support of common schools, lottery revenue deposited in the Education Construction Account, and the state portion of the property tax, while the constitutional definition likely does not. The lottery revenue was added to the statutory definition of general state revenues by Initiative 728, the REET was added in the 2002 bond bill, and the state portion of the property tax was added in 2003 legislation that redefined general state revenues.

Bond capacity for a given biennium is the amount of projects that may be authorized by the Legislature for which the State Treasurer may issue bonds without exceeding the debt limit in the future, given forecasted variables and a stable capital budget level in future biennia. Interest rates, revenue, and other factors affect bond capacity.

Summary: The dedication of the Real Estate Excise Tax deposited in the State General Fund to common schools is removed. (This increases the amount of general state revenues used to calculate the 9 percent constitutional debt limit, which in turn increases bond capacity under the constitutional limit.)

Votes on Final Passage:

House	66	31
Senate	32	16

Effective: July 24, 2005

ESHB 2171
C 294 L 05

Allowing counties and cities one additional year to comply with certain specified requirements of RCW 36.70A.130.

By House Committee on Local Government (originally sponsored by Representatives Springer, Simpson, Takko, Ericks and Clibborn).

House Committee on Local Government
Senate Committee on Government Operations & Elections

Background: Enacted in 1990 and 1991, the Growth Management Act (GMA) establishes a comprehensive land use planning framework for county and city governments in Washington. The GMA specifies numerous provisions for jurisdictions fully planning under the Act (planning jurisdictions) and establishes a reduced number of compliance requirements for all local governments.

Planning jurisdictions must adopt internally consistent comprehensive land use plans (comprehensive plans), which are generalized, coordinated land use policy statements of the governing body. Planning jurisdictions also must adopt development regulations that are

consistent with and implement the comprehensive plan.

The adopted comprehensive plans and the corresponding development regulations are subject to continuing review and evaluation by the adopting county or city. Planning jurisdictions must review and, if needed, revise their comprehensive plans and development regulations according to a cyclical seven-year statutory schedule. Jurisdictions that are not fully planning under the GMA must satisfy requirements pertaining to critical areas and natural resource lands according to this same schedule. The schedule is as follows:

- on or before December 1, 2004, and every seven years thereafter, for Clallam, Clark, Jefferson, King, Kitsap, Pierce, Snohomish, Thurston, and Whatcom counties and the cities within those counties;
- on or before December 1, 2005, and every seven years thereafter, for Cowlitz, Island, Lewis, Mason, San Juan, Skagit, and Skamania counties and the cities within those counties;
- on or before December 1, 2006, and every seven years thereafter, for Benton, Chelan, Douglas, Grant, Kittitas, Spokane, and Yakima counties and the cities within those counties; and
- on or before December 1, 2007, and every seven years thereafter, for Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman counties and the cities within those counties.

Only counties and cities in compliance with the statutory schedule may receive grants, loans, pledges, or financial guarantees from the public works assistance and water quality accounts established in the state treasury.

Summary: Counties and cities required to satisfy the review and revision requirements of the GMA by December 1, 2005, December 1, 2006, or December 1, 2007, may comply with the requirements for development regulations that protect critical areas (critical areas regulations) one year after the applicable deadline provided in the statutory schedule. Jurisdictions exercising this extension option and complying with the review and revision requirements for critical areas regulations one year after the deadline must be deemed in compliance with such requirements.

Except as otherwise provided, only those counties and cities in compliance with the statutory review and revision schedule of the GMA, and those counties and cities demonstrating substantial progress towards compliance with the schedule for critical areas regulations, may receive financial assistance from the public works assistance and water quality accounts. A county or city that is fewer than 12 months out of compliance with the schedule is deemed to be making substantial progress towards compliance. Additionally, notwithstanding other provisions, only those counties and cities in com-

pliance with the review and revision schedule of the GMA may receive preferences for financial assistance from the public works assistance and water quality accounts.

Until December 1, 2005, a county or city required to satisfy the review and revision requirements of the GMA by December 1, 2004, that is demonstrating substantial progress towards compliance with applicable requirements for its comprehensive plan and development regulations may receive financial assistance from the public works assistance and water quality accounts. A county or city that is fewer than 12 months out of compliance with the GMA review and revision schedule for its comprehensive plan and development regulations is deemed to be making substantial progress towards compliance.

Votes on Final Passage:

House	90	4	
Senate	29	14	(Senate amended)
House			(House refused to concur)
Senate	39	10	(Senate amended)
House	95	2	(House concurred)

Effective: May 5, 2005

SHB 2173
C 254 L 05

Adopting the service members' civil relief act.

By House Committee on Judiciary (originally sponsored by Representatives Serben, Lantz, Curtis, Darneille, Williams, Rodne, Ahern, Sump, Sells, Woods, Dunn, Springer, Haler, Talcott, Wallace, Conway, O'Brien, Kenney and P. Sullivan).

House Committee on Judiciary
Senate Committee on Judiciary

Background: The federal Servicemember's Civil Relief Act (SCRA) provides a number of protections to military personnel while on active duty. The SCRA was adopted by the Congress in 2003 and is a revision to the Soldiers' and Sailors' Civil Relief Act of 1940. The SCRA applies to all judicial and administrative proceedings in any federal or state court or agency. It does not apply to criminal proceedings.

The SCRA contains numerous protections for service members whose financial and legal obligations may be adversely impacted by active military duty. These protections include, among others, protecting service members from default judgments and staying court proceedings if the service member is unable to defend his or her interests in the proceeding.

Default Judgments. A court may not enter a judgment against an absent defendant until the plaintiff has filed an affidavit stating whether the defendant is in military service. If it appears that the defendant is in military service, the court may not enter a judgment until after the

court appoints an attorney to represent the defendant.

The court must grant a stay of proceedings for a minimum of 90 days if the court finds there may be a defense to the action that cannot be raised without the service member's presence, or counsel has been unable to contact the service member to determine whether there is a valid defense.

A default judgment against a service member during military service, or within 60 days after termination of military service, may be reopened to allow the service member to defend the action if the military service materially affected the ability to raise a defense. The application to reopen the judgment must be filed no later than 90 days after the date military service ends.

Stay of Civil Proceedings. A service member whose military service materially affects his or her ability to appear at a civil proceeding and who is unable to receive military leave to appear at the proceeding is entitled to an automatic stay of the proceedings for a period of at least 90 days. The service member may apply for an additional stay if military service continues to materially affect the service member's ability to appear. If a court refuses to grant the additional stay, the court must appoint counsel to represent the service member.

Contract Fines and Penalties. A court may reduce or waive a penalty that accrues under a contract for nonperformance by a service member if the service member was in military service when the penalty was incurred and the military service materially affected the service member's ability to perform the contract obligation. In addition, a penalty for noncompliance with a contract cannot be imposed if an action on the contract has been stayed.

Statutes of Limitations. The period of a service member's military service is excluded from the calculation of any statute of limitation periods provided in law (except for federal internal revenue laws) regarding when an action or proceeding may be brought either by or against the service member.

Summary: The Washington Service Members' Civil Relief Act (Act) is established to provide certain rights and protections in civil proceedings to service members called to active duty, and their dependents, during the period of military service or within 180 days after military service ends. The Act applies to all judicial and administrative proceedings, but does not apply to criminal proceedings.

"Service member" means a Washington resident who is a member of the Washington National Guard or a military reserve component. "Military service" means service under a call to service for a period of more than 30 consecutive days. "Dependent" means a spouse or child of the service member or a person for whom the service member provides more than one-half of the person's support for the six months prior to applying for relief under the Act.

Default Judgments. In a civil action where a defendant does not make an appearance, the plaintiff must file an affidavit stating whether or not the defendant is in military service or is a dependent of a service member in military service. A person who makes or uses such an affidavit knowing that it is false is guilty of a class C felony.

The court may not enter a judgment against an absent defendant who is a service member in military service, or who is a dependent of a service member in military service, until after the court appoints an attorney to represent the defendant. The actions of the attorney are not binding on the service member or dependent if the attorney is unable to locate the service member or dependent.

In a civil action where a service member or dependent is a defendant and does not make an appearance, the court must grant a stay of proceedings until 180 days after termination of or release from military service if the court finds:

- there may be a defense to the action that cannot be raised without the defendant's presence; or
- counsel has been unable to contact the defendant to determine whether there is a valid defense.

A court may enter a temporary order in a domestic relations case despite the absence of the service member from the proceedings if delay would result in manifest injustice to other interested parties.

If a default judgment is entered against a service member or dependent during military service or within 180 days after military service ends, the service member or dependent is entitled to have the judgment reopened to allow for defense of the action if the service member or dependent:

- was materially affected in making a defense because of the military service; and
- has a meritorious or legal defense to the action or some part of the action.

Any default judgment that is vacated or set aside under this provision does not impair a right or title acquired by a bona fide purchaser for value.

Stay of Proceedings. A service member or dependent may apply for a stay of a civil proceeding in which the member or dependent is a defendant during military service or within 180 days after the termination of military service. The court must stay the proceedings until 180 days after termination of military service if the application contains:

- a description of how the military service requirements materially affect the ability to appear and a date when the member or dependent will be able to appear; and
- a letter from a commanding officer stating that the service member's military duty prevents the service member's or dependent's appearance.

A service member or dependent may apply for an additional stay based on the continuing impact of military duty on the ability to appear. If the court refuses to grant an additional stay, the court must appoint counsel to represent the service member or dependent in the action.

Contract Fines or Penalties. A court may reduce or waive a penalty that accrues under a contract for nonperformance by a service member or dependent if the service member was in military service when the penalty was incurred and the military service materially affected the ability to perform the contract obligation. In addition, a penalty for noncompliance with a contract may not be imposed if an action on the contract has been stayed.

Statutes of Limitations. The period of a service member's military service is excluded from the calculation of any statute of limitation periods provided in law (except for federal internal revenue laws) regarding when an action or proceeding may be brought either by or against the service member or a dependent of the service member.

Secondarily Liable Parties. Any relief granted under the Act may also be granted to any other person who may be primarily or secondarily liable upon the obligation at issue, such as a surety, guarantor, or endorser.

Miscellaneous Provisions. A service member may waive the rights granted under the Act by written agreement. If a court determines that any interest or right has been acquired or transferred with the intent to delay the enforcement of the right by taking advantage of the Act, the court must enter an appropriate judgment or order concerning the transfer or acquisition.

Votes on Final Passage:

House	93	0	
Senate	48	0	(Senate amended)
House	96	0	(House concurred)

Effective: May 3, 2005

EHB 2185
C 411 L 05

Establishing residence modifications standards.

By Representatives Newhouse, Conway and Condotta.

House Committee on Commerce & Labor
Senate Committee on Labor, Commerce, Research & Development

Background: Industrial insurance is a no-fault state workers' compensation program that provides medical and partial wage replacement benefits to covered workers who are injured on the job or who develop an occupational disease. If a worker sustains a catastrophic injury, the Department of Labor and Industries (Department) is authorized to pay, or to order a self-insured employer to

pay, as applicable, up to a statutory maximum for residence modification when modifications are reasonable and necessary to meet the needs of the worker. The maximum amount of the payment is the amount of the state's average annual wage, which is \$38,794 beginning July 1, 2004.

Under Department policy, residence modifications are reasonable and necessary if all of the following are met:

- The modification is necessary to meet the worker's needs for safety, mobility, and activities of daily living.
- The contractor's proposed plan will satisfy the necessary modification.
- The home is structurally sound.

Necessary modifications may include, but are not limited to structures, such as walkways and driveways; equipment, such as door knobs, toilet seats, or grab bars; and air conditioners or purifiers, where medically necessary. Appliances are not considered residence modifications.

Summary: The Director of the Department of Labor and Industries (Director) must adopt rules, to take effect no later than nine months after the act's effective date, establishing guidelines and processes for residence modification for catastrophically injured workers. The rules must address at least the process for an injured worker to access the residence modification benefits, and how the Department may address the needs and preferences of the individual worker on a case-by-case basis taking into account information provided by the injured worker. In determining the injured worker's needs, including whether a modification is medically necessary, the Department must consider all available information regarding the medical condition and physical restrictions of the worker, including the opinion of the worker's attending health services provider.

In adopting the rules, the Director must consult with persons interested in improving standards for adaptive housing, including persons with expertise in the rehabilitation of catastrophically disabled individuals and modifications for adaptive housing. The rules must be based on nationally accepted guidelines and publications, with consideration given to the guidelines established by the federal Department of Veterans Affairs and the recommendations published by Barrier Free Environments, Inc.

By December 2007, the Director must report to the appropriate committees of the Legislature on the rules adopted under these provisions.

Votes on Final Passage:

House	96	0	
Senate	44	0	(Senate amended)
House	98	0	(House concurred)

Effective: July 24, 2005

Funding the conservation of the state art collection.

By Representatives Lantz, Kessler, Sells, Tom, McDermott, Conway, Kenney and Santos.

House Committee on Capital Budget
Senate Committee on Ways & Means

Background: In 1974, the Legislature established the Art in Public Places Program, also known as the "one-half of 1 percent program." The program is administered by the Washington State Arts Commission (Arts Commission).

The program is funded from the state's capital budget through a mandatory, nondeductible allocation of one-half of 1 percent of each new state agency (including all state departments, boards, councils, commissions, and quasi-public corporations) or public school construction project. The funds generated from the program are set aside for the acquisition of new artwork through the Arts Commission, which retains 15 percent of the funds for administrative costs.

The Arts Commission awards approximately \$3 million in grants and contracts to artists and arts organizations annually, adds 250 artworks to the state art collection biennially, and initiates educational programs for students of all ages. Works of art acquired through the program become part of the state art collection and are generally displayed within the building project or nearby grounds of the project generating the funding. The collection currently holds over 4,600 works, with an acquisition value of over \$17 million. In consultation with the Office of the Superintendent of Public Instruction (OSPI) and representatives of school district boards of directors, the Arts Commission is responsible for the designation of projects and sites, selection, contracting, purchase, commissioning, reviewing of design, execution and placement, acceptance, maintenance, and sale, exchange, or disposition of works of art.

In addition to the cost of the works of art themselves, the one-half of 1 percent of the appropriation must be used to provide for the administration by the Arts Commission and all costs for installation of the work of art. However, the costs to carry out the Arts Commission's responsibility for maintenance may not be funded from the one-half of 1 percent moneys referred to it for the acquisition of new artwork by the agencies and public schools. Instead, availability of maintenance costs funding is contingent upon adequate appropriations being made for that specific purpose.

The OSPI and the school district board of directors of the districts where the sites are selected have the right to, among other things, waive their use of the one-half of 1 percent of the appropriation for the acquisition of works of art and reject the placement of a completed

work or works of art on school district premises if such works are portable.

Summary: The restriction is removed that the costs to carry out the Washington State Arts Commission's responsibility for maintenance of state artworks may not be funded from the moneys made available for the art's purchase.

Votes on Final Passage:

House 94 0
Senate 41 0

Effective: July 24, 2005

HB 2189

C 389 L 05

Establishing a work group to address safety of child protective services and child welfare services staff.

By Representatives Kagi, Hinkle, Dickerson, Roberts, Darneille, Simpson, Moeller, Morrell and Santos.

House Committee on Children & Family Services
Senate Committee on Human Services & Corrections

Background: Child Protective Services (CPS) within the Department of Social and Health Services (DSHS) provides 24-hour, seven-day-a-week intake, screening, and investigative services for reports of suspected child abuse and neglect. The CPS social workers investigate reports of child abuse and neglect to assess the safety and protection needs of children, and, when necessary, intervene by providing services designed to increase safety and protect children from further harm. When it appears that a child is in danger of being harmed or has already been seriously abused or neglected, CPS, with a police officer or court order putting the child in protective custody, places the child with a relative or in foster care.

Child Welfare Services (CWS) within the DSHS provides both permanency planning and intensive treatment services to children and families who may need help with chronic or serious problems that interfere with their ability to protect or parent children, such as ongoing abuse and neglect or intensive medical needs. Services through CWS are provided to children and families when longer-term services are needed.

Summary: The DSHS is required to establish a work group to develop policies and protocols to address the safety of CPS and CWS staff.

The DSHS is required to make recommendations regarding training to address recognition of highly volatile, hostile, or threatening situations and de-escalation and preventive safety measures.

Membership of the work group must include the following: representatives of the Children's Administration of the DSHS, including representatives of CPS staff and CWS staff from Community Services Offices in largely rural areas of the state as well as urban areas; law

enforcement; and prosecuting attorneys.

The DSHS must provide the developed policies and protocols to the Governor and the appropriate committees of the Legislature by December 1, 2005.

Votes on Final Passage:

House 97 0
Senate 47 0 (Senate amended)
House 96 0 (House concurred)

Effective: July 24, 2005

2SHB 2212

C 461 L 05

Relating to educator certification.

By House Committee on Appropriations (originally sponsored by Representatives Hunter, Cox, Haigh, Talcott and Lantz).

House Committee on Education
House Committee on Appropriations
Senate Committee on Early Learning, K-12 & Higher Education

Background: Educator Certification. Under current law, an individual's certification to teach or be an administrator in public or approved private schools may be suspended or revoked for a series of offenses. The certification must be suspended or revoked for the conviction of certain felonies. Certification is permanently revoked if the educator or administrator pleads guilty or is convicted of any felony crime against children. These crimes include: physical injury, or death of a child; the sexual exploitation of a child; sexual offenses where a minor is the victim; promoting prostitution of a minor; the sale or purchase of a minor child; and the violation of similar laws of another jurisdiction. Each of the felonies listed is defined in the criminal code. A person whose certificate or permit has been revoked under this law must have his or her employment with the district terminated immediately. The person has certain rights under the law. He or she must be given an opportunity to be heard and has the right to appeal the decision. A person who has been terminated under these provisions remains terminated unless the person prevails on the appeal.

An employee whose certificate or permit is revoked under circumstances other than those listed above is eligible to receive another certificate or permit after a period of twelve months from the date of the revocation.

Salary Schedule. The state salary schedule recognizes the credits that teachers earn for professional development. The schedule also recognizes and rewards the attainment of advanced degrees. Professional development courses are offered through colleges or universities, Educational Service Districts (ESDs), local school districts, and professional organizations, sometimes at a cost to the participant. The Legislature also provides

funding to the Office of the Superintendent of Public Instruction for professional development programs. Currently, documentation for professional development is audited by the Superintendent of Public Instruction (SPI) on a selective basis.

Summary: Educator Certification. A school district employee must have his or her certificate or permit revoked or suspended upon a finding that the employee has engaged in any unauthorized use of school equipment to intentionally access any material depicting sexually explicit conduct or has intentionally possessed on school grounds any material depicting sexually explicit conduct. Reference to the current statutory definition of sexually explicit conduct is included. An exception for material used in conjunction with established curriculum is included. A first time offense can result in either suspension or revocation and a second offense results in mandatory revocation of the certificate. A person whose certificate is in question must be given the opportunity to be heard and has the right to appeal. These provisions are only applicable to findings that occur after the effective date of the act.

Salary Schedule. All courses earned toward a college or university degree must be obtained from an accredited educational institution if the credits are used to increase a teacher's earnings on the state salary schedule. The accrediting association must be recognized by the State Board of Education. The SPI must verify the accreditation status of degree granting institutions for school districts and provide training and resources to help the districts verify degrees. Teachers and other certificated staff who submit degrees from unaccredited institutions in order to advance on the salary schedule will be fined \$300 and required to reimburse their districts for any compensation they have received due to those degrees.

Votes on Final Passage:

House	94	3	
Senate	41	0	(Senate amended)
House	97	0	(House concurred)

Effective: July 24, 2005

ESHB 2221

C 513 L 05

Modifying the excise taxation of fruit and vegetable processing and storage.

By House Committee on Finance (originally sponsored by Representatives Takko, Orcutt, Grant, Kristiansen, Williams, Strow, Blake, Bailey, Kenney, Haler and Linville).

House Committee on Finance

Background: The manufacturing of fresh fruits and vegetables is subject to the business and occupation (B&O) tax at 0.138 percent. Out-of-state sales of manufactured fresh fruits and vegetables are not subject to wholesaling or retailing B&O tax. In-state wholesale sales of manufactured fresh fruits and vegetables are subject to wholesaling B&O tax at a rate of 0.484 percent, except that in-state wholesale sales of fresh fruits and vegetables manufactured by the seller that are transported out-of-state in the ordinary course of business are taxed at 0.138 percent.

The rural county sales and use tax deferral program is available in counties with population densities of less than 100 per square mile, community empowerment zones, and counties containing a community empowerment zone. Manufacturing, research and development, and computer service businesses may defer sales and use taxes on buildings, machinery and equipment, and installation labor. The deferred taxes are forgiven if the investment project meets the program criteria for eight years after the project is complete. The manufacturing of fresh fruits and vegetables qualifies under this program. The program expires July 1, 2010.

A tax incentive exists for the construction of warehouses over 200,000 square feet, including cold storage warehouses. The taxpayer is entitled to a refund exemption equal to 50 percent of the state sales and use tax on machinery and equipment purchases and 100 percent of the state sales and use tax on construction costs. The taxpayer must initially pay all applicable taxes and then apply for reimbursement to the Department of Revenue (Department).

Summary: A B&O tax exemption is provided for amounts received from the canning, preserving, freezing, processing, or dehydrating of fresh fruits and vegetables and from selling at wholesale fresh fruits and vegetables canned, preserved, frozen, processed, or dehydrated by the seller and sold to purchasers who transport in the ordinary course of business the goods out of this state.

A new sales and use tax deferral program is authorized. Fruit and vegetable processing, cold storage warehousing, and related research and development businesses may defer sales and use taxes on buildings, machinery and equipment, and installation labor. The deferred taxes are forgiven if the investment project

meets the program criteria for eight years. The deferral program expires July 1, 2012.

Persons claiming the B&O tax exemption or the sales and use tax deferral are required to complete an annual survey and provide information on the amount of B&O tax exemption taken and sales and use tax deferred; number of jobs and the percent of full-time, part-time and temporary jobs; wages by salary band; and number of jobs with employer provided health and retirement benefits. The Department may request additional information necessary to measure the results of the programs. Information reported in the survey is confidential except the amount of B&O tax exempted or sales tax deferred is not confidential.

The Department will prepare annual summaries and report on the effectiveness of the programs by December 1, 2011.

Cold storage warehouses of at least 25,000 square feet qualify for remittance of 100 percent of the state sales tax on construction and purchases of material-handling and racking equipment.

Votes on Final Passage:

House	96	2
Senate	45	1

Effective: July 1, 2007
 July 1, 2005 (Sections 1-3)

SHB 2223
 C 202 L 05

Prohibiting charging clerk's fees to law enforcement agencies for records concerning sex offenders.

By House Committee on Criminal Justice & Corrections (originally sponsored by Representative O'Brien).

House Committee on Criminal Justice & Corrections
 Senate Committee on Human Services & Corrections

Background: Superior court clerks collect fees on a variety of court filings. This includes fees for such filings as petitions for unlawful harassment, probate proceedings, initial filings in civil actions, a petition to contest a will, and others. A court may waive these filing fees if a party is unable to pay the fee. The revenue collected from these fees is divided between the State Public Safety and Education Account and the county. Local courts also charge fees for copies of court documents and files. A \$2 fee is charged for the first page of a document and a \$1 fee is charged for each additional page that is copied. These fees are not distributed between the Public Safety and Education Account and the county, but rather remain with the county.

Local law enforcement agencies are responsible for notifying communities that a sex offender has moved into an area. The level of notification varies depending on the risk level of the offender.

Summary: Public agencies are prohibited from charging a law enforcement agency for preparing, copying, or mailing records when these records are necessary for either a risk assessment of a sex offender, maintenance of a sex offender registration file, or preparation of a case for failure to register as a sex offender.

Votes on Final Passage:

House	97	0
Senate	38	0

Effective: July 24, 2005

SHB 2225
 C 203 L 05

Allowing certain higher education endowment grant funds to be deposited outside the state.

By House Committee on Financial Institutions & Insurance (originally sponsored by Representative Kirby; by request of State Treasurer).

House Committee on Financial Institutions & Insurance
 Senate Committee on Financial Institutions, Housing & Consumer Protection

Background: The Public Deposit Protection Commission (Commission) protects deposits of public funds which exceed the amount insured by the Federal Deposit Insurance Corporation. The State Treasurer, Lieutenant Governor, and the Governor, ex officio, constitute the Commission. The Commission is administered through the State Treasurer's office.

There is a general prohibition on the deposit of public funds in a public depository outside of the state. There are several exceptions to the general prohibition, including:

- funds deposited under a fiscal agency contract with the state fiscal agent;
- funds deposited under a custodial bank contract with the state's custodial bank;
- funds deposited under a local government multi-state joint self-insurance program; and
- a demand deposit account maintained by a treasurer outside Washington solely for the purpose of transmitting money for deposit in public depositories. An account must be authorized by the Commission or the Commission Chair, if delegated that authority by the Commission. There must be good cause for the account. The account may be limited in time, terms, and conditions as the Commission or the Chair deem appropriate.

Summary: An additional exemption is created to the prohibition on depositing public funds in out-of-state depositories. A demand deposit account may be maintained by a treasurer for deposit of higher education endowment grants for specified study or research program being performed outside Washington. The account

must to be authorized by the Commission or the Chair, if delegated that authority by the Commission. There must be good cause for the account. The account may be limited in time, terms, and conditions as the Commission or the Chair deem appropriate.

Votes on Final Passage:

House 96 0
Senate 46 0

Effective: July 24, 2005

EHB 2241

C 423 L 05

Authorizing limited recreational activities, playing fields, and supporting facilities existing before July 1, 2004, on designated recreational lands in jurisdictions planning under RCW 36.70A.040.

By Representatives Dunshee, Lovick and O'Brien.

House Committee on Local Government
Senate Committee on Government Operations & Elections

Background: Growth Management Act. Enacted in 1990 and 1991, the Growth Management Act (GMA) establishes a comprehensive land use planning framework for county and city governments in Washington. The GMA specifies numerous provisions for jurisdictions fully planning under the Act (planning jurisdictions) and establishes a reduced number of compliance requirements for all local governments.

The GMA specifies certain designation and conservation requirements for natural resource lands. All local governments must designate, where appropriate, agricultural, forest, and mineral resource lands of long-term significance in areas not already characterized by urban growth. "Agricultural land" is defined by the GMA to include land primarily devoted to the commercial production of specified products, such as horticultural, viticultural, floricultural, vegetable, or animal products.

Planning jurisdictions must adopt development regulations to assure the conservation of designated agricultural and other natural resource lands. These development regulations may include zoning ordinances. The GMA permits counties or cities to use a variety of innovative zoning techniques in areas designated as agricultural lands of long-term commercial significance. These zoning techniques, however, should be designed to conserve agricultural lands and encourage the agricultural economy.

In addition to the provisions for natural resource lands, planning jurisdictions must adopt internally consistent comprehensive land use plans (comprehensive plans), which are generalized, coordinated land use policy statements of the governing body. Except as otherwise provided in the GMA, comprehensive plan

amendments may be considered by the governing body of the city or county no more frequently than once per year.

The GMA requires six western Washington counties (Clark, King, Kitsap, Pierce, Snohomish, and Thurston counties) and the cities within those counties to establish a review and evaluation "buildable lands" program. The purpose of the program is to determine whether a county and its cities are achieving urban densities, and identify reasonable measures that will be taken to comply with requirements of the GMA.

Agricultural Lands and Recreational Uses – Appeals and Decisions. Quasi judicial and judicial bodies in Washington have examined the issue of allowing designated agricultural areas to be used for recreational purposes. In 1997 King County amended its comprehensive plan and zoning code to allow, upon the satisfaction of specific criteria, active recreational uses on certain properties within designated agricultural areas. These amendments were appealed to the Central Puget Sound Growth Management Hearings Board (Board) in January 1998. Upon reviewing the matter, the Board found that the challenged amendments did not comply with specific provisions of the GMA.

Following an appeal to and reversal by the King County Superior Court, the case was appealed to the Washington State Supreme Court where in December 2000, the court reversed the trial court and reinstated the Board's decision invalidating the challenged amendments. In its decision, the court held that although the GMA offers specific zoning flexibility to jurisdictions and encourages recreational uses of land, the county's comprehensive plan and zoning amendments violated the GMA.

Summary: The legislative authority of a county may designate qualifying agricultural lands of long-term commercial significance (agricultural lands) as recreational lands if the county:

- is subject to the buildable lands provisions of the GMA;
- has a population fewer than 1 million; and
- has a total market value of [agricultural] production greater than \$125 million as reported by the United States Department of Agriculture's *2002 Census of Agriculture County Profile*.

"Recreational land" is defined as land designated as such that was agricultural land immediately prior to this designation. Recreational land must have playing fields and supporting facilities existing before July 1, 2004, for sports played on grass playing fields.

Counties designating recreational lands must do so by resolution and must satisfy specific notification and public participation requirements. The recreational lands designation supersedes previous designations and requires an amendment to the comprehensive plan prepared by the county. The authority of a county to desig-

nate recreational lands ends on June 30, 2006.

Numerous designation criteria are specified. Lands eligible for designation as recreational lands must not be in use for the commercial production of food or other agricultural products and must have playing fields and supporting facilities existing before July 1, 2004, for sports played on grass playing fields. Recreational lands may be used only for athletic or related activities, playing fields, and supporting facilities for sports played on grass playing fields or for agricultural uses. Lands eligible for designation as recreational lands must also be registered by the property owner or owners with the applicable county at least 90 days before designation. The designation must not affect other agricultural lands and must not preclude reversion to agricultural uses.

Agricultural lands designated under the GMA that were purchased in full or in part with public funds; or with property rights or interests that were purchased in full or in part with public funds, may not be designated as recreational land.

Playing fields and supporting facilities for sports played on grass playing fields must comply with applicable permitting requirements and development regulations. Additionally, the size and capacity of the fields and facilities, irrespective of parcel size, may not exceed the infrastructure capacity of the county.

Until June 30, 2006, a qualifying county may amend its comprehensive plan more frequently than annually to accommodate a recreational lands designation. A county may not, however, amend its comprehensive plan under this authorization more frequently than every 18 months.

Playing fields and supporting facilities existing before July 1, 2004, on recreational lands that were designated according to specified provisions must be considered in compliance with the requirements of the GMA.

Votes on Final Passage:

House 93 0
Senate 40 5

Effective: May 12, 2005

EHB 2254
C 291 L 05

Clarifying protections provided to quality improvement activities.

By Representative Cody.

House Committee on Health Care
Senate Committee on Health & Long-Term Care

Background: Hospitals must maintain quality improvement committees to improve the quality of health care services and prevent medical malpractice. Quality improvement proceedings review medical staff privileges and employee competency, collect information

related to negative health care outcomes, and conduct safety improvement activities. Provider groups and medical facilities other than hospitals are encouraged to conduct similar activities.

With some limited exceptions, information and documents created for or collected and maintained by a quality improvement committee are not subject to discovery, are not admissible into evidence in any civil action, and are confidential and not subject to public disclosure. A person participating in a meeting of the committee or in the creation or collection of information for the committee may not testify in any civil action regarding the content of the committee proceedings or information created or collected by the committee.

A health care provider who, in good faith, files charges or presents evidence against another provider before a regularly constituted peer review committee or board of a professional society or hospital on grounds of incompetency or misconduct is immune from liability for these activities. The proceedings and records of a review committee or board are not discoverable except in actions relating to the recommendation of the review committee or board involving restriction or revocation of the provider's privileges.

Summary: The review or disclosure of information and documents specifically created for, and collected and maintained by, quality improvement and peer review committees or boards is prohibited unless there is a specific exception.

Votes on Final Passage:

House 96 0
Senate 44 0

Effective: July 24, 2005

EHB 2255
C 133 L 05

Making adjustments to improve benefit equity in the unemployment insurance system

By Representatives Conway, Simpson and Wood.

House Committee on Commerce & Labor
Senate Committee on Labor, Commerce, Research & Development

Background: The unemployment insurance system is a federal/state program under which employers pay contributions to fund unemployment compensation for unemployed workers. These payments are made under state unemployment laws and the Federal Unemployment Tax Act (FUTA). The FUTA allows the states' employers to receive a tax credit against their federal unemployment tax, and the state receives a share of the federal FUTA revenues for administration of its unemployment insurance system, but only if the state maintains an unemployment insurance system in conformity with federal law.

Washington's program is administered by the Employment Security Department.

In 2003, the Legislature enacted a number of changes to the unemployment insurance system. The changes included revisions to unemployment benefits and the tax system.

Unemployment Benefits. Before January of 2004, a claimant's weekly benefit amount (WBA) was 4 percent of the claimant's average wages in the two quarters of the base year in which wages were highest. The 2003 legislation established new methods of calculating the WBA for claims with specified effective dates:

- *On or after January 4, 2004, and before January 2, 2005:* The WBA was calculated using 4 percent of the claimant's average wages in the three quarters of the base year in which wages were highest.
- *On or after January 2, 2005:* The WBA is 1 percent of the claimant's total wages in the base year.

The 2003 legislation also repealed a requirement for the unemployment insurance system to be "liberally construed."

Unemployment Taxes. The 2003 legislation created a new unemployment tax system. Beginning with rate year 2005, the unemployment insurance contribution rate for most covered employers is determined by the combined array calculation factor rate and the social cost factor rate, subject to a maximum rate, and a solvency surcharge, if any. These rates are determined as follows:

- *Array calculation factor:* Employers are placed in one of 40 rate classes, with rates from 0 percent to 5.4 percent. The assigned rate class depends on the employer's layoff experience.
- *Social cost factor:* A flat social cost rate is calculated as the difference between benefits paid and taxes paid, divided by total taxable payroll. The amount is then adjusted for the months of benefits in the trust fund above 10 months, but the rate may not be less than 0.6 percent. Employers pay a graduated social cost factor rate, ranging from 78 percent to 120 percent of the flat rate, depending on the employer's rate class.
- *Maximum rate for the sum of the array calculation factor and the social cost factor:* For employers in fishing, agriculture, and food and seafood processing, the maximum rate is 6 percent. For employers in all other industries, the maximum rate is 6.5 percent.
- *Solvency surcharge:* Up to an additional 0.2 percent surcharge is added to the contribution rate in the next rate year if the unemployment trust fund has fewer than 6 months of benefits on a specified annual date.

Not all benefits paid are charged to the employers' experience rating accounts. By law, noncharging of benefits is required for specified reasons, and these costs are pooled within the system as social costs.

Federal Unemployment Funds. The FUTA tax paid

by employers is held in the federal unemployment trust fund. These funds are deposited into two accounts that are used to pay the states' unemployment insurance systems' administrative costs and to pay extended unemployment benefits. By statute, these accounts may not exceed a specified monetary limit. If the limit is exceeded, the Congress may appropriate excess funds to the states under the Reed Act. In the federal Temporary Extended Unemployment Compensation Act of 2002, the Congress authorized a distribution of federal Reed Act funds to the states. Washington received approximately \$167 million. Of that amount, approximately \$130 million remains unappropriated. Reed Act funds may be used only for the limited purposes specified in federal law. These purposes include the payment of unemployment benefits and the administration of the unemployment system.

Summary: The Legislature finds that the unemployment insurance system is falling short of its goals and that the Legislature intends to adjust the balance between the goal of reducing the impacts of involuntary unemployment on workers and the desirability of reducing costs by making adjustments that allow reasonable improvements in benefit equity.

Benefit Adjustments. The requirement that the unemployment insurance system be "liberally construed" when interpreting the system is restored until June 30, 2007.

For claims with effective dates on or after the first Sunday after the Governor signs the bill, and before July 1, 2007, the claimant's weekly benefit amount (WBA) is calculated using 3.85 percent of the claimant's average wages in the two quarters in the base year in which wages were highest. The benefits paid that exceed the benefits that would have been paid if the WBA had been calculated as 1 percent of annual wages are not charged to contribution paying employers' experience rating accounts.

Social Cost Adjustments. For fiscal years 2006 and 2007, the social cost factor rate is zero for employers in agricultural crops, livestock, agricultural services, food and seafood processing, fishing, and cold storage.

For tax rate year 2007, the flat social cost factor is the lesser of the rate applicable with the new WBA calculations in effect or the rate that would have been applicable if the WBA had been calculated as 1 percent of a claimant's annual wages.

The formula is adjusted for determining the social cost factor in rate year 2007 to account for benefits that are not effectively charged because of these changes in the social cost factor.

When paying unemployment benefits, beginning in fiscal year 2006 and through calendar year 2007, funds are first requisitioned from the Reed Act funds in the amount of the benefits that are not effectively charged because the social cost factor rate is reduced to zero for

certain industries and in the amount of benefits paid that exceed the benefits that would have been paid if the WBA had been calculated as 1 percent of a claimant's annual wages.

Studies and Reports. The Joint Legislative Task Force on Unemployment Insurance Benefit Equity is established with four business representatives, four labor representatives, and the chairs and ranking minority members of the Senate Labor, Commerce & Research & Development Committee, and the House Commerce & Labor Committee. The Task Force must review the unemployment insurance system, including whether the benefit structure is equitable, whether the structure fairly accounts for changes in workforce and industry work patterns, including seasonality, and claimant work patterns, whether the tax structure equitably distributes taxes, and whether the trust fund is adequate in the long term. The Task Force must report to the Legislature by January 1, 2006.

The Employment Security Department is required to report to the Legislature annually for two years, beginning October 1, 2006, on the impact of the act's provisions on the unemployment trust fund. The Employment Security Department is authorized to add two additional full-time equivalent employees to establish additional capacity in the Department to develop economic models for estimating the impacts of policy changes on the unemployment insurance system and the unemployment trust fund.

Votes on Final Passage:

House	56	41	
Senate	25	20	(Senate amended)
House	57	38	(House concurred)

Effective: April 22, 2005

ESHB 2266
C 388 L 05

Concerning access to certain precursor drugs.

By House Committee on Health Care (originally sponsored by Representatives Campbell, Morrell, Green, Moeller, Lantz, Cody, McCune, Haler, Lovick, McDonald and Ahern).

- House Committee on Health Care
- House Committee on Appropriations
- Senate Committee on Judiciary
- Senate Committee on Ways & Means

Background: Precursor drugs are substances that can be used to manufacture controlled substances. Ephedrine, pseudoephedrine, or phenylpropanolamine are common precursor items that are often used to manufacture methamphetamine illegally. Methamphetamine is a highly addictive substance that affects the central nervous system.

In Washington, only pharmacies, authorized health care practitioners, and registered shopkeepers and itinerant vendors may sell products containing ephedrine, pseudoephedrine, or phenylpropanolamine to consumers. They may not sell more than three packages of these products in a single transaction or a single product containing more than three grams of ephedrine, pseudoephedrine, or phenylpropanolamine.

Manufacturers and wholesalers that sell a precursor substance in a suspicious transaction must report the transaction to the Board of Pharmacy. Shopkeepers and itinerant vendors who purchase ephedrine, pseudoephedrine, or phenylpropanolamine in a suspicious transaction must maintain inventory records of their nonprescription drugs and are limited in the amount of ephedrine, pseudoephedrine, or phenylpropanolamine that they may sell in proportion to their nonprescription drug sales.

Summary: Products that contain any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine may only be sold to customers who are at least eighteen years old upon presentation of photographic identification. Merchants must keep the products in a central location that is inaccessible to customers without assistance. The Board of Pharmacy (Board) may exempt products that contain ephedrine, pseudoephedrine, or phenylpropanolamine in combination with another active ingredient if it determines that the product has been manufactured in such a way that it cannot be used to illegally manufacture methamphetamine.

A statewide pilot project will be conducted to require that merchants record transactions involving products that contain any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine through written or electronic logs or other means. The Board must develop a work group to evaluate the data received by the pilot project to determine the effectiveness of logs in preventing the illegal manufacture of methamphetamine. The work group will consist of representatives of law enforcement, the Washington State Patrol, the prosecuting attorneys, the Attorney General's Office, the Board, and the retail industry. The work group must present its findings and recommendations to the Legislature by November 1, 2007.

Products that contain ephedrine, pseudoephedrine, or phenylpropanolamine in combination with another active ingredient in a liquid, liquid capsule, or gel capsule form are exempt from the age, identification, accessibility, and log requirements unless the Board determines that they should be regulated pursuant to a petition from the Washington State Patrol or Washington Association of Sheriffs and Police Chiefs. The petition must establish that the product can be effectively converted into methamphetamine and that law enforcement or the Department of Ecology have found that there is substantial evidence of its use for the illegal manufacture

of methamphetamine.

The Board of Pharmacy, law enforcement authorities, and the courts may access the logs for regulatory activities. It is a gross misdemeanor to violate the identification or access requirements. It is a defense to a violation of these requirements that the entity or its employees made a good faith attempt to comply by requesting that the customer provide identification and a reasonable effort to determine the customer's age. An employer may not retaliate against an employee who made a good faith attempt to comply by requesting that the customer provide identification and a reasonable effort to determine the customer's age.

The limitations on the number of packages of products containing ephedrine, pseudoephedrine, or phenylpropanolamine that may be sold in a single transaction or that may be purchased in a 24 hour period are reduced from three to two.

Votes on Final Passage:

House 79 17
Senate 45 1 (Senate amended)
House (House refused to concur)

Conference Committee

House 91 5
Senate 47 0

Effective: January 1, 2006
May 11, 2005 (Section 8)
October 1, 2005 (Section 2)

HB 2271
C 204 L 05

Extending employment opportunities for people with disabilities.

By Representatives Miloscia, McDermott, Moeller and Kenney.

House Committee on State Government Operations & Accountability
Senate Committee on Labor, Commerce, Research & Development

Background: State agencies may purchase goods and services totaling \$3,000 without any bid procedures. Purchases between \$3,000 and \$35,000 may be made by obtaining a quote from at least three vendors. Purchases in excess of \$35,000 generally must be made through competitive bid procedures.

In 2003, the Legislature enacted a policy meant to enhance employment opportunities for disadvantaged persons and persons with disabilities by requiring state agencies to include a vendor in good standing in the bid procedures required for purchases in excess of \$3,000. A vendor in good standing is defined as a community rehabilitation program or a business owned and operated by persons with disabilities that has not had a breach of

contract due to quality or performance issues and has achieved or made progress in enhancing employment opportunities for disadvantaged persons and persons with disabilities.

The legislation requires that an advisory subcommittee appointed by the Governor's Committee on Disability Issues and Employment verify that entities seeking to qualify as vendors in good standing have achieved or made progress toward enhancing employment opportunities for disadvantaged persons and persons with disabilities. It further requires the Department of General Administration and the advisory subcommittee to prepare and issue a report to the Governor and the Legislature by December 31, 2006, describing the effect of this program on enhancing employment opportunities for disadvantaged persons and persons with disabilities.

These provisions expire December 31, 2007.

Summary: The expiration date for the program enacted in 2003 to enhance employment opportunities for disadvantaged persons and persons with disabilities is changed from December 31, 2007, to December 31, 2009. The report required from the advisory subcommittee and the Department of General Administration is due to the Governor and the Legislature by December 31, 2008.

Votes on Final Passage:

House 97 0
Senate 46 0

Effective: July 24, 2005

HB 2282
C 382 L 05

Addressing the costs of transporting offender property.

By Representatives Sommers, O'Brien, Haler and Skinner; by request of Department of Corrections.

House Committee on Appropriations
Senate Committee on Ways & Means

Background: On January 13, 2005, the Washington Supreme Court (Court) in *Burton v. Lehman*, 153 Wn.2d 416(2005), held that the Department of Corrections (DOC) is required to physically convey all the personal property of convicted persons, which is held in the custody of the DOC superintendents, to the receiving superintendent when such convicted persons are transferred between the DOC institutions.

Previously, the DOC's policy was to transport two boxes of offender property free of charge when an offender transfers from location to location. The DOC excluded a number of items from the two-box limit, including state-issued transport and clothing bags, typewriters, musical instruments, electronics, and medically-issued items. All other excess property was the responsibility of the offender and was either shipped at the

inmate's expense, donated, or destroyed. The Court ruled that this policy violated the state statute that required the DOC to deliver an offender's property to them when they are released from the confines of an institution as a result of being paroled, transferred, or discharged.

The Court's decision in *Burton* makes the DOC physically and financially responsible for transporting offender property. The additional shipments are estimated to cost an additional \$330,000 per year.

Summary: The DOC is provided the authority to determine the types and amounts of property that convicted persons may possess in department facilities. This authority includes determining what property will be transported between institutions or to other jurisdictions at the DOC's expense.

If a convicted person fails to pay the costs of transporting any excess property within 90 days from the date of transfer, the excess property will be presumed abandoned and may be destroyed in accordance with the law.

A clarification is made to specify that the DOC will deliver all funds and valuable personal property to an offender when he or she is released from the custody of the DOC to community placement, community custody, or community supervision.

Votes on Final Passage:

House	91	2
Senate	44	0

Effective: May 10, 2005

SHB 2289

C 383 L 05

Limiting hospital participation for medical assistance programs.

By House Committee on Appropriations (originally sponsored by Representatives Sommers and Cody).

House Committee on Appropriations

Background: The Federal Balanced Budget Act of 1997 established the Critical Access Hospital Program (Program). Through the Program, the federal Centers for Medicare and Medicaid Services use a cost-based approach to reimburse certain rural hospitals for services provided to Medicare clients. This Program, after certifying that a hospital meets the specified eligibility criteria, provides the hospital with a higher rate of reimbursement than is otherwise paid under Medicare.

A similar reimbursement system for the state's medical assistance programs was established in 2001 to reimburse critical access hospitals based on allowable costs for services provided to persons enrolled in the Department of Social and Health Services Medical Assistance programs. Washington has 37 hospitals certified as critical access hospitals.

Summary: A moratorium is placed on additional hospitals receiving reimbursement based on allowable costs as a critical access hospital for services provided to medical assistance clients. Hospitals that have applied for certification prior to January 1, 2005, will, if certified, be eligible for the allowable cost-based medical assistance reimbursement.

Votes on Final Passage:

House	55	43
Senate	31	17

Effective: July 24, 2005

ESHB 2299

C 487 L 05

Concerning general obligation bonds.

By House Committee on Capital Budget (originally sponsored by Representatives Dunshee and Jarrett; by request of Office of Financial Management).

House Committee on Capital Budget

Background: Washington periodically issues general obligation bonds to finance projects authorized in the capital and transportation budgets. General obligation bonds pledge the full faith and credit and taxing power of the state towards payment of debt service. Legislation authorizing the issuance of bonds requires a 60 percent majority vote in both the House of Representatives and the Senate.

Bond authorization legislation generally specifies the account or accounts into which bond sale proceeds are deposited, as well as the source of debt service payments. When debt service payments are due, the State Treasurer withdraws the amounts necessary to make the payments from the State General Fund and deposits them into the bond retirement funds.

The State Finance Committee, composed of the Governor, the Lieutenant Governor, and the State Treasurer, is responsible for supervising and controlling the issuance of all state bonds.

State and local governments are authorized to issue and sell several types of bonds according to a uniform procedure in state and federal law. These bonds include general obligation bonds, revenue bonds, and refunding bonds. General obligation bonds are a general obligation of the issuing entity. Revenue bonds are payable only from a designated revenue source or special assessment. Revenue bonds are not a general obligation debt of the issuing entity.

State and local governments are also authorized to issue refunding bonds to refinance high cost debt or to restructure debt.

All Capital Budget bond bills since 1996 have provided for "same day" transfers from the State General Fund to a debt service fund. The debt service is paid

from the debt service funds by automated clearing house (ACH) — a central distribution and settlement system for electronic clearing of debits and credits between financial institutions — to a fiscal agent who pays the bondholders.

Prior to the widespread use of computers and the ACH, debt service was transferred 30 days in advance of the payment date or some other specified interval. The State Treasurer estimates that as of October 31, 2004, approximately \$638 million of the \$9.7 billion in outstanding bonds require 30-day transfers.

Summary: The State Finance Committee is authorized to issue state general obligation bonds to finance \$1.3 billion in projects in the 2005 Supplemental and 2005-07 Capital Budget. This amount also includes \$30 million for a possible supplemental budget for emergency projects in 2006.

The State Treasurer is required to withdraw from state general revenues the amounts necessary to make the principal and interest payments on the bonds and to deposit these amounts into the Bond Retirement Account.

The 30-day transfer requirement is eliminated. Expenditures will be posted in the fiscal year in which the bond principal and interest payment is due.

Votes on Final Passage:

House	93	5
Senate	45	2

Effective: May 16, 2005

SHB 2304

C 292 L 05

Recovering debts owed to the state for medical assistance.

By House Committee on Appropriations (originally sponsored by Representatives Sommers, McCoy and Williams; by request of Office of Financial Management).

House Committee on Appropriations

Background: The Department of Social and Health Services (DSHS) recovers the cost of publicly-funded long-term care and medical assistance expenses from the estates of deceased clients who received such services. In accordance with state and federal law, the DSHS is directed to seek estate recovery from persons who received medical assistance after age 55. Recovery may include placing liens on the property of a deceased recipient following the recipient's death. In limited circumstances, federal law permits the DSHS to place liens against a recipient's property prior to the recipient's death. However, state law does not allow the DSHS to impose a lien during the recipient's lifetime. Additionally, federal law requires deferral of recovery until the

death of a surviving spouse and while there is a surviving child who is under age 21, blind, or disabled residing in the home.

If a recipient sells or transfers property within three years of receiving Medicaid-funded services, the value of the sold or transferred property is treated as client income. However, the DSHS often has no way of knowing when such transfers occur.

A homestead, which is the property an owner uses as a residence, is exempted from attachment, execution, and forced sale for the owner's debts up to \$40,000. Judgments against a homestead owner that are greater than \$40,000 become liens on the value of the homestead in excess of the homestead exemption

The DSHS cannot collect overpayments or other debts due to the DSHS six years after the DSHS gives notice of such overpayments or debts. The DSHS may collect such debts within 10 years if it has initiated court action to recover such debts.

Summary: When an individual who holds a title to real property receives medical assistance, the DSHS may file with the county auditor a request for a notice of transfer or encumbrance of the real property. Title insurance companies or agents that discover such a request when performing a title search must disclose the request in a report preliminary to, or commitment to offer, a certificate of title insurance for the property. A person who transfers or encumbers the affected property must notify the DSHS.

Consistent with federal law, the DSHS is directed to place liens on the property of a medical assistance recipient prior to the recipient's death if the recipient is unlikely to be discharged from a medical institution or return home.

A homestead exemption will not be available against an execution or forced sale to satisfy a judgment obtained on debts owed to the state for the recovery of medical assistance costs.

The statute of limitations for enforcement of liens filed by the DSHS to recover medical assistance costs is changed from six years to twenty years, and this time period begins to run from the date the DSHS lien was recorded. The DSHS is directed to adopt rules providing notice and hearing rights for the property owner when it files liens or requests for notice of transfer or encumbrance.

The DSHS liens for recovery of medical assistance costs will be enforceable against a decedent's life estate or joint tenancy interest in real property immediately prior to the decedent's death. The value of the life estate subject to the lien will be the value of the decedent's interest in the property subject to the life estate immediately prior to the decedent's death. The value of the joint tenancy interest subject to the lien will be the value of the decedent's fractional interest the recipient would have owned in the jointly held interest in the property

had the recipient and the surviving joint tenants held title to the property as tenants in common on the date of the recipient's death.

For liens against life estates or joint tenancy interests, the DSHS may not enforce the lien against either a bona fide purchaser who obtains an interest in the property after the recipient died but before the DSHS filed a lien or a property right that vested before July 1, 2005.

Votes on Final Passage:

House	56	41	
Senate	40	9	(Senate amended)
House	54	42	(House concurred)

Effective: July 24, 2005

ESHB 2309

C 412 L 05

Modifying water right fees.

By House Committee on Appropriations (originally sponsored by Representative Linville; by request of Office of Financial Management).

House Committee on Appropriations

Background: Under the state water code, a person must have a water right for any use of surface water and for all but certain exempted withdrawals of groundwater. A water right is a legal right to use a specified amount of water for a beneficial purpose. The Water Rights Program in Washington is managed by the Department of Ecology (DOE).

The process of acquiring a water right involves a number of steps and the payment of several fees. These fees are established in statute and must be used exclusively for the purpose of carrying out the work and performing the functions of the DOE Water Resources Program. An applicant files an application with DOE and pays a minimum examination fee of \$10 based on the amount of water involved in the project.

After its examination, the DOE makes a formal report of examination with a recommendation to either accept, deny, or condition the water right application. If a permit is to be issued, the applicant must pay a \$5 permit fee. The DOE then issues a permit, specifying a timetable for the applicant to meet in developing the water for a beneficial use. After the applicant has actually started using the water, the applicant sends in a certificate fee of \$5 and proof of appropriation, and the DOE issues the final water rights certificate. There are also fees associated with applying to change a point of diversion or place of use, asking for extensions for putting the water to beneficial use, and other services.

Fees were originally set in 1917 and have been subsequently adjusted over the years. The majority of the fees were last adjusted in 1951, when the minimum examination fee was increased from the 1917 fee of \$5 to

the current fee of \$10. Other fees were adjusted in 1965 and 1987, and some fees were changed in 1993 on a temporary basis.

Summary: Statutory fees related to acquiring a water right or storing water — and the basis for calculation of these fees — are amended. Fees for applications to appropriate or store water are assessed at the rate of \$1 per one hundredth cubic foot per second (cfs) and \$2 per acre foot of storage respectively. The minimum fee for applications to appropriate or store water is \$50, and the maximum fee for these types of applications is \$25,000.

Fees for applications to transfer, change, or amend a water right certificate, permit, or claim (and their calculation bases) also are amended. These fees are assessed at the rate of 50 cents per one hundredth cfs of water involved in the change, transfer, or amendment. Fees for applications to change a storage water right are assessed at the rate of \$1 for each acre foot of water involved in the change. The minimum fee for these types of applications is \$50, and the maximum fee is \$12,500. The fee for a temporary or seasonal change is \$50.

Other water right-related fees are amended. Fees for applications to extend time for beginning construction work or for completing application of water to beneficial use is changed to \$50. This \$50 fee also applies to extensions of time requested under a change or transfer authorization. Fees for recording assignments, preparing and issuing water rights certificates, amending a water right claim, and filing formal protests against granting an application are changed to \$50. No fee is required to comment on a water right application.

Fee exemptions are specified. No fee is required for:

- changes related to donation of a trust water right to the state;
- changes associated with the DOE's acquisition of a trust water right for instream flows or other public purposes;
- changes for which applications are filed with a water conservancy board or the DOE's review of a water conservancy board's record of decision;
- acquisition, storage, or change actions associated with parties to a cost reimbursement agreement;
- emergency withdrawal authorizations or temporary drought-related water right changes received while a drought condition order is in effect; and
- hydraulic works that are less than ten years old that the department examined and approved the construction plans and specifications as to its safety. For any hydraulic works more than ten years old, but less than twenty years old, that the department approved for safety, the fee charged shall not exceed the fee for a significant hazard dam.

Other provisions related to imposition of fees are added or removed. Only one examination fee and one certificate fee are imposed on change, transfer, or

amendment applications involving a single project operating under more than one water right or involving the consolidation multiple water rights. Statutory fees in the water code for filing and recording a permit or other water rights instruments and for copying and certifying specified documents are removed.

Application process provisions are amended. The number of times the DOE collects fees during the water right application process is reduced from three to two. In addition, an application or request for action related to a water right is deemed incomplete unless at least the minimum specified fee is submitted with the application. The DOE must return any application or request that does not include at least the minimum specified fee with advice as to the fee required for submission of the application. The minimum fee is considered a credit to the total fee due, and the DOE must provide notice to the applicant within five working days regarding any additional fees that must be submitted.

Disposition of the water right-related fees collected by the DOE is specified. Eighty percent of the fees are to be deposited in the State General Fund. The remaining 20 percent are to be deposited in the Water Rights Tracking System Account (Tracking System Account), which is established in the state treasury. Fees from the Tracking System Account may be spent only after appropriation and may be used by the DOE for the development, implementation, and management of a water rights tracking system, including a mapping system and a data base.

Numerous technical revisions are included.

Votes on Final Passage:

House 62 35
Senate 32 16 (Senate amended)
House 62 34 (House concurred)

Effective: July 24, 2005

ESHB 2311

C 315 L 05

Authorizing bonds for transportation funding.

By House Committee on Transportation (originally sponsored by Representatives Murray and Simpson).

House Committee on Transportation

Background: Bonds have been issued in the past to fund transportation projects that have a long term expected life span. The bonds must be authorized by the Legislature and the proceeds from the sale of the bonds must be appropriated for transportation projects.

Summary: Authorization is provided for the sale of \$5.1 billion of general obligation bonds for transportation improvements. The bonds are backed by the motor fuel tax and the full faith and credit of the state.

Votes on Final Passage:

House 62 36
Senate 32 14

Effective: July 1, 2005

ESHB 2314

C 514 L 05

Modifying revenue and taxation.

By House Committee on Finance (originally sponsored by Representative McIntire).

House Committee on Finance

Background: Business and Occupation Tax. Washington's major business tax is the business and occupation (B&O) tax. The B&O tax is imposed on the gross receipts of business activities conducted within the state, without any deduction for the costs of doing business. The tax is imposed on the gross receipts from all business activities conducted within the state. Although there are several different rates, the most common rates are 0.471 percent for retailing, 0.484 percent for wholesaling, and 1.5 percent for service activity. Businesses that are involved in more than one kind of business activity are required to segregate their income and report under the appropriate tax classification based on the nature of the specific activity.

Retail Sales Tax. The retail sales tax applies to the selling price of tangible personal property and of certain services purchased at retail. The tax base includes goods and certain services, including charges made for the use of facilities to perform services such as cleaning. The tax is imposed at a 6.5 percent rate by the state. Cities and counties may impose a local tax at a rate up to a maximum of 3.1 percent; currently, local rates imposed range from 0.5 percent to 2.4 percent. Sales tax is paid by the purchaser and collected by the seller.

Use Tax. The use tax is imposed on items used in Washington that were not subject to the retail sales tax, and includes purchases made in other states and purchases from sellers who do not collect Washington sales tax. The state and local use tax rates are the same as those imposed under the retail sales tax. Use tax is paid directly to the Department of Revenue.

Extended Warranties. The sales tax applies to manufacturer's warranties that are included in the retail selling price of an article. The sales tax does not apply to any other sales of warranties.

Self-service Laundry Facilities. Coin-operated laundry facility services offered in apartment buildings for the exclusive use of tenants are exempt from retail sales and use taxes and are subject to the B&O tax service classification. However, stand-alone laundry establishments must collect and remit retail sales and use taxes and are subject to the B&O tax retailing classification.

Delivery Charges for Direct Mail. For B&O, retail sales, and use taxes, the amount of tax is based on statutory definitions that apply tax to the full amount paid by the customer, without any deduction for expenses paid by the seller such as the cost of materials used, labor costs, or delivery costs. Notwithstanding the statutory provisions requiring inclusion of delivery costs, the Department of Revenue (DOR) issued administrative rules more than 30 years ago that allowed printers and mailing bureaus to deduct the cost of postage when calculating B&O and retail sales taxes, if the postage is purchased for a customer and the customer is charged for the postage. Legislation enacted in 2002 caused the DOR to review its rules on printers and mailing bureaus. The DOR discovered that it lacked the statutory authority for the portions of the rules that allow printers and mailing bureaus to deduct postage when calculating B&O and retail sales taxes.

Taxpayers are entitled to rely on rules and other written advice of the DOR until the written rules or advice is modified by the DOR. In January 2005, the DOR issued new rules for printers and mailing bureaus, effective July 1, 2005. On and after that date, printers and mailing bureaus may not deduct postage when calculating taxes.

Liquor Liter Tax. The liquor liter tax is imposed at the rate of \$2.4408 per liter on the sale of spirits in the original package. Revenues generated by the first \$1.9608 per liter are deposited in the State General Fund. Revenues generated by \$0.07 per liter are dedicated to youth violence prevention and drug enforcement. The remaining \$0.41 per liter is deposited in the Health Services Account.

Nonprofit Boarding Homes. A licensed boarding home is a facility that provides board and domiciliary care to seven or more residents. Domiciliary care includes assistance with the activities of daily living and assumes general responsibility for the safety and well-being of the resident. Some boarding homes offer limited nursing services and others specialize in serving people with mental health problems, developmental disabilities, or dementia.

Licensed boarding homes providing room and domiciliary care to residents pay B&O taxes at a rate of 0.275 percent. Amounts received from the Department of Social and Health Services (DSHS) for adult residential care, enhanced adult residential care, or assisted living services for medicaid recipients are deducted from income before B&O taxes are determined.

Comprehensive Cancer Centers. Nonprofit cancer centers are exempt from property tax, but do not qualify for B&O tax exemptions or sales and use tax exemptions.

Nonprofit blood, bone, and tissue banks are exempt from property tax. Nonprofit blood, bone, and tissue banks are exempt from B&O tax to the extent the amounts received are exempt from federal income tax.

The purchase and use of medical supplies, chemicals, or specialized materials by a nonprofit blood, bone, or tissue bank is exempt from sales and use tax.

In 1999, a question arose as to whether the Fred Hutchinson Cancer Research Center qualified as a blood, bone, or tissue bank for purposes of B&O, sales, and use tax exemptions. Litigation ensued. In 2003, the Thurston County Superior Court ruled that the Fred Hutchinson Cancer Research Center was not eligible for these exemptions. The court decision also invalidated the exemptions for bone and tissue banks, because the title of the original enactment of the exemptions was limited to blood banks. In 2004, the Legislature re-enacted the exemptions for bone and tissue banks.

Property Tax. Property taxes are levied by state and local governments. Property taxes apply to both real property, which includes land, buildings, and fixtures attached to buildings, and personal property, which includes all other property, including tangible and intangible property. With regard to personal property, household items and furnishings are exempt, as are business inventories, but other business personal property is subject to tax.

Property taxes are administered by the counties at the local level for most types of property. The county assessor determines assessed value for each property. The county assessor also calculates the tax rate necessary to raise the correct amount of property taxes for each taxing district. The property tax bill for an individual property is determined by multiplying the assessed value of the property by the tax rate for each taxing district in which the property is located.

Aerospace Industry Incentives. In 2003, the Legislature enacted certain tax incentives provided to manufacturers of airplanes and airplane components. Eligible firms include subcontractors and suppliers that are manufacturers. Among the incentives enacted is a credit against the B&O tax for certain property taxes paid. The property tax payments that are eligible include:

- property taxes paid on new buildings and the land upon which the buildings are located, or on renovations or expansions to existing buildings, if the buildings are used in the manufacturing of commercial airplanes or their components; and
- property taxes paid on new machinery and equipment that is exempt from sales and use taxes under exemptions originally enacted in 1995 for manufacturers, if the property is used in manufacturing commercial airplanes or components of such airplanes.

Leasehold Excise Tax. The leasehold excise tax applies to interests in publicly owned real or personal property. The tax is "in lieu" of property taxes that would otherwise be paid on the property if the property were privately held. The tax is based on the amount of contract rent, which is the amount paid for the use of the public property. The state tax is imposed at a rate of

12.84 percent. Local governments may impose a tax of up to 6 percent. Local leasehold excise taxes are credited against the state tax.

The DOR has issued rules that provide that a taxable leasehold interest is established through both possession and use, and the lessee must have some identifiable dominion and control over a defined area to satisfy the possession element.

Amphitheaters. The Clark County fairgrounds is the site of an outdoor amphitheater with seating for 18,000 persons for concerts and other events. In 2002, the Clark County Commission approved a twenty year lease for the facility with Quincunx of Washington, a subsidiary of Q-Prime, a firm that manages a number of popular entertainers. Pursuant to the agreement, Quincunx built the amphitheater with its own funds. Upon completion of construction in July 2003, ownership and title to the amphitheater vested in the County. Under the lease terms, Quincunx is granted both the right of possession to the amphitheater and the use of parking areas as well, including non-exclusive easement to those areas. Payments made under the lease agreement are subject to state and local leasehold excise taxes.

Historic Automobile Museum. In August of 2002, the City of Tacoma provided for the use of eight acres of land adjacent to the Tacoma Dome for the purposes of constructing a historic car museum. The agreement was made with the Harold E. LeMay Museum nonprofit organization. The organization is seeking to begin construction of a museum in 2007 and to begin museum operations in 2008. Construction of the museum will be subject to retail sales and use taxes.

Nursing Home Maintenance Fee. Historically, state Medicaid programs have used a variety of mechanisms such as provider taxes, provider donations, and inter-governmental transfers to increase federal Medicaid revenues. The federal government has placed restrictions on these mechanisms in order to limit the extent to which states may use federal funds to cover the state share of Medicaid costs. These restrictions include requirements that provider taxes be broad-based, which means the tax must apply to all providers of the same class, regardless of whether the provider participates in Medicaid or not. Provider taxes must also be imposed at a uniform rate, and they may not include any direct or indirect "hold harmless" provision which guarantees repayment of the tax to all providers.

In 2003, the state levied a new tax of \$6.50 per patient day of care on nursing homes. The tax applies to all patient days of care, except those paid by the federal Medicare program. The tax does not apply to nursing homes owned and operated by public agencies. It also does not apply to 36 private facilities the federal government agreed could be exempted from the tax without violating Medicaid federal rules.

The tax generates approximately \$34 million per

year of revenue for the State General Fund. Medicaid payment rates were increased in 2003 to cover the cost of the tax on patient days of care paid by the state Medicaid program. After accounting for the state share of that increased Medicaid payment, net state revenues from the tax total about \$22 million per year.

Washington Main Street Program. Many communities may have traditional downtown business districts or neighborhood commercial districts that are in need of revitalization. In 2002, legislation was enacted that provides assistance to communities to revitalize downtown or neighborhood commercial districts. The legislation allows such districts to receive allocations of certain incremental local retail sales and use tax revenues attributable to economic growth to pay for revitalization costs. These allocations must be authorized by the legislative authority of the city or town in which the district is located.

The Department of Community Trade and Economic Development (DCTED) Downtown Revitalization Program (DRP) assists communities throughout the state to revitalize the economy, appearance and image of traditional business districts through training, technical assistance and the organization of local resources. Utilizing the Main Street methodology developed by the National Trust for Historic Preservation, the DRP emphasizes four critical areas of revitalization: organization, promotion, design and economic restructuring. Since July 1, 2003, 10 Washington communities have been certified as Main Street communities.

High Technology Research and Development B&O Tax Credit. The B&O tax allows a credit for certain operational research and development (R&D) expenditures in high-technology businesses. The credit is provided to businesses, including qualifying nonprofit organizations, that make R&D expenditures in excess of 0.92 percent of taxable income.

In the 2004 session, the Legislature modified the high technology R&D B&O tax credit. The amount of credit that may be taken is based on amounts spent on R&D in excess of 0.92 percent of a business' total taxable amount for the year. In addition, calculation of the credit by for-profit firms must be based on the average tax rate of the firm for the tax reporting period, rather than 1.5 percent, the requirement prior to the 2004 changes. The credit is equal to the average tax rate multiplied by the amount spent on R&D in excess of 0.92 percent of the business total taxable amount.

The 2004 changes to the high tech R&D B&O tax credit provided a definition of "average tax rate" based on a business' taxable income. However, for the purposes of the B&O tax, the measure of tax for some firms includes more than taxable income. For firms that manufacture products, the measure of tax is based on the value of the products manufactured. The manner in which "average tax rate" is defined means that the amount of

credit that may be taken by firms that engage in manufacturing activities is higher than if the calculation were based on the entire measure of tax for B&O purposes.

As part of the 2004 changes, businesses that take the high tech B&O tax credit for R&D spending must submit an annual survey. The survey, which includes employment, wage, and other information, is in addition to an annual report that must be submitted with information relating to the credit calculation. Both the survey and report are due by March 31 of the year following the year the credits were taken. The amount of taxpayer credit reported on the survey may be disclosed to the public. If the survey is not completed by the due date, the business is not eligible for the credit. No exceptions are allowed for failure to file even if the failure was for reasons beyond the taxpayer's control.

Cigarette Taxes. Cigarettes are subject to tax at a rate of 142.5 cents per pack of 20 cigarettes. Retail sales and use taxes are also imposed on sales of cigarettes. Revenue from the first 23 cents of the cigarette tax goes to the State General Fund. The next 8 cents are dedicated to water quality improvement programs through June 30, 2021, and to the State General Fund thereafter. The next 101 cents goes to the Health Services Account. The remaining 10.5 cents are dedicated to the Violence Prevention and Drug Enforcement Account.

Student Achievement Fund. I-728 was approved by voters in the November 2000 general election. Under this initiative, a portion of the state property tax is dedicated for educational purposes by transferring revenues into the Student Achievement Fund. Under I-728, allowable uses of the Student Achievement Fund include: hiring more teachers to reduce class sizes and making necessary capital improvements; creating extended learning opportunities for students; providing professional development for educators; and providing early childhood programs.

The amount of state property taxes dedicated to the Student Achievement Fund is: \$254 per full-time equivalent (FTE) student in the 2004-05 school year; \$300 per FTE student in the 2005-06 school year; \$375 per FTE student in the 2006-07 school year; and \$450 per FTE student in the 2007-08 school year. In subsequent school years, the \$450 per student amount increases by inflation measured by the implicit price deflator. The allocation rate to school districts from the Student Achievement Fund each year is equal to the per student amount of state property tax placed in the Student Achievement Fund.

Estate Tax. Transfers of property belonging to persons domiciled in Washington at the time of their death are subject to a state estate tax. On February 3, 2005, the Washington Supreme Court invalidated Washington's estate tax to the extent it exceeds the tax credit available under the federal estate tax.

In the 2005 session, legislation was enacted that imposes a Washington estate tax independent of the fed-

eral estate tax. The legislation includes provisions that allow a deduction of the value of property used primarily for farming. The deduction is available to estates where over 50 percent of the estate value is qualified farm property. In addition, at least 25 percent of the estate value must be real property that was managed as a farm by the decedent or a member of the family.

Summary: Extended Warranties. Sales and use tax applies to the retail sale and use of all warranties. A warranty seller's B&O tax rate is changed from the 1.5 percent service rate to the 0.471 percent retailing rate.

Self-service Laundry Facilities. An exemption from sales and use taxes is provided for all self-service laundry facilities. The change also modifies the B&O tax classification for such facilities from retail to service, increasing the applicable B&O rate from 0.471 percent to 1.5 percent.

Delivery Charges for Direct Mail. B&O, retail sales, and use taxes do not apply to delivery charges made for direct mail if the charges are separately stated on the billing document given to the purchaser. "Direct mail" means printed material delivered to a mass audience or a mailing list provided by the purchaser without charge to the persons who receive the mail.

Liquor Liter Tax. An additional tax is imposed on liquor at the rate of \$1.33 per liter excluding purchases by restaurants. The additional tax is distributed 97.5 percent to the State General Fund, 2.3 percent to the Health Services Account, and 0.2 percent to the Violence Reduction and Drug Enforcement Account.

Nonprofit Boarding Homes. Nonprofit boarding homes are exempt from B&O taxes on amounts received for providing room and domiciliary care. Eligible nonprofit boarding homes are those operated by religious or charitable organizations as part of a nonprofit hospital or public hospital district and exempt from federal income tax as 501(c)(3) organizations.

Comprehensive Cancer Centers. Comprehensive cancer centers are exempt from property tax. Comprehensive cancer centers are exempt from B&O tax to the extent the amounts received are exempt from federal income tax. The purchase and use of medical supplies, chemicals, or specialized materials by a comprehensive cancer center is exempt from sales and use tax. A comprehensive cancer center is defined as one that is recognized by the National Cancer Institute and qualifies as an exempt organization under the federal income tax code.

Aerospace Industry Incentives. The B&O credit allowed for certain property taxes paid by manufacturers of commercial airplanes and airplane components is modified. Property taxes paid with respect to newly acquired or constructed real property are eligible only if the building is used exclusively in the manufacturing of airplanes or airplane components. Property taxes paid with respect to newly acquired machinery and equipment are eligible to the extent that the manufacturer conducts

aerospace manufacturing activity relative to other manufacturing activity.

Amphitheaters. An exemption from the leasehold excise tax is provided for leasehold interests in certain public or entertainment areas of an amphitheater. To qualify for the exemption, the following conditions must be met:

- the lessee is responsible for the entire cost of constructing the amphitheater;
- the lessee is not reimbursed for any of the construction costs;
- both the lessee and the lessor sponsor events at the facility on a regular basis;
- the lessee is responsible under the lease agreement to operate and maintain the facility;
- the amphitheater has a seating capacity of over 17,000 persons; and
- the amphitheater is located in a county with a population of between 350,000 and 400,000 persons.

Historic Automobile Museum. Beginning July 1, 2007, a deferral of sales and use taxes is allowed on the construction of structures, fixtures that become part of the structures, and site preparation for a historic automobile museum. The museum must be used to exhibit a collection of at least 500 vehicles. To receive the deferral, the governing board of the organization must be a nonprofit organization and must apply to the DOR. Applications and other information received by the DOR may be disclosed to the public.

Taxes must be repaid beginning in the fifth year after the museum is operationally complete. Ten percent of the tax liability is due each year then for 10 years. If the DOR finds the project to be ineligible during the deferral period or if the project is not operational after five years from when the deferral was issued, deferred taxes must be repaid with interest.

Nursing Home Quality Maintenance Fee. The quality maintenance fee is reduced to \$5.25 for the 2005-07 biennium, \$3.00 for the 2007-09 biennium and \$1.50 for the 2009-11 biennium. After July 1, 2011, the fee is no longer imposed.

Washington Main Street Program. The Washington Main Street Program is created in the Department of Community, Trade, and Economic Development (DCTED), which will provide technical assistance to communities undertaking a comprehensive downtown or neighborhood commercial district revitalization initiative and management strategy. Financial assistance may be provided to communities for certain program costs. The DCTED will develop the criteria for selecting the recipients of assistance and will provide the designation of local projects. Priority for technical and financial assistance must be given to downtown or neighborhood revitalization programs located in a rural county. The DCTED may not provide assistance to cities with population of 190,000 or more.

The DCTED will operate the program in consultation with an advisory committee. In consultation with the committee, the DCTED must develop a plan that must describe the objectives and strategies of the Washington Main Street Program.

The program is funded through a new B&O tax credit. The B&O tax credit is available for 75 percent of the amount a business contributes directly to a local program or 50 percent of the amount contributed to the Main Street Trust Fund. In order to receive a credit, an application must be submitted to the DOR, which may not approve credits before January 1, 2006. Total credits may not exceed \$100,000 per calendar year for an individual program or \$250,000 per calendar year for a business, and may only be claimed against tax due in the calendar year following approval. The total amount of credits per year statewide is capped at \$1.5 million per calendar year. Credit may not be approved for cities with population of 190,000 or more.

High Technology Research and Development B&O Tax Credit. For the purposes of calculating the high technology B&O tax credit for R&D spending, the average tax rate is defined to be based on a business' total annual taxable amount, including both taxable income and the value of the products manufactured. The changes to the high tech R&D B&O credit are retroactive to June 10, 2004. Persons who owe additional tax as a result of the changes are liable for interest, and, with respect to taxes paid after 2005, penalties.

Beginning in calendar year 2007, a person claiming the high tech R&D credit may calculate the credit based on the firm's average tax rate or a specified percentage, whichever is higher. The specified percentage is 0.75 percent in calendar year 2007; 1 percent in 2008; and 1.25 percent in 2009, and 1.5 percent in 2010 and thereafter.

A business claiming the high tech R&D credit must submit the survey for the high tech B&O tax credit electronically, unless cumulative tax relief to the taxpayer from taking any of tax incentives requiring surveys or reports is \$1,000 or less. A business that fails to submit a survey as a result of circumstances beyond the control of the taxpayer may receive an extension to file of up to 30 days from the date that the DOR notifies the taxpayer of such extension.

In situations in which the amount of credit reported by a business on the survey is different than the amount reported by the business on its tax return or otherwise allowed by the DOR, the DOR is allowed to report the tax return amount for public disclosure purposes.

Cigarette Tax. The cigarette tax rate is increased by 60 cents per pack of 20 cigarettes on July 1, 2005, to a total tax rate of \$2.025 per pack. A portion of the revenues from the new tax, representing existing losses in tax revenues reductions resulting from an expected reduction in overall taxable sales due to the expected increased

price per pack, is deposited to existing accounts that receive cigarette tax receipts. The amounts deposited are as follows: 21.7 percent to the Health Services Account, 1.7 percent to the Water Quality Account, 2.3 percent to the Violence Prevention and Drug Enforcement Account, and 2.8 percent to the State General Fund. The net receipts from the new tax are deposited to a new account, the Education Legacy Trust account, for the sole purposes of making deposits into the Student Achievement Fund and for expanding access to higher education through funding for new enrollments and financial aid, and other educational improvement efforts.

Student Achievement Fund. The amount of state property taxes dedicated to the Student Achievement Fund is set at \$254 per FTE student for school years 2004-2005 through 2007-2008, \$265 per FTE student for school year 2008-2009, \$277 for school year 2009-2010, and \$278 per FTE student for school year 2010-2011 and thereafter.

Estate Tax. The estate tax deduction for farms is broadened to apply to the estates of some tenant farmers. This applies to estates that do not meet the requirement that at least 25 percent of the value of the estate is qualified farmland. An estate that does not meet the farmland requirement may still deduct the value of real and personal property used for farming purposes if the value of the personal property used for farming equals or exceeds 50 percent of the value of the estate.

Votes on Final Passage:

House	50	48
Senate	25	22

Effective: July 1, 2005

May 17, 2005 (Sections 110(5), 114-116, 1001, 1003, 1004, 1201, 1311 and 1312)

January 1, 2006 (Sections 501 and 1002)

July 1, 2006 (Sections 401-403 and 1107 [1106])

July 1, 2007 (Section 701)

EHCR 4404

Approving the 2004 update to the state comprehensive plan for work force training.

By Representatives Kenney, Cox, Sells, Priest, Jarrett, Conway, Ormsby and Linville; by request of Workforce Training and Education Coordinating Board.

House Committee on Higher Education

House Committee on Commerce & Labor

Senate Committee on Labor, Commerce, Research & Development

Background: The Workforce Training and Education Coordinating Board (Workforce Board) was created in 1991 to do strategic planning and evaluation of the various components of the state's workforce training system

and to advocate for meeting the education and training needs of employers and workers. The Workforce Board focuses on training and jobs that require less than a baccalaureate degree.

One of the Workforce Board's responsibilities is to develop a state comprehensive plan for workforce training and education. The plan is developed based on economic, labor market, and population trends; industry and occupational forecasts; evaluations of training programs; and needs of employers, program participants, and workers. Each of the agencies on the Workforce Board is expected to create operating plans for their workforce development efforts that are consistent with the comprehensive plan. These include the Office of the Superintendent of Public Instruction, the State Board for Community and Technical Colleges, and the Employment Security Department.

The Workforce Board is required to update the comprehensive plan every two years and submit it to the Governor and the Legislature. After public hearings, the Legislature is to approve the plan through concurrent resolution or recommend changes. The Workforce Board's 2004 plan, "High Skills, High Wages 2004," was submitted in October 2004.

Summary: The Legislature finds that the state faces challenges in the workforce to close the gap in supply and demand for skilled workers; enable workers to fully benefit from a changing economy; and assist disadvantaged youth, persons with disabilities, recent immigrants, and low-wage workers in moving up the job ladder.

The Legislature finds that the state comprehensive plan for workforce training and education prepared by the Workforce Board establishes six strategic opportunities:

- 1) increasing postsecondary education and training capacity at the sub-baccalaureate level and targeting resources to expand capacity in high demand programs while ensuring that individuals have access to a broad range of opportunities;
- 2) reducing dropouts, increasing vocational pathways, and holding schools accountable for retaining students through graduation;
- 3) expanding and sustaining industry skill panels using partnerships of employers, educators and labor to foster innovative workforce training;
- 4) increasing training linked to retention support for low-income individuals;
- 5) increasing basic skills and English as a second language instruction that is integrated with occupational skills training; and
- 6) expanding customized training for incumbent workers.

The Legislature recognizes that the Workforce Board used an inclusive process to develop consensus on the priorities identified in the plan, and secured the unanimous endorsement of critical constituencies. Therefore,

HCR 4408

the House of Representatives and the Senate approve the 2004 update to the state comprehensive plan for workforce training.

Votes on Final Passage:

House	Adopted
Senate	45 2

HCR 4408

Creating a joint select committee on secondary education.

By Representatives Quall, Ormsby, Dunn and McDermott.

House Committee on Education

Senate Committee on Early Learning, K-12 & Higher Education

Background: Elementary school students tend to perform at higher achievement levels or the state's standards than is true of students in middle schools and high schools. The achievement gap is even higher between American youth and their high school peers in other industrialized countries of the world, a gap that is especially acute in mathematics and science.

The international and state high school achievement gaps may not measure the educational attainment of students who have already dropped out of school. About 66 percent of the state's youth graduate with their peers. That percentage is even lower for students in some demographic categories. About 42 percent of American Indian youth graduate on time. The on-time graduation rate for African American, Hispanic, and limited English proficient youth is under 50 percent. Most youth who don't graduate on time never complete high school. However, a small percentage of them get General Equivalency Diplomas, or obtain diplomas after either a fifth year in high school or through community or technical college high school completion programs.

Summary: A joint select committee is created to examine the basic structure of middle schools and high schools. The task force is composed of eight legislators, four from each legislative chamber, selected from each major caucus by the Speaker of the House of Representatives and the President of the Senate.

The joint select committee will:

- examine the rate of academic improvement in middle and high schools;
- review state and national literature on secondary school redesign;
- identify the extent to which high schools have organized to support student learning and improved achievement;
- examine the effect of the current delivery model on achievement gaps and dropout rates;

- examine successful organizational models within the state, nationally, and internationally;
- consult experts and stakeholders, directly or through subcommittees; and
- report its findings and recommendations to the House and Senate committees on education policy by January 15, 2006.

Members of the joint select committee will receive per diem, travel, and staffing support from legislative committee staff.

The task force expires June 30, 2006.

Votes on Final Passage:

House	Adopted
Senate	35 11

EHCR 4410

Establishing the joint select committee on public health financing.

By Representatives Schual-Berke, Cody, Haler, Moeller, Clibborn, Darneille, Fromhold and Chase.

Background: Since 1994 the Department of Health (Department) has published a public health services improvement plan (plan) every two years. By statute, the Department must develop the plan in consultation with the Board of Health, local health jurisdictions, area Indian health services, and other organizations. The plan must address standards for public health protection, strategies and schedules for improving public health programs, and recommended levels of dedicated funding for public health services. The 2004 version of the plan recommended the formulation of a specially organized group to study alternative financing strategies for the public health system.

Summary: The Joint Select Committee on Public Health Financing (Committee) is created. The membership of the Committee consists of a member of each caucus from the House and Senate committees with principal jurisdiction over health care and fiscal matters. The Committee must collaborate with representatives of the Governor's office, the Department, the Association of Counties, the Association of Local Public Health Officials, and the State Board of Health. The Committee shall review existing and potential funding sources and expenditures for public health services and recommend potential sources of future funding. The final report is due by July 1, 2006.

Votes on Final Passage:

House	Adopted
Senate	46 2

ESSB 5002

C 112 L 05

Marketing, offering, or selling camping resort contracts.

By Senate Committee on Labor, Commerce, Research & Development (originally sponsored by Senators Regala, Swecker, Hargrove, Brandland, Doumit and Shin).

Senate Committee on Labor, Commerce, Research & Development

House Committee on Commerce & Labor

Background: With a few exceptions, to offer or sell a camping resort contract in this state, the contract must be registered with the Department of Licensing (DOL). This requirement has been interpreted as allowing out-of-state persons or businesses to forgo registering their camping resort contracts, resulting in those contracts being sold at lower prices. Furthermore, the current statute does not require the resale of more than one camp resort contract to be registered.

Summary: A camping resort contract can only be marketed, offered, or sold in this state, or to a resident of this state, if the contract is first registered with the DOL.

The sale of resale camp resort contracts requires that the contract be registered with the DOL. However, the sale of up to three resale private party camping resort contracts are not required to be registered.

Votes on Final Passage:

Senate 47 0
House 94 0

Effective: July 24, 2005

SB 5006

C 113 L 05

Concerning the sale of aquaculture products produced on leased state-owned aquatic land.

By Senator Jacobsen.

Senate Committee on Natural Resources, Ocean & Recreation

House Committee on Natural Resources, Ecology & Parks

Background: Valuable materials such as sand, gravel, and shellfish must be sold at public auction if their value is over one hundred thousand dollars. The sale of the harvested geoducks is by the lease holder. It is the harvest tracts which are leased and not the geoducks. Therefore the statute needs to be amended to make sure that the lease holder can sell the harvested product.

Summary: Aquaculture products on leased lands may be sold by the leaseholder as long as the sale is consistent with the lease.

Votes on Final Passage:

Senate 48 0
House 96 0

Effective: July 24, 2005

ESSB 5034

C 445 L 05

Making restrictions on campaign funding.

By Senate Committee on Government Operations & Elections (originally sponsored by Senator Kastama; by request of Public Disclosure Commission).

Senate Committee on Government Operations & Elections

House Committee on State Government Operations & Accountability

House Committee on Appropriations

Background: Political advertising paid for by an independent expenditure is subject to special reporting requirements that are enforced by the Public Disclosure Commission (PDC). Political advertisements support or oppose a candidate. The sponsor of a political advertisement that is made public within 21 days of the election must report the fair market value of the advertisement within 24 hours of its presentation to the public.

When an advertisement is an "issue ad" it does not oppose or support a candidate. It explains an issue which may be an issue in contention in a political campaign. These are not regulated or limited. However, when the issue ad exhorts the audience to the action of voting or not voting for a particular candidate, or attacks a candidate's character, it then becomes "express advocacy." This causes the issue ad to revert to a political ad.

Independent expenditures are those made by an entity or person, other than the candidate, that are independent of the candidate's request or control but which are intended to benefit the candidate's prospects for election or to reduce the prospects of the opposing candidate. Independent expenditures must be reported, but the value of them is not considered to be a contribution to the candidate's campaign, which is otherwise subject to limits.

These limits on campaign contributions, however, do not apply in certain circumstances. These circumstances are expenditures or contributions for voter registration, absentee ballot information, for precinct caucuses, for get-out-the-vote campaigns, for precinct judges or inspectors, for sample ballots, or for ballot counting, all without promotion of or political advertising for individual candidates, and expenditures by a political committee for its own internal organization or fund raising without direct association with individual candidates.

The distinction between independent expenditures, which are not subject to limitations, and contributions that are subject to limitation, has been the subject of state

and United States Supreme Court decisions. The courts have drawn a bright line distinction that is not present in Washington statutes. The term "electioneering communication" is determined objectively by being an advertisement that is made public within 60 days of the election, clearly identifies the candidate, and has a fair market value of \$5,000 or more.

Summary: Electioneering communications are those made within 60 days of the election, clearly identify the candidate, and have a fair market value of \$5,000 or more.

The specifics about the payment for electioneering communications must be reported electronically to the PDC within 24 hours of the electioneering communication being made public.

Electioneering communications made at the candidate's request are contributions and are subject to the contribution limitations. Unless exempted from contribution limits, all contributions accrue toward those limits.

Independent expenditures or electioneering communications transmitted through television or other medium utilizing a visual image or through a medium not utilizing a visual image must include a statement that is clearly spoken or appearing in clearly visible print, indicating: (1) that no candidate authorized the advertisement; and (2) who paid for the advertisement. If the advertisement is paid for by a "nonindividual" other than a party organization (political action committee), it must also include the names of the top five contributors who contributed more than \$700.

Votes on Final Passage:

Senate	48	0	
House	56	40	(House amended)
Senate	26	20	(Senate concurred)

Effective: July 1, 2005 (Sections 6 and 12)
January 1, 2006

SSB 5035
C 166 L 05

Revising the forensic pathology program.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Thibaudeau, Brandland and Franklin).

Senate Committee on Health & Long-Term Care
House Committee on Criminal Justice & Corrections

Background: The State Forensic Pathology Fellowship Program has joint oversight with the University of Washington School of Medicine and the Washington State Forensic Investigation Council over the Bureau of Forensic Laboratory Services. The council, in consultation with the Chief of the Washington State Patrol, controls the operation and establishes policies of the Bureau

of Forensic Laboratory Services. The program is funded from the general fund death investigation account.

The fellowship position has been difficult to fill in recent years and has been vacant during the past four years.

Summary: Removes the requirement that the State Treasurer make disbursements to the Washington State Forensic Investigations Council for the purpose of funding the state forensic program. The Forensic Investigations Council must have oversight of any state forensic pathologist program.

Votes on Final Passage:

Senate	46	0	
House	98	0	(House amended)
Senate	41	0	(Senate concurred)

Effective: July 24, 2005

SSB 5038
C 413 L 05

Increasing penalties for failure to yield to authorized emergency vehicles or police vehicles.

By Senate Committee on Judiciary (originally sponsored by Senators Honeyford, Oke, Kline, Mulliken and Eide).

Senate Committee on Judiciary
House Committee on Criminal Justice & Corrections

Background: When an emergency vehicle, using its audible and visual signals, or a police vehicle, using an audible signal, is approaching other vehicles, the driver of every other vehicle is required to yield the right of way and drive to a position parallel to and as close as possible to the right-hand edge or curb of the roadway, clear of any intersection. Failure to yield the right of way is a traffic infraction with a base penalty of \$37, not including statutory assessments.

Summary: The traffic infraction of failure to yield the right of way to an emergency vehicle occurs when a person fails to yield the right of way to an approaching authorized emergency vehicle making use of audible and visual signals or a police vehicle properly making use of an audible signal. The monetary penalty for such a violation is \$500 for each offense.

Votes on Final Passage:

Senate	46	0	
House	97	1	(House amended)
Senate	46	0	(Senate concurred)

Effective: July 24, 2005

SB 5039
C 414 L 05

Regulating the processing of milk and milk products.

By Senators Rasmussen, Schoesler and Shin; by request of Department of Agriculture.

Senate Committee on Agriculture & Rural Economic Development

House Committee on Economic Development, Agriculture & Trade

Background: Under the Milk and Milk Products Act, milk processors must use a mechanical capping method for bottling and capping milk and milk products. This law also requires licensing of facilities that process milk and milk products. The annual license fee is \$25. All but the smallest processors must also pay an assessment of 0.54 cents per hundredweight of fluid milk.

Facilities that process food are required to be licensed under The Food Processing Act. This license fee is based on the amount of gross annual sales and ranges from \$55 for a small scale food processor to \$825 for the largest category of food processor.

Some operators have been unable to locate and purchase mechanical capping equipment that is appropriate to their operations. Clarification is sought regarding the licensing requirements for facilities that process both milk and milk products and other food products.

Summary: The requirement that bottling and capping of milk products be done by a machine is deleted. The requirement that capping be done in a "sanitary manner by means of approved equipment and operation" is retained.

The annual license fee for a milk and milk products processing plant is increased to \$55. A facility that processes milk and milk products as well as food products will continue to pay \$55. The assessment on fluid milk is unchanged. A facility that processes only food products will continue to be subject to the existing license fee that is based on gross annual sales. A food processor that also processes milk or milk products will continue to be required to have two licenses but the fee will be waived for the food processing license.

Votes on Final Passage:

Senate	48	0	
House	96	0	(House amended)
Senate	41	0	(Senate concurred)

Effective: July 1, 2005 (Sections 1 and 4)
July 24, 2005

SB 5044
C 114 L 05

Regulating contract interests of an officer of a rural public hospital district.

By Senators Mulliken and Parlette.

Senate Committee on Government Operations & Elections

House Committee on Local Government

Background: Generally, municipal officers are prohibited from being beneficially interested in any contract made by, through, or under the supervision of the officer. The term "municipal officer" is defined to include all elected and appointed officers of a municipality, together with all deputies and assistants of an officer.

A number of contracts are excepted from the prohibition, including contracts where the total amount received under the contract by the municipal officer or the municipal officer's business does not exceed \$1,500 in any calendar month. For officers of second class cities, towns, code cities, or county fair boards, the total amount may exceed \$1,500 in any calendar month but must not exceed \$18,000 in any calendar year.

Summary: Officers of a rural public hospital district may be beneficially interested in a contract, the total amount of which may exceed \$1,500 in any calendar month but must not exceed \$24,000 in any calendar year.

A rural public hospital district is defined in existing law as a public hospital district whose geographic boundaries do not include a city with a population greater than 30,000.

Each year, the legislative authority of the rural public hospital district must increase the \$24,000 yearly limitation to account for inflation. Inflation is to be calculated using the consumer price index compiled by the United States Department of Labor for the State of Washington.

Votes on Final Passage:

Senate	47	0
House	94	0

Effective: July 24, 2005

ESB 5045
C 115 L 05

Allowing title insurance companies to provide a guarantee covering its agents.

By Senators Doumit and Morton.

Senate Committee on Financial Institutions, Housing & Consumer Protection

House Committee on Financial Institutions & Insurance

Background: In 2003, legislation was enacted in response to a theft by a title insurance agent. The new law required a bond or insurance for title agents. How-

ever, it was discovered that this type of insurance coverage was unavailable, leaving the Office of the Insurance Commissioner with the dilemma of having to potentially not renew, or revoke, all title insurance agents licenses in the state. A bill in 2004 attempted to address this problem, but failed to pass.

Summary: Title insurance companies may provide a "guarantee" of financial responsibility, up to \$200,000, for fraudulent or dishonest acts committed by employees, officers, and owners of title insurance companies.

All title insurance agents licensed on or before the effective date of this law have 30 days to comply.

Votes on Final Passage:

Senate 46 0
House 94 0

Effective: July 24, 2005

SB 5046
C 116 L 05

Modifying provisions governing ethics complaints.

By Senators Regala and Johnson; by request of Legislative Ethics Board.

Senate Committee on Government Operations & Elections

House Committee on State Government Operations & Accountability

Background: The Legislative Ethics Board and the Executive Ethics Board enforce the Ethics in Public Service Act against their respective members and employees. The ethics boards, or any person, may file with the appropriate ethics board a complaint alleging a violation of the ethics act. The staff of the appropriate ethics board must investigate all complaints. Current law gives the ethics boards the authority, through the rule making process, to allow board staff to dismiss a complaint if the alleged violation is not within the jurisdiction of the board; if the complaint is obviously unfounded or frivolous; or if the violation was inadvertent and minor and further proceedings would not serve the purposes of the ethics act.

All complaints alleging that a legislator or statewide elected official violated the prohibition on the use of public resources for political campaigns must be investigated by the Attorney General. The Attorney General bills the respective ethics board for the cost of any investigation.

Summary: The ethics boards are given the authority to issue rules allowing the board to dismiss complaints if the alleged violation is not within the jurisdiction of the board; if the complaint is obviously unfounded or frivolous; or if the violation was inadvertent and minor and further proceedings would not serve the purposes of the ethics act. If the complaint is dismissed by staff, the

written notice to the complainant must include a statement of the right to appeal.

Complaints alleging that a legislator or statewide elected official violated the prohibition on the use of public resources for political campaigns are investigated by the Attorney General if requested by the appropriate ethics board.

Votes on Final Passage:

Senate 46 0
House 94 0

Effective: July 24, 2005

ESB 5049
C 465 L 05

Requiring the disclosure of information about mold in residential dwelling units.

By Senators Kohl-Welles, Benton, Fairley, Esser, Thibaudeau, Prentice, McAuliffe, Kline and Rockefeller.

Senate Committee on Financial Institutions, Housing & Consumer Protection

House Committee on Housing

Background: A landlord does not have a duty under the Residential Landlord Tenant Act to provide tenants with information on the health hazards related to indoor mold exposure.

Mold is a class of fungi that reproduces through the production of spores. These spores can be released into the air, resulting in skin and respiratory exposure. In moist conditions, molds can grow indoors on a variety of surfaces. Everyday activities, such as cooking, doing laundry, washing dishes, and taking showers, give off moisture that may create mold growth, although not always readily visible.

Indoor mold may cause health problems. Persons with allergies or asthma could be susceptible to mold-induced skin rashes, eye irritation, and congestion, among other symptoms. Further, depending upon the level of exposure, mold toxins may result in such symptoms as fatigue, nausea, headaches, and respiratory irritations.

There are no federal regulations governing indoor air quality standards for mold.

Summary: Landlords of residential property are required to provide tenants with information on the health hazards associated with indoor mold. Information, provided or approved by the Department of Health (Department), must detail how mold growth can be controlled by the tenant in order to minimize the related health risks. The Department must make this information available on their web site and, if requested, mail a printed version to landlords that do not have computer access. If the Department develops or changes the information, landlord representatives must be involved in the

process.

Landlords must either: (1) post the mold information in a visible public location at the residential property or; (2) provide the information to new tenants at the time the lease or rental agreement is signed and to current tenants no later than January 1, 2006.

Landlords, agents, and their employees are immune from civil liability if they fail to provide the required information on mold, unless the omission was knowingly and intentionally made.

Votes on Final Passage:

Senate	30	14	
House	60	34	(House amended)
Senate	46	1	(Senate concurred)

Effective: July 24, 2005

SSB 5052

C 332 L 05

Creating the uniform estate tax apportionment act.

By Senate Committee on Judiciary (originally sponsored by Senators Johnson, Kline and Rockefeller).

Senate Committee on Judiciary
House Committee on Judiciary

Background: Current estate tax apportionment law is contained in chapter 83.110 RCW. It is based on the original uniform estate tax apportionment act of 1964. The National Conference of Commissioners on Uniform State Laws adopted a new version of that act in 2003. The Estate and Gift Tax Committee of the Washington State Bar Association Tax Section has reviewed the 2003 Uniform Estate Tax Apportionment Act (UETAA) and is in support of its adoption, subject to several minor variations. It continues to advance the principle of the 1964 Act in that the decedent's expressed intentions govern apportionment of an estate tax. The statute only applies when there is no clear and effective provision by the decedent as to how estate taxes are to be apportioned.

Summary: If a decedent does not make a valid provision as to how estate taxes are to be apportioned, the statutory apportionment rules of the UETAA apply. A decedent's estate tax is apportioned among those interested in the estate, essentially on the basis of their shares in the net estate. All property and interests that are subject to the estate tax are addressed, including joint tenancy assets, retirement accounts, and life insurance. An interest in property that qualifies for a deduction bears a portion of the tax only if there is no other source from which to pay the tax.

"Insulated property" is property subject to a time-limited interest which is included in the apportionable estate and is unavailable for payment of an estate tax because of impossibility or impracticability. The tax apportioned to the holders of interests in insulated prop-

erty is collected ratably from persons who receive unin-sulated property. These people participate in the appreciation or depreciation of the insulated property and, if it ever ceases to be insulated, those who advanced the tax can collect their percentage from the property at that time.

A reference is contained to the 2005 version of the Internal Revenue Code and it applies to the estate tax apportionment chapter only. A savings clause addresses any outstanding rights, liabilities, or obligations that may exist under the apportionment statute that is being repealed in the legislation.

Votes on Final Passage:

Senate	46	0	
House	98	0	(House amended)
Senate	46	0	(Senate concurred)

Effective: January 1, 2006.

SB 5053

C 117 L 05

Authorizing service by publication in actions to establish or modify parenting plans, for legal separation or invalidity of marriage, and for nonparental custody.

By Senators Kline and Johnson.

Senate Committee on Judiciary
House Committee on Juvenile Justice & Family Law

Background: Generally, the rules of practice for civil court actions govern all proceedings for dissolution of marriage, legal separation, and non-parental custody actions. Proceedings are commenced by delivery of a copy of the summons and petition to the respondent. This is called service of process. Personal service, actual delivery of the documents, is the preferred method. Constructive service, however, may be effective when all attempts at personal service have failed in spite of due diligence. Constructive service may be by mail, if specifically authorized by the court, or by publication.

Service by publication is authorized by statute for divorce proceedings when the respondent cannot be located and personally served. It is also available if the respondent conceals himself, or herself, or has moved out of state to avoid service. The summons must be published in a newspaper of general circulation in the county where the action is brought, once a week for six consecutive weeks. These statutes are strictly construed by the court.

Summary: Service by publication is specifically authorized for appropriate cases in: (1) actions for the establishment of a parenting plan or residential schedule; (2) dissolution of marriage; (3) legal separation; (4) declaration of invalidity; or (5) nonparental custody when the child is in the physical custody of the petitioner.

Votes on Final Passage:

Senate 48 0
House 93 1

Effective: July 24, 2005

2SSB 5056

C 333 L 05

Creating the department of archaeology and historic preservation.

By Senate Committee on Ways & Means (originally sponsored by Senators Haugen, Swecker, Prentice, Kastama, Fairley, Honeyford, Zarelli, Hewitt, Berkey, Fraser, Thibaudeau, Jacobsen, McAuliffe, Rasmussen, Kline and Rockefeller).

Senate Committee on Government Operations & Elections

Senate Committee on Ways & Means

House Committee on State Government Operations & Accountability

House Committee on Appropriations

Background: The Office of Archaeology and Historic Preservation (OAHP) is part of the Department of Community, Trade and Economic Development (CTED). Within CTED, OAHP is supervised by the assistant director for local government who, in turn, reports to the director of CTED, who in turn, reports to the Governor.

The executive head of the OAHP is the State Historic Preservation Officer (SHPO). The title derives from federal law. For a state historic preservation program to be approved by the Secretary of the Interior, the Governor must designate a SHPO to undertake many federal responsibilities, some of which are: to administer the State Historic Preservation Program; to administer the state program of federal assistance for historic preservation within the state; to ensure that historic properties are taken into consideration at all levels of planning and development; and to assist local governments in becoming certified local governments so that they become eligible to receive federal grant money. Once certified, a local government may then also offer state property tax incentives and federal investment tax credits to landowners whose property is listed on the federal, state or local historic registers.

Another area of federal law that is regulatory in nature is administered by the OAHP. This involves arriving at memoranda of agreement with proponents of development projects that have potential impacts on historical or archaeological sites. The ultimate consequence of inability to arrive at an agreement to mitigate the effects of the project can be the loss of the federal permit required for the project to proceed.

The OAHP also nominates historic places to the State and National Historic Registers; maintains an

inventory of both state and nonstate-owned historic properties and archaeological sites that are searchable through the geographic information system of computerized mapping; provides technical assistance and outreach services to local governments, private parties and foundations; and engages in various educational activities, often in conjunction with other state agencies, state universities, states, and federal agencies.

Summary: The OAHP is removed from CTED and made a separate department of state government. The director, who is also the SHPO, is appointed by the Governor, with the consent of the Senate.

Votes on Final Passage:

Senate 47 2
House 93 5

Effective: July 24, 2005

SSB 5058

C 260 L 05

Modifying fuel tax payment requirements.

By Senate Committee on Transportation (originally sponsored by Senators Haugen, Swecker, Prentice, Jacobsen and Weinstein).

Senate Committee on Transportation

House Committee on Transportation

Background: Prior to 1998, motor vehicle fuel taxes and special fuel taxes were due on the next to the last business day of the month following the reporting period. In 1998, the Legislature enacted the "tax at the rack" fuel tax collection method. As part of that legislation, suppliers were made responsible for the payment of the tax and the payment date for those suppliers remitting fuel tax by electronic funds transfer was changed to the 10th day of the 2nd month following the reporting period. In addition, distributors, if paying by electronic funds transfer, could elect to pay the suppliers the tax on fuel purchased up to two days before the last business day of the following month.

Currently, the payment date for those businesses that do not remit payment by electronic funds transfer is the 25th day of the month following the reporting period.

Summary: Motor vehicle fuel taxes and special fuel taxes are due the 26th day of the month following the reporting period when remitting payment by electronic funds transfer. Also, a distributor is allowed to remit fuel tax payments to a supplier seven business days before the 26th day of the month following the reporting period.

Votes on Final Passage:

Senate 42 5
House 95 0

Effective: July 1, 2005

ESSB 5060

C 167 L 05

Regulating the use of automated traffic safety cameras.

By Senate Committee on Transportation (originally sponsored by Senators Haugen, Swecker and Jacobsen).

Senate Committee on Transportation

House Committee on Transportation

Background: Current law contains no express statutory authority allowing local governments to use automated traffic enforcement systems such as photo radar, photo devices at stop lights, and photo devices at railroad crossings. However, in 2004 the Legislature allowed for the use of photo enforcement systems for toll collection evasion. Additionally, the state transportation budgets for the 2001-03 and 2003-05 fiscal bienniums contained provisos establishing pilot projects, to be monitored by the Washington Traffic Safety Commission, utilizing traffic safety cameras.

City treasurers are currently required to remit monthly to the State Treasurer 32 percent of the noninterest money received from penalties, fines, bail forfeitures, fees and costs for violations of municipal or town ordinances, together with any other noninterest revenues received by the clerk. Such funds are deposited by the State Treasurer into the Public Safety and Education Account. The 32 percent remittance does not include monies received for parking infractions.

Summary: Local governments may use "automated traffic safety cameras" (cameras) subject to the following conditions: (1) an ordinance must first be enacted by the local legislative authority allowing their use to detect only stoplight, railroad crossing, or school speed zone violations and setting forth public notice and signage provisions; (2) use of the cameras is restricted to two-arterial intersections, railroad crossings, and school speed zones only; (3) pictures may only be taken of vehicles and vehicle license plates and only while an infraction is occurring, and must not reveal driver or passenger faces; (4) all locations where a camera is used must be clearly marked by signs indicating the presence of a camera zone; (5) infraction notices must be mailed to the registered owner of the vehicle within 14 days of the infraction, and may be responded to by mail; and (6) infractions detected through the use of cameras are not part of the registered owner's driving record.

The registered owner of a vehicle is responsible for an infraction detected by an automated traffic safety camera unless the owner states under oath that the vehicle involved was, at the time, stolen or in the care, custody, or control of another person.

Infractions detected through the use of cameras must be processed in the same manner as parking infractions.

Votes on Final Passage:

Senate 30 19

House 61 33

Effective: July 24, 2005

SSB 5064**PARTIAL VETO**

C 261 L 05

Studying the use of electronic medical records.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Thibaudeau, Deccio, Jacobsen, Parlette, Kohl-Welles, Weinstein and Keiser).

Senate Committee on Health & Long-Term Care

Senate Committee on Ways & Means

House Committee on Technology, Energy & Communications

House Committee on Appropriations

Background: Electronic medical record systems provide real-time access to patient medical records at the point of treatment and often include other functions that allow users to enter orders for tests and medications. These systems may provide a means to ensure that patients' medical records are up to date and to reinforce best practices and clinical guidelines, potentially reducing the risk of medical errors. They may also be used to reduce paperwork, and streamline administrative and billing transactions.

The State Health Care Authority (HCA) is the state agency which administers state employee insurance benefits and the Basic Health Plan (BHP), which is the state subsidized health insurance program for low income persons. The HCA is also generally responsible for coordinating the study and implementation of state initiatives regarding health care cost containment.

Summary: A Washington "health information infrastructure advisory board," composed of seven to twelve members, is created. The Health Care Authority must appoint the chair and the members of the board, which will include representatives of the provider community, including hospitals, information technology experts, health care policy experts, consumers, a representative from the Department of Information Services, a health plan representative, and the agency medical directors group.

The Health Care Authority and the advisory board will develop and implement a strategy for the adoption and use of electronic medical records and health information systems that are consistent with national standards and promote interoperability. The strategy should be informed by best research practices, should seek to encourage greater adoption, and should seek to promote standards and systems that are compatible with current adopters of electronic medical records in Washington.

The Health Care Authority also will provide policy recommendations to remove obstacles to the implementation of the necessary infrastructure and must identify ways that state programs can employ incentives that encourage providers to adopt and use health information technologies.

An interim status report on the preliminary findings is due by December 1, 2005, and the final report of findings and recommendations must be submitted by December 1, 2006, which is the date of expiration for the act.

Votes on Final Passage:

Senate	45	1	
House	98	0	(House amended)
Senate	38	0	(Senate concurred)

Effective: July 24, 2005

Partial Veto Summary: The directive requiring all agencies under the control of the Governor to render full assistance to the Washington Health Infrastructure Advisory board is removed.

VETO MESSAGE ON SB 5064-S

May 4, 2005

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning, without my approval as to Section 3, Substitute Senate Bill No. 5064 entitled:

“AN ACT Relating to electronic medical records and health information technologies.”

This bill creates the Washington Health Information Advisory Board (WHIAB), and encourages the use of health information technology to support high quality, cost-effective health care. Section 3 of the bill directs all agencies under the control of the Governor, including those not involved in health related issues, to render full assistance to the WHIAB, giving rise to an issue of governance.

For these reasons, I have vetoed Section 3 Substitute Senate Bill No. 5064.

I direct the Health Care Authority and WHIAB, however, to assess existing information technology systems of health care providers, state agencies, and third-party payers; identify current national trends in the development of information technology systems & standards; determine the feasibility of integrating and connecting existing systems; and identify available government or private grants for the study of or implementation of health information systems. The Health Care Authority may still enter into appropriate contracts and coordinate with agencies under existing statutes.

For these reasons, I have vetoed Substitute Senate Bill No. 5064.

With the exception of Section 3, Substitute Senate Bill No. 5064 is approved.

Respectfully submitted,



Christine O. Gregoire
Governor

SSB 5065

C 118 L 05

Requiring notice of potential injuries resulting from health care.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Thibaudeau, Deccio, Jacobsen, Parlette, Kohl-Welles and Keiser).

Senate Committee on Health & Long-Term Care
House Committee on Judiciary

Background: Currently, health care providers and facilities are not required to inform patients of adverse incidents after they occur. Some providers and facilities are concerned that providing such information could increase their liability and as a result may refrain from informing patients about adverse incidents.

Summary: Hospitals are required to have policies to assure that, when appropriate, information about unanticipated outcomes is provided to patients, their families, or surrogate decision makers. Notification of unanticipated outcomes or an apology neither constitutes an acknowledgment or admission of liability, nor may it be introduced as evidence in a civil action.

Beginning January 1, 2006, the Department of Health must ensure the policy is in place when it performs its survey of the hospital.

Votes on Final Passage:

Senate	46	1
House	98	0

Effective: July 24, 2005

SSB 5085

C 415 L 05

Holding child car seat installers harmless for damages.

By Senate Committee on Transportation (originally sponsored by Senators Weinstein, Haugen, Jacobsen and Kline).

Senate Committee on Transportation
House Committee on Judiciary

Background: Under current law, with few exceptions, children less than six years old and/or sixty pounds, while traveling in motor vehicles, must be restrained in child restraint systems that comply with federal standards and are installed per manufacturer instructions.

Failure to comply with the child passenger restraint requirements does not constitute negligence by a parent or legal guardian, and may not be admitted in court as evidence of negligence. However, current law is silent regarding immunity from civil liability for installers or inspectors of child restraint systems or booster seats.

Summary: Nationally certified child passenger safety technicians who, in good faith, provide inspection,

adjustment, or educational services regarding child passenger restraint systems may not be held civilly liable for an act or omission related to the services, unless the act or omission constitutes gross negligence or willful or wanton misconduct. However, the liability protection does not apply to employees of retailers of child passenger restraint systems who provide the services during their hours of employment.

Votes on Final Passage:

Senate 37 9
 House 96 0 (House amended)
 Senate 42 0 (Senate concurred)

Effective: July 24, 2005

ESB 5087

C 119 L 05

Providing for a review and update of the best practices audit of compensation and employment for part-time faculty in technical and community colleges.

By Senators Kohl-Welles, Schmidt, Jacobsen, Keiser, Rockefeller, Franklin, Shin, Spanel, McAuliffe and Kline.

Senate Committee on Labor, Commerce, Research & Development

House Committee on Higher Education

Background: The 1996 Legislature passed SB 6583 directing the State Board for Community and Technical Colleges (SBCTC) to convene a task force to conduct a best practices audit of compensation packages and conditions of employment for part-time faculty. The Best Practices Task Force reported to the Legislature in January 1997. The best practice principles in the report were required to be used in the development of SBCTC's 1997-99 biennial operating budget request. SBCTC was required to encourage and, to the extent possible, require each local governing board to adopt and implement the best practices principles.

The task force was required to include, at a minimum, part-time faculty, full-time faculty, members of the SBCTC, and members of the community college and technical college governing boards.

Summary: The State Board for Community and Technical Colleges (SBCTC) must reconvene the best practices task force to review and update the best practices audit of compensation packages and conditions of employment for part-time faculty. Community college administrators are added to the list of members of the task force. The task force must report its findings to SBCTC by December 1, 2005.

SBCTC must use the best practices principles in the development of each biennial operating budget request. SBCTC must encourage and, to the extent possible,

require local governing boards to revise the best practices principles.

Votes on Final Passage:

Senate 35 10
 House 74 24

Effective: July 24, 2005

ESB 5089

C 168 L 05

Creating a task force to study off-road vehicle noise management.

By Senators Sheldon, Fraser and Kline.

Senate Committee on Water, Energy & Environment
 House Committee on Natural Resources, Ecology & Parks

Background: It is a traffic infraction for any person to operate any nonhighway vehicle without an adequate muffling device. The muffling device must limit the vehicle noise to no more than:

- 86 decibels at 50 feet as measured by the Society of Automotive Engineers (SAE) test procedure; or
- 105 decibels a distance of 20 inches from the exhaust outlet.

There are no current restrictions regarding the operation of nonhighway vehicles near residences or livestock.

Summary: A task force on off-road vehicle noise management is created. The task force consists of eight legislators. Additional participants are invited by the legislative members including persons representing: county commissioners, port districts, the Department of Natural Resources, the Department of Ecology, the Inter-agency Committee for Outdoor Recreation, the Parks and Recreation Commission, manufacturers of off-road vehicles, the United States Forest Service, recreational users, and interested citizens.

The task force will review the issues regarding: (1) noise from off-road vehicles; and (2) the availability of, and barriers to, using public lands or other large ownerships to create areas where off-road vehicles can be operated.

The task force reports its findings and recommendations to the Legislature by December 1, 2005.

Votes on Final Passage:

Senate 44 4
 House 90 6

Effective: July 24, 2005

SSB 5092
C 120 L 05

Creating a beginning farmers loan program.

By Senate Committee on Agriculture & Rural Economic Development (originally sponsored by Senator Jacobsen).

Senate Committee on Agriculture & Rural Economic Development
House Committee on Economic Development, Agriculture & Trade

Background: The Housing Finance Commission provides a range of loan programs utilizing tax exempt bonds. The tax savings allows the lenders to provide loans at a reduced interest rate to qualified borrowers. The amount of tax exempt bonds that may be issued by a state is limited by federal law.

Several states utilize tax exempt bonds to operate loan programs for beginning farmers. The parameters of the program that may be offered using tax exempt bonds are set by the federal tax code. These parameters include that: (1) the bond funds may be used to purchase land, equipment, and livestock; (2) the land must be used for farming purposes; (3) tax exempt bonds are issued as private placements with banks; (4) lending decisions are made by banks which take the risk; (5) loans are limited to a maximum of \$250,000; (6) borrowers must be first-time farmers and actively farm the land; and (7) land may be purchased from a related person as long as the related person does not have a financial interest in the farming operation after acquisition.

Summary: The Washington State Housing Finance Commission may develop and implement a program to provide financing for beginning farmers. Eligibility criteria must be established that will enable the commission to choose applicants who are likely to repay loans made or acquired by the commission and funded from the proceeds of commission bonds.

Votes on Final Passage:

Senate	47	0
House	95	0

Effective: July 24, 2005

ESB 5094
C 466 L 05

Changing the maximum per parcel rate for conservation district special assessments.

By Senator Jacobsen.

Senate Committee on Agriculture & Rural Economic Development
House Committee on Economic Development, Agriculture & Trade

Background: In 1989, a process was established to allow funds to be generated for programs and activities provided by the conservation district by establishing special assessments on lands within the district.

The process is initiated by the conservation district board which holds a public hearing on a proposal. On or before August 1, the conservation district may file a proposed system of special assessment and a proposed budget with the county legislative authority. The county legislative authority is required to hold a public hearing and then may accept or modify the proposal. To establish the special assessment, the county legislative authority must find that the public interest will be served and that the special assessment will not exceed the special benefit that the land will receive. The actual cost of collecting the special assessments are to be deducted by the county treasurer from the revenue that is generated by the special assessment.

The maximum rate of assessment is ten cents per acre or five dollars per parcel, or both. Such assessments may continue for a period of up to ten years.

Summary: The maximum assessment to fund conservation district programs or activities for counties with a population of over 1.5 million is raised from five dollars to ten dollars per parcel. Clarification is provided that all funds except those to reimburse the county for the actual cost of collecting the assessments are to go to the conservation district and used by the district as authorized by statute.

Votes on Final Passage:

Senate	29	17	
House	56	39	(House amended)
Senate			(Senate refused to concur)
House	57	40	(House receded)

Effective: July 24, 2005

SSB 5097
C 3 L 05

Providing for apprenticeship utilization requirements on public works projects.

By Senate Committee on Labor, Commerce, Research & Development (originally sponsored by Senators Kohl-Welles, Kline, Rasmussen, Franklin, Roach and Pridemore; by request of Governor Locke).

Senate Committee on Labor, Commerce, Research & Development
House Committee on Commerce & Labor

Background: Executive Order 00-01 required that apprentices in programs approved by the Apprenticeship and Training Council should make up at least 10 percent of the total labor hours on public works projects of more than \$2 million awarded after July 1, 2000. The percentage was set to increase over time; currently, apprentices

must account for 15 percent of the total labor hours on projects of more than \$1 million.

The Executive Order applies to state agencies under the authority of the Governor, which excludes the Transportation Commission, four-year institutions of higher education, and agencies headed by a separately elected public official. The Executive Order allows agency directors to adjust the apprenticeship utilization percentage, with prior review by the Governor, under certain conditions, such as a shortage of apprentices in a specific geographic area.

Summary: The current requirements of Executive Order 00-01, including the authority to adjust the utilization level, are codified. The Department of General Administration (GA) must collect certain data, while the GA and the Department of Labor and Industries (L&I) must provide information and technical assistance to affected agencies. If requested by designated legislative committees, GA, L&I, and the Governor must submit a joint report, including: (1) data on shortages in each trade or craft; and (2) recommendations on how to improve the program.

Votes on Final Passage:

Senate	27	19
House	58	40

Effective: February 24, 2005

SSB 5101
C 300 L 05

Providing incentives to support renewable energy.

By Senate Committee on Water, Energy & Environment (originally sponsored by Senators Poulsen, Morton, Fraser, Rockefeller, Pridemore, Regala, Hewitt, Kline, Kohl-Welles, Brown and Oke).

Senate Committee on Water, Energy & Environment
Senate Committee on Ways & Means
House Committee on Technology, Energy & Communications
House Committee on Finance

Background: A recent report by the Washington State University Energy Program recognized the solar electric industry as one of the state's important growth industries. The businesses in this industry have been increasingly expanding and relocating their operations elsewhere. The report indicates that additional incentives for the solar electric industry are needed in recognition of the unique forces and issues involved in business decisions in this industry.

The public utility tax is the state's business tax on the gross receipts of public and privately-owned utilities. It has five different rates, depending on the specific utility activity. Proceeds from the public utility tax go primarily to the state general fund.

Utilities are required to allow customers to utilize net metering systems. Allowable systems include electrical production facilities that: (1) use solar, wind, or hydro-power; (2) have a generating capacity of 25 kilowatts or less; (3) are located on the customer's premises; (4) operate in parallel with the electrical utility's distribution and transmission system; and (5) are intended primarily to offset part or all of the customer's electricity requirements. Such systems are required to include equipment that meets applicable safety, power quality, and interconnection requirements. The Utilities and Transportation Commission (for investor-owned utilities) or the governing body (for a consumer-owned utility) may adopt additional safety, power quality, and interconnection requirements.

Summary: Investment cost recovery incentives are authorized to support renewable energy projects. Individuals, businesses, or local governments who generate electricity, on their own property, with an anaerobic digester or a wind or solar energy system may apply to their light and power business for the incentive payment.

The cost recovery incentive payment is available for systems that are not interconnected to the electric distribution system. Once uniform interconnection standards are adopted by light and power businesses serving 80 percent of the total customer load in the state, the cost recovery incentive payment is also available for systems that are interconnected. Uniform standards have 90 percent of total requirements the same.

The applicants must submit a request for a system certification to the Department of Revenue (DOR) and the Climate and Rural Energy Development Center at Washington State University. The DOR must advise the applicant whether their system qualifies for the incentive program. The DOR may consult with the climate center in making its decision on eligibility.

The incentive is calculated off a base rate of 15 cents for each kilowatt hour of energy produced. That rate is adjusted based on where the equipment or components were manufactured. The incentive rate is multiplied by the following factors:

- 1) for customer-generated electricity produced using solar modules manufactured in Washington State: two and four-tenths;
- 2) for customer-generated electricity produced using a solar or a wind generator equipped with an inverter manufactured in Washington State: one and two-tenths;
- 3) for customer-generated electricity produced by an anaerobic digester, other solar, or by using a wind generator equipped with blades manufactured in Washington State: one;
- 4) for all other customer-generated electricity produced wind: eight-tenths.

The payments are capped at \$2,000 per year for each individual, household, business, or local government.

Each light and power business is allowed a credit against its public utility tax for incentive payments paid to applicants. The credit is limited to one quarter of one percent of its taxable power sales, or \$25,000, whichever is greater. If incentive requests exceed the amount of credit available, the power and light business must prorate the payments.

A manner in which utilities may assess interest if excess payments are made to persons that generate electricity is established. Utilities are required to repay taxes, with interest, against which credit was claimed for excess payments made to persons that generate electricity.

DOR must conduct a study from existing sources of data and report the impact of the incentives to the Legislature by December 1, 2009.

This program is effective beginning July 1, 2005, and expires July 1, 2014.

Votes on Final Passage:

Senate	48	1	
House	96	0	(House amended)
Senate	46	0	(Senate concurred)

Effective: July 1, 2005.

SSB 5105
C 121 L 05

Regarding certification of entities regulated by the utilities and transportation commission.

By Senate Committee on Transportation (originally sponsored by Senators Swecker, Jacobsen, Kastama and Oke; by request of Utilities & Transportation Commission).

Senate Committee on Transportation
House Committee on Transportation

Background: Under current law, the Washington Utilities and Transportation Commission (WUTC) regulates certain passenger transportation providers including: private, nonprofit providers for persons with special needs; regular route bus services, including airporter service; charter and excursion services; and commercial ferry companies. The WUTC also regulates solid waste collection companies. An operator wishing to provide any of these services for compensation must first obtain a certificate from the WUTC. In order to revoke, suspend, or amend certain transportation company certificates, or to authorize certificates to new applicants, the WUTC must hold a public hearing. Hearings must be held in every circumstance of change regardless if the certificate holder agrees or objects to the changes.

Unlike other statutory provisions regulating transportation providers, Chapter 81.68 RCW, concerning bus services and airporters, does not provide for temporary certificates.

Summary: The WUTC may revoke, suspend, or amend certain transportation company certificates, or authorize certificates to new applicants, without a hearing, when the existing certificate holder does not object to the changes in the status of the certificate. Additionally, the WUTC may issue a certificate to operate commercial ferry service without a hearing, as long as proper notice and an opportunity for a hearing was originally provided and no objections are made regarding the issuance of the certificate.

The WUTC may issue temporary certificates for up to 180 days to bus service or airporter service providers.

RCW 81.68.045, regarding excursion service companies, is moved from the auto transportation companies regulation chapter to the excursion services chapter, 81.70 RCW.

Votes on Final Passage:

Senate	47	0
House	94	0

Effective: July 24, 2005

ESB 5110
C 334 L 05

Including four public port districts on the executive board of regional transportation planning organizations.

By Senators Rockefeller and Oke.

Senate Committee on Transportation
House Committee on Transportation

Background: Under current law, regional transportation planning organizations (RTPOs) are voluntary associations of local governments established for transportation planning purposes. In order to qualify for state planning funds, an RTPO containing a county with a population greater than one million must provide voting membership on its executive board to the state Transportation Commission, the state Department of Transportation, and the three largest port districts within the region. Additionally, the RTPO must assure that at least 50 percent of the local elected officials serving on its executive board also serve on transit agency boards or on a regional transit authority.

Summary: In order to qualify for state planning funds, an RTPO containing a county with a population greater than one million must provide voting membership on its executive board to the fourth largest port district within the region, in addition to the other representatives required under existing law.

Votes on Final Passage:

Senate	47	2
House	95	0 (House amended)
Senate	34	8 (Senate concurred)

Effective: July 24, 2005

E2SSB 5111

C 301 L 05

Providing tax incentives for solar energy businesses.

By Senate Committee on Ways & Means (originally sponsored by Senators Morton, Poulsen, Parlette, Roach, Schmidt, Oke, Hewitt, Zarelli, Finkbeiner, Stevens, Swecker, Deccio, Honeyford, Mulliken, Kline and Sheldon).

Senate Committee on Water, Energy & Environment

Senate Committee on Ways & Means

House Committee on Technology, Energy & Communications

House Committee on Finance

Background: A recent report by the Washington State University Energy Program concluded that while the solar electric industry is rapidly developing in both the domestic and global markets, solar electric corporations are leaving the state. It further concluded that the dramatic growth experienced by Washington's solar electric market cannot be maintained without further incentives that recognize the unique forces and issues involved in the solar industry.

Most manufacturing businesses in the state pay the general manufacturing business and occupation (B&O) tax of 0.484 percent times the value of their product. Special B&O tax classifications and rates have been enacted by the Legislature to address specialized situations, such as the semiconductor manufacturer classification, enacted in 2003, to create incentives for the semiconductor industry.

Summary: The B&O tax for businesses manufacturing solar energy systems or the silicon components of these systems is set at a rate equal to the value of the product multiplied by 0.2904 percent until June 30, 2014. Taxes paid in manufacturing these systems is granted as a B&O tax credit.

Businesses claiming the credit under this program must file annual reports with the Department of Revenue (DOR) detailing employment, wages, and health and retirement benefits.

DOR must conduct a study from existing sources of data and report the impacts of this act to the Legislature by December 1, 2013.

Votes on Final Passage:

Senate	48	0	
House	96	0	(House amended)
Senate	46	0	(Senate concurred)

Effective: July 1, 2005

SSB 5112

C 255 L 05

Providing public employment retirement credits for veterans of the Afghanistan conflict and the Persian Gulf War II.

By Senate Committee on Early Learning, K-12 & Higher Education (originally sponsored by Senators Shin, Schmidt, Rockefeller, Rasmussen, Kline, Sheldon, Keiser, Doumit, Berkey, Kastama, Haugen, McAuliffe, Franklin, Johnson, Kohl-Welles, Benson and Oke).

Senate Committee on Early Learning, K-12 & Higher Education

House Committee on Appropriations

Background: Individuals who meet the statutory definition of "veteran" are eligible for certain state benefits. One benefit is that if the individual is in the Public Employees' Retirement System Plan 1 (PERS 1) with at least 25 years of creditable service, he or she is eligible to receive credit for up to five years of qualifying military service. Qualifying military service is service within one of a number of specific periods of war as defined in statute.

An additional state benefit available to veterans is eligibility for tuition and fee waivers from the public baccalaureate institutions and community colleges. The state higher education institutions are granted the authority by the Legislature to waive all or a portion of tuition and fees for veterans. All waiver programs are permissive for the institutions. Currently, there are three separate statutes that provide tuition waiver authority for veterans.

Veterans of the first Persian Gulf war may be exempted from any increase in student tuition or fees that occurred after the 1990-91 academic year. To qualify for the exemption the veteran must be a resident student and must have served in the Persian Gulf combat zone as designated by executive order of the President of the United States during 1991.

Veterans of the Vietnam conflict are eligible for a waiver of tuition increases that have occurred since October 1977. To qualify for the waiver the veteran must be a resident student and must have been on active federal service in the armed forces during the period August 5, 1964 through May 7, 1975.

Veterans enrolled in an institution on or before 1977, including veterans of both World Wars and the Korean conflict, are also eligible under statute for a full or partial tuition waiver if he or she is no longer eligible for federal education or vocational benefits.

Summary: Military service in southern or central Asia as part of Operation Enduring Freedom and service in the Persian Gulf as part of Operation Iraqi Freedom are added to the list of conflicts which qualify a member of PERS 1 for service credits. To qualify for service in

ESSB 5121

these categories, a member of PERS 1 must be awarded the related campaign badge or medal.

Votes on Final Passage:

Senate	48	0	
House	89	0	(House amended)
Senate	46	0	(Senate concurred)

Effective: July 24, 2005

ESSB 5121

C 316 L 05

Assessing long-term air transportation needs.

By Senate Committee on Transportation (originally sponsored by Senators Keiser, Swecker, Poulsen, Schmidt and Haugen).

Senate Committee on Transportation
House Committee on Transportation

Background: Under current law, counties and cities planning under the Growth Management Act must include in their comprehensive plans a process for identifying and siting essential public facilities. Essential public facilities, under the statute, are those facilities typically difficult to site, including airports. Additionally, no local comprehensive plan or development regulation may preclude the siting of essential public facilities.

Summary: The Aviation Division of the Washington State Department of Transportation (WSDOT Aviation) must conduct a statewide airport capacity and facilities assessment. The assessment must include a statewide analysis, regarding both commercial aviation and general aviation, of existing airport facilities, and passenger and air cargo transportation capacity. However, the primary focus of the assessment must be on commercial aviation. The assessment results must be submitted to the Legislature, the Governor, the Transportation Commission, and regional transportation planning organizations, by July 1, 2006.

After submitting the statewide airport capacity and facilities assessment, WSDOT Aviation must conduct a statewide airport capacity and facilities market analysis. The analysis must include a statewide needs analysis of airport facilities, passenger and air cargo transportation capacity, and demand and forecast needs over the next twenty-five years. A more detailed analysis must be conducted regarding the Puget Sound, Southwest Washington, Spokane, and Tri-Cities regions. The analysis must address the forecasted needs of both commercial aviation and general aviation. However, the primary focus of the analysis must be on commercial aviation. The analysis results must be submitted to the Legislature, the Governor, the Transportation Commission, and regional transportation planning organizations, by July 1, 2007.

Upon completion of both the statewide assessment and analysis, the Governor must appoint an Aviation Planning Council to make recommendations, based on the findings of the assessment and analysis, regarding how best to meet the statewide commercial and general aviation capacity needs. The recommendations must include the placement of future commercial and general aviation airport facilities in regions determined to be in need of more improved aviation planning. The Aviation Planning Council must be composed of various aviation planning stakeholders.

Votes on Final Passage:

Senate	48	1	
House	93	2	(House amended)
Senate	47	0	(Senate concurred)

Effective: July 24, 2005

SB 5127

C 358 L 05

Improving services to victims of human trafficking.

By Senators Kohl-Welles, Benton, Hargrove, Roach, Prentice, Thibaudeau, Stevens, Fraser and Keiser.

Senate Committee on Human Services & Corrections
House Committee on Criminal Justice & Corrections

Background: The Washington State Task Force Against the Trafficking of Persons was created by the Legislature in 2003. Chaired by the Director of the Office of Community Development (CTED), the task force included members from a variety of state agencies, and public and private sector organizations that provide assistance to persons who are victims of trafficking. The task force identified federal and state programs that provide services to victims of trafficking, made recommendations on methods to provide a coordinated system of support and assistance to victims of trafficking and issued a final report to the Governor and Legislature in June, 2004, when the task force expired.

The crime of trafficking was created in Washington in 2003, in RCW 9A.40.100. Trafficking involves recruiting or transporting a person knowing that force, fraud, or coercion will be used to cause the person to engage in forced labor or involuntary servitude.

Summary: Victims of trafficking would be better served by a coordinated system of service delivery extending beyond government efforts. Government and community based efforts should be recognized.

The Director of CTED will, within existing resources, convene a work group to develop written protocols for service delivery to victims of trafficking. The work group will include other state agencies and will develop protocols for policies and procedures for inter-agency coordinated operations. A database must be established which is available to all affected agencies,

listing services to victims of human trafficking. This workgroup will submit the final written protocols with a report to the Legislature and the Governor by January 1, 2006.

Votes on Final Passage:

Senate 49 0
 House 95 0 (House amended)
 Senate 38 0 (Senate concurred)

Effective: May 10, 2005

SB 5135

C 37 L 05

Addressing volunteer fire fighters' and reserve officers' relief and pensions.

By Senators Kastama, Mulliken, Zarelli, Doumit and Rasmussen.

Senate Committee on Ways & Means
 House Committee on Appropriations

Background: The Volunteer Fire Fighters' and Reserve Officers' Relief and Pension System (VFFRORPS) provides relief and pension benefits for members of regularly organized volunteer fire departments and law enforcement agencies. Members who serve and make monthly retirement contributions for a period of at least 25 years are eligible to receive a pension benefit at age 65. Relief benefits include payment of medical expenses and disability pensions for members injured in the line of duty and payment of burial expenses and survivor benefits for members killed in the line of duty.

VFFRORPS benefits are administered by the Washington State Board for Volunteer Fire Fighters and Reserve Officers (BVFFRO) and paid out of the Volunteer Fire Fighters' Relief and Pension Fund (VFFRPF). Revenues to the VFFRPF come from: a 40 percent share of the premium tax paid on fire insurance policies issued within the state; contributions from volunteer fire fighters, emergency workers, and reserve officers; contributions from participating municipal corporations and emergency service districts; and returns on the investment of moneys in the VFFRPF.

Summary: The definitions of "fire fighter" and "emergency worker" are clarified in order to prevent part-time fire fighters and emergency workers from earning a benefit from both the Public Employees' Retirement System (PERS) and the VFFRORPS for the same service. The BVFFRO is authorized to seek recovery of its benefit costs if a volunteer is injured and sues a third party for damages. The annual fee paid by participating municipal corporations to fund relief benefits for volunteer fire fighters is increased from \$10 per member to \$30 per member.

Votes on Final Passage:

Senate 47 0
 House 89 0

Effective: July 24, 2005

SB 5136

C 122 L 05

Modifying fire protection district property tax levies.

By Senators Doumit, Mulliken, Zarelli and Rasmussen.

Senate Committee on Government Operations & Elections

Senate Committee on Ways & Means
 House Committee on Local Government
 House Committee on Finance

Background: The state Constitution limits regular property tax levies to a maximum of one percent of the property's value (\$10 per \$1,000 of assessed value). Voters within a taxing district can vote to tax themselves higher than this one percent limit with an excess levy.

In order to keep the total tax rate for regular property taxes within this constitutional limit, the Legislature has established rate maximums and aggregate rate maximums for the individual taxing districts that derive their funding from the regular property tax. The state property tax levy is limited to \$3.60 per \$1,000 of assessed value. The levies of the remaining taxing districts are generally divided into two types; senior taxing districts and junior taxing districts. Senior taxing districts are cities and counties. Junior taxing districts include library districts, fire protection districts, park districts, etc.

If the combined rates of the senior and junior taxing districts exceed \$5.90, the rates of the junior districts are reduced first and then the rates of the senior districts are reduced, according to statutorily set priorities, until the combined rate fits within the \$5.90 limit. This process is referred to as pro-rationing.

The following taxes are reduced first in the pro-rationing process. They are outside of the \$5.90 limit, but still subject to the one percent constitutional limit:

- voter-approved emergency medical services (EMS) taxes;
- taxes to acquire conservation futures;
- voter-approved taxes for affordable housing;
- voter-approved metropolitan park district taxes;
- King County ferry district taxes for passenger-only ferries; and
- voter-approved county criminal justice taxes.

Fire protection districts are authorized to impose three different levies of taxes of 50 cents per \$1,000 of assessed value, for a total of \$1.50 per \$1,000.

Summary: Effective with taxes levied for collection in 2006, a fire protection district is authorized to impose up to a total of 25 cents of its property tax levy outside the

\$5.90 aggregate property tax limit, if those taxes otherwise would be subject to pro-rationing. If the combined rates exceed \$10 per \$1,000 of assessed value, this levy is reduced first.

Votes on Final Passage:

Senate 47 0
House 96 0

Effective: July 24, 2005

SSB 5139
PARTIAL VETO
C 335 L 05

Modifying highway and bridge tolling authority.

By Senate Committee on Transportation (originally sponsored by Senators Haugen, Oke, Poulsen and Swecker).

Senate Committee on Transportation
House Committee on Transportation

Background: Toll bridges and roads have been an important component of Washington State's transportation history. In 1937 the Washington Toll Bridge Authority was created by the Legislature with the full powers to finance, construct, and operate toll bridges. The legislation led to two initial toll financed projects: the Tacoma Narrows Bridge in Tacoma and the Lacey V. Murrow Memorial Bridge in Seattle, both of which opened to traffic in July 1940.

Between 1940 and 1965 thirteen state bridges were built or repaired by using tolls as the debt service payment for construction bonds. The Tacoma Narrows Bridge will be the next tolled facility in the state. An initial toll of \$3 will be collected when the new span opens in 2007. Toll rates will be set by the Washington State Transportation Commission in amounts sufficient to repay \$800 million in bond proceeds. It is also anticipated that several other bridge reconstructions may be financed by tolls. Those facilities may include the State Route 520, Evergreen Point Floating Bridge (Rosellini Bridge), and the I-5 Columbia River Crossing among others.

The majority of toll facilities were constructed between the years of 1950 and 1965. With the exception of the current effort at Tacoma Narrows, the emergency reconstruction of the Hood Canal Bridge has been the sole toll facility constructed in the forty years since 1965. All the previously authorized toll bonds, including the emergency Hood Canal Bridge bonds, have been repaid and the tolls removed. Several of the bond authorizations stipulate that the bridges must remain toll free after the date that the bonds have been fully paid and redeemed.

State law also contains legislative authorization for other toll roads and bridges that have not been under-

taken and are not currently included in the State Transportation Plan. Examples of these authorizations include a limited access express highway from Tacoma to Everett and toll bridge from Lopez to San Juan Island.

The State Transportation Commission has broad authority to establish and construct toll facilities. Their authority is limited to those toll facilities that are specifically authorized by the Legislature, regional transportation investment district, city, town or county.

Summary: Statutory language relating to the approval of toll roads is clarified to indicate that new tolls and tolled facilities must be specifically authorized by the Legislature and that the State Transportation Commission, as the state toll authority, imposes tolls and authorizes construction of toll roads.

Statutory provisions that relate to bond authorizations and other provisions on toll facilities that have been completed are repealed. Also repealed are authorizations for projects that have not been undertaken by the State Transportation Commission and where there is no current plan for those projects.

Votes on Final Passage:

Senate 41 8
House 96 0 (House amended)
Senate 41 5 (Senate concurred)

Effective: July 24, 2005

Partial Veto Summary: The transfer of authority for the approval of construction of toll roads from the Department of Transportation to the Transportation Commission is removed.

VETO MESSAGE ON SB 5139-S

May 9, 2005

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning, without my approval as to Section 1, Substitute Senate Bill No. 5139 entitled:

“AN ACT Relating to highway and bridge tolling authority.”

Section 1 of Substitute Senate Bill No. 5139 transfers the authority for approving construction of toll roads from the Department of Transportation (Department) to the Transportation Commission (Commission). Now that the Commission no longer has oversight authority, and the Department is a cabinet level agency, it is inappropriate for the Commission to be approving construction of transportation facilities.

For these reasons, I have vetoed Section 1 of Substitute Senate Bill No. 5139.

With the exception of Section 1, Substitute Senate Bill No. 5139 is approved.

Respectfully submitted,

Christine O. Gregoire
Governor

ESSB 5140

C 467 L 05

Modifying the disposal of surplus funds of candidates or political committees.

By Senate Committee on Government Operations & Elections (originally sponsored by Senators Berkey, Kastama and Kohl-Welles).

Senate Committee on Government Operations & Elections

House Committee on State Government Operations & Accountability

Background: State campaign finance law expressly limits what can be done with surplus campaign funds. Surplus funds cannot be transferred to another candidate or political committee. Surplus funds can be returned to the contributor, used to reimburse a candidate's personal account, transferred to a political party or committee, donated to a charitable organization, deposited in the state general fund, held for a future election, or used for non-reimbursed expenses of public office. Specific requirements apply to each of these uses.

Summary: The oral history, state library, and archives account and the legislative international trade account are included among the allowed uses of surplus campaign funds.

Votes on Final Passage:

Senate	47	0	
House	90	4	(House amended)
Senate	39	0	(Senate concurred)

Effective: May 13, 2005

SB 5142

C 138 L 05

Regarding air registrations for elevators and warehouses.

By Senators Schoesler, Rasmussen, Morton and Delvin.

Senate Committee on Agriculture & Rural Economic Development

House Committee on Economic Development, Agriculture & Trade

Background: The state's Clean Air Act directs the Department of Ecology (DOE) or the board of a local air pollution control authority (local board) to require permits for operating sources of air pollutants identified in the federal Clean Air Act. Within certain limitations, DOE or a local board must also require permits for operating sources of other air pollutants produced in quantities threatening public health or welfare.

Apart from permitting requirements, DOE or a local board may require sources of other air pollutants to register, report, and pay annual administrative fees. Large grain warehouses and grain elevators are considered to

be sources of air pollutants, and accordingly are subject to these requirements. Small grain warehouses and elevators (those annually handling less than 10 million bushels of grain) are exempt from these requirements. It has been suggested that this exemption be clarified to expressly include facilities storing or cleaning grains, peas, and beans.

Summary: The exemption from air pollutant registration, reporting, and fee requirements for grain warehouses and elevators is clarified to include licensed facilities storing or cleaning grain.

The term "grain" is defined to include a grain or a pulse; the latter term includes peas, lentils, and beans.

Votes on Final Passage:

Senate	46	0
House	93	1

Effective: July 24, 2005

SSB 5145

C 392 L 05

Establishing a boating safety education program.

By Senate Committee on Transportation (originally sponsored by Senators Jacobsen, Swecker, Oke, Fraser, Johnson, Spanel, Rockefeller, Kohl-Welles, Delvin, Keiser, Haugen, Kastama, Kline, Hargrove, Regala, Franklin, Thibaudeau, Rasmussen and Shin).

Senate Committee on Transportation

House Committee on Natural Resources, Ecology & Parks

House Committee on Appropriations

Background: Under current law, the State Parks and Recreation Commission (Commission) is required to, among other things, adopt and enforce recreational boating safety rules, including equipment and navigating requirements, consistent with U.S. Coast Guard regulations. Additionally, the Commission must coordinate a statewide program of boating safety education, using when possible, existing programs offered by the U.S. Power Squadron and the U.S. Coast Guard Auxiliary.

Various operational and equipment requirements exist applicable to the operation of recreational vessels. However, current law does not require operators of motor driven boats and vessels to successfully complete a boating safety education program prior to operating the vessel.

Summary: The State Parks and Recreation Commission must establish a program to provide required boating safety education. The program must be phased in so that all non-exempt boaters are required to obtain a boater education card by January 1, 2016. The program must include a minimum standard of boating safety education accomplishment, minimum standards for boating safety course of instruction and examination, and accreditation

to boating safety education courses operated by entities such as the U.S. Coast Guard Auxiliary and the U.S. Power Squadrons. Additionally, the program must include an equivalency exam that may be taken as an alternative to the boating safety education course, a \$10 fee to receive the boater education card, and a card replacement fee.

In order to operate a motor driven boat or vessel of 15 horsepower or greater, a person must be at least 12 years old and: (1) possess a boater education card; or (2) be accompanied by and under the supervision of a person at least 16 years old who has a boater education card, or who is not yet required to possess the card under the phased-in program.

Certain individuals are not required to have a boater education card, including: (1) persons not yet required to have a card under the phased schedule developed by the Commission; (2) certain nonresident vessel operators; (3) renters of motor driven boats or vessels, with an engine power of 15 horsepower or greater, who are at least 12 years old and who complete a Commission-approved motor vessel safety checklist; and (4) any person born before January 1, 1955.

Any person who, prior to the effective date of this act, successfully completed a boating safety education course substantially equivalent to the standards adopted by the Commission may pay a \$10 fee and receive a boater education card without taking a course or equivalency exam.

All fees collected for the issuance of a boater education card must be deposited in the newly created, nonappropriated Boating Safety Education Certification Account to be used for the administration of the boating safety education program.

Votes on Final Passage:

Senate	30	18	
House	68	30	(House amended)
Senate	28	13	(Senate concurred)

Effective: July 24, 2005

SSB 5146
C 169 L 05

Allowing quality improvement committee confidentiality.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Keiser, Parlette, Kastama and Brandland).

Senate Committee on Health & Long-Term Care
House Committee on Health Care

Background: State law imposes on all hospitals the same quality improvement requirements and legal safeguards. Quality improvement committee materials are protected from discovery in a civil lawsuit, and people

who attend these meetings are generally prohibited from testifying about the meetings. Additionally, the state's Public Records Act exempts quality improvement committee documents from public inspection and copying. However, each hospital quality improvement committee is required to provide at least a semiannual report to the hospital's governing board which must review the quality improvement activities conducted by the committee and any actions taken as a result of those activities.

The requirements are different, though, for board oversight of public hospital districts compared to oversight of nonprofit or for profit health care organizations.

Public hospital districts are municipal corporations that are authorized to own and operate hospitals and other health care facilities and to provide hospital and other health care services for the district residents and other persons. Public hospital commissioners are required to conduct most of their business in public session and are only allowed to discuss one element of quality improvement, provider privileges, in confidential executive session. In contrast, nonprofit or for profit board meetings are not required to be open to the public, so there is no concern for these institutions about waiving their legal safeguards regarding quality improvement.

Summary: Quality improvement committee meetings for public hospital districts may be confidential and may be conducted at executive session. The board of commissioners for the public hospital district may, in turn, review and discuss the report or the activities of a quality improvement committee confidentially and in executive session. Any such review by the board will have the same protections as currently apply to quality improvement committee activities.

Final action of the board of commissioners on the report of the quality improvement committee must be done in public session.

Votes on Final Passage:

Senate	46	0
House	93	1

Effective: July 24, 2005

SB 5148
C 13 L 05

Repealing the crime of "slander of a woman."

By Senators Kohl-Welles, Kline, Fairley and Carrell.

Senate Committee on Judiciary
House Committee on Judiciary

Background: It is illegal to maliciously make a false or defamatory statement about any female who is at least twelve years of age and who is not a "common prostitute" if the statement injures her reputation for virtue or chastity or exposes her to hatred, contempt, or ridicule.

Violation of the statute is a misdemeanor.

The statement is presumed to be malicious unless it is justified. The affirmative defense of justification is proven when the statement is "true and fair," and was spoken "with good motives and for justifiable ends."

The testimony of the woman slandered that the slanderous statement was made is insufficient to support a conviction unless there is additional corroborating evidence.

Summary: Slander of a woman is no longer a crime in Washington. The statute criminalizing slander of a woman, and the statute requiring corroboration of the victim's claim that the statement was made in order to convict of the crime, are each repealed.

Votes on Final Passage:

Senate	47	1
House	69	28

Effective: July 24, 2005

SSB 5150

C 26 L 05

Changing provisions concerning marine pilot licensing qualifications and procedures.

By Senate Committee on Transportation (originally sponsored by Senators Haugen, Swecker and Jacobsen; by request of Board of Pilotage Commissioners).

Senate Committee on Transportation
House Committee on Transportation

Background: Under current law, the Board of Pilotage Commissioners (Board) is charged with providing for the maintenance of efficient and competent pilotage service on the waters of the Puget Sound pilotage district and the Grays Harbor pilotage district. To this end, the Board examines the proficiency of potential pilots, licenses pilots, enforces the use of pilots, sets pilotage rates, investigates reported accidents involving pilots, keeps records of various matters affecting pilotage, and performs various other duties as required by law.

Pilot applicants must pass a written and oral examination administered and graded by the Board. The Board must hold examinations at such times as will, in the Board's judgment, ensure the maintenance of an efficient and competent pilotage service. The last pilot examination was conducted in 1996.

As of December 31, 2003, there were 51 state-licensed pilots serving the Puget Sound pilotage district and two state-licensed pilots serving the Grays Harbor pilotage district, one of whom is under contract with the Port of Grays Harbor.

Summary: The Board must establish a comprehensive pilot training program. Pilot applicants must be evaluated and ranked based on certain criteria for entry into the training program. When the Board determines that

the demand for pilots requires entry of an applicant into the training program, it must issue a trainee license to the applicant. The trainee license permits the trainee to do such actions as are specified in the trainee program. After the completion of the training program, the Board must evaluate the trainee's performance and knowledge for the purpose of potentially issuing a full pilot license to that applicant.

A person is eligible to be licensed as a pilot if, among other things, the person: (1) is a U.S. citizen; (2) is over 25 years old and under 75 years old; (3) is a Washington resident at the time of licensure; (4) holds at the time of application a specified federal license to operate certain vessels, and holds at the time of licensure (or at the time of application if before July 1, 2008) a U.S. pilotage endorsement for the pilotage district in which the applicant desires to be licensed; and (5) successfully completes a Board-specified training program.

Certain liability protection, currently available to state-licensed pilots, is made available to state-licensed pilot trainees.

Various other changes are made to the marine pilot licensing qualifications and procedures.

Votes on Final Passage:

Senate	47	0
House	94	0

Effective: April 12, 2005

ESSB 5151

C 4 L 05

Changing the authority of a metropolitan park district to dispose of surplus property.

By Senate Committee on Government Operations & Elections (originally sponsored by Senators Franklin, Oke, Regala, Benton, Rasmussen, Roach, Eide, Haugen, Berkey, Kline and Fairley).

Senate Committee on Government Operations & Elections

House Committee on Local Government

Background: A metropolitan park district is a special purpose district created by a vote of the people in the proposed district. The ballot proposition can be proposed either by citizen petition or by resolution of the governing bodies of the cities and counties in which the district would be created. Governance is determined by the mixture of cities and counties within the district. The only metropolitan park district in the state at this time is the Metropolitan Park District of Tacoma. It is governed by a five-member board of elected commissioners who serve six-year, staggered terms of office.

Park district property can be acquired in various ways, which include: by right of eminent domain, annexation, transfer from the city, transfer from the county, and

donation or dedication. Disposal of district property can be by unanimous decision of the board of park commissioners which declares that park property is surplus and if sold, the property must be sold by public bid to the highest and best bidder.

Summary: An additional method of disposing of surplus park property is created. By this method a simple majority of the board of park commissioners may dispose of surplus park district property. If sold, the sale must be conducted by public bid and made to the highest or best bidder. This method only applies to real estate transactions that require the transfer of title to a charitable organization and the completion of which will result in a project that does both of the following: provides programming and activities for disadvantaged youth; and has a funding endowment that equals or exceeds thirty million dollars.

This additional method of disposing of surplus park property expires December 31, 2006.

Votes on Final Passage:

Senate	40	0
House	69	29

Effective: February 24, 2005

2SSB 5154
C 170 L 05

Providing a leasehold excise tax exemption for certain historical property.

By Senate Committee on Ways & Means (originally sponsored by Senators Pridemore and Zarelli).

- Senate Committee on Government Operations & Elections
- Senate Committee on Ways & Means
- House Committee on Finance

Background: Property owned by the federal government, state government, counties, school districts, and other municipal corporations is exempt from taxation under the state constitution. Public lands can be leased to private individuals, and because the land is public and not subject to property tax, the private individual would realize an economic benefit over privately owned property because there is no payment of property tax. To neutralize the economic advantage, the state levies a leasehold excise tax.

A leasehold excise tax is a tax on the act or privilege of occupying or using publicly owned property through a leasehold interest. The rate of leasehold excise tax is 12 percent of the contract rent. Cities and counties may each levy a local leasehold excise tax, which is credited against the state tax. Cities can levy up to 4 percent, and counties up to 6 percent, and the city tax is credited against the county tax.

Common examples of the leasehold excise tax

include port property upon which lessees construct warehouses and manufacturing plants; airline facilities at public airports; state grazing lands; and national forest land leased for recreational cabins.

The Legislature has exempted a number of different types of leases from the leasehold excise tax, including certain types of property controlled by public development authorities.

Cities may create public corporations, or public development authorities (PDAs), to perform any lawful public purpose or public function. PDAs enjoy the same immunity from taxation as the city or county creating the PDA. Neither cities nor PDAs are immune from the leasehold excise tax, however, the Legislature has exempted certain property controlled by a PDA from the leasehold excise tax. Specifically, the leasehold excise tax does not apply to property within a special review district established prior to 1976, or to property listed on any federal or state register of historical sites which is controlled by a PDA that was in existence prior to January 1, 1987. However, the same property would be subject to the leasehold excise tax if controlled by a municipal corporation (city).

Federal law has created a number of national historic reserves throughout the country. There are two national historic reserves located in Washington; Ebey's Landing on Whidbey Island and the Vancouver National Historic Reserve.

Summary: Leasehold interests in municipally owned property that is listed on a federal or state register of historical sites and is wholly contained within a national historic reserve are exempt from the leasehold excise tax.

Votes on Final Passage:

Senate	45	0
House	94	0

Effective: July 24, 2005

ESSB 5158
C 468 L 05

Modifying the uniform health care information act.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Keiser, Brandland, Kastama, Parlette and Benson).

- Senate Committee on Health & Long-Term Care
- House Committee on Health Care

Background: In April 2003, the Health Insurance Portability and Accountability Act (HIPAA) privacy regulation established new federal standards for disclosure of protected health information by hospitals and other covered entities. Because both state law and HIPAA govern disclosure of such information, hospitals have expressed concerns over the additional administrative burdens and the potential for the application of the different laws to

result in inconsistent standards and lowered quality of care. There is hope that changing state law to reflect the HIPAA standards can improve patient care and may ease hospital administrative burdens.

Currently, a patient may only authorize disclosure of his or her information for up to 90 days. There is specific concern that this small time window creates barriers to sharing information electronically, particularly in community health networks. State law also requires an accounting of every disclosure of information, including disclosure made for health care operations and quality improvement purposes. Health care facilities, particularly hospitals, have commented that being required to account for disclosures that the patient already expects creates a significant administrative burden and does not assist patients. Patients are currently required to specifically authorize disclosures that will be made for payment purposes. Current state law does not facilitate health care providers sharing quality assurance information when only one of them benefits from the information shared.

Summary: The state's 90-day limit on the length of validity for a health care information disclosure authorization is removed. The bill brings the state law in line with the HIPAA regulations by requiring that an authorization include an expiration date or event that relates to the individual or to the purpose of the use or disclosure. A patient's authorization to disclose health care information is applicable to health care providers or health care facilities. The patient may also designate a particular class of persons to whom information may be disclosed instead of merely designating particular individuals. A patient may authorize the disclosure of health care information to a class of persons that includes researchers who have the patient's informed consent and to third-party payors if the information is only disclosed for payment purposes. A general 90-day expiration is created for an authorization of disclosure to a financial institution or an employer for purposes other than payment.

To further align state law with HIPAA, clarifying language is added to the provision that allows a health care provider or health care facility to disclose information to a law enforcement official that the provider or facility in good faith believes constitutes evidence of criminal conduct that occurred on the premises. The provider or facility may also disclose basic identifying information for a patient brought by a public authority. Additionally, providers and facilities may disclose patient information for payment purposes without receiving specific patient authorization to do so.

Required accounting for routine disclosures is changed to exempt those disclosures made for treatment, payment, and health care operations, as well as other areas where the patient would expect disclosure to be made routinely. A provider or facility is allowed to disclose information to another provider or facility for oper-

ational purposes, if each had a relationship with the patient, the information is related to the relationship, and the disclosure is for limited purposes.

Votes on Final Passage:

Senate	47	0	
House	94	0	(House amended)
Senate	45	0	(Senate concurred)

Effective: July 24, 2005

SSB 5161

C 171 L 05

Including reports of driving distractions in accident reports.

By Senate Committee on Transportation (originally sponsored by Senators Eide and Swecker).

Senate Committee on Transportation
House Committee on Transportation

Background: Under current law, there is no requirement for law enforcement officers to indicate in their reports whether a wireless communication device was in use at the time of a motor vehicle accident or whether the driver was distracted at the time of the accident.

Summary: The Washington State Patrol must expand its traffic accident form, that is completed by an investigating officer, to include information disclosing whether any driver involved in an accident was distracted at the time of the accident. Additionally, the Washington State Patrol must include related statistical information in its yearly and monthly reports. Distraction categories to be collected and reported are to include at least the following:

- not distracted;
- operating a hand-held electronic telecommunication device;
- operating a hands-free wireless telecommunication device;
- other electronic devices (to include, but not limited to, PDA's, laptop computers, navigational devices, etc.);
- adjusting an audio or entertainment system;
- smoking;
- eating and/or drinking;
- reading and/or writing;
- grooming;
- interacting with children, passengers, animals, or objects in the vehicle;
- other inside distractions;
- outside distractions; and
- distraction unknown.

Votes on Final Passage:

Senate	45	1
House	67	29

Effective: January 1, 2006

SB 5168
C 38 L 05

Authorizing members of legislative bodies to serve as volunteer ambulance personnel.

By Senators Hargrove and Shin.

Senate Committee on Government Operations & Elections

House Committee on Local Government

Background: The legislative members of a city operating under the Optional Municipal Code have authority to serve as volunteer fire fighters or reserve law enforcement officers, or both.

Members of a city operating under the Cities and Towns Code have authority to act as volunteer ambulance personnel, volunteer fire fighters, reserve law enforcement officers, or all three.

Summary: The legislative body of a city operating under the Optional Municipal Code may authorize its members to serve as volunteer ambulance personnel, volunteer fire fighters, reserve law enforcement officers, or all three.

This language is identical to that authorizing the same activities for members of cities and towns operating under the Cities and Towns Code.

Votes on Final Passage:

Senate 46 0
House 91 0

Effective: July 24, 2005

SSB 5169
C 416 L 05

Authorizing unspent biotoxin testing and monitoring funds to carry over to future biennia.

By Senate Committee on Ways & Means (originally sponsored by Senators Hargrove and Shin).

Senate Committee on Ways & Means
House Committee on Appropriations

Background: To ensure the health of consumers, the Department of Health's (DOH) Environmental Health program conducts testing and monitoring of paralytic and amnesic poisons (biotoxins) in the recreational shellfish fisheries. In the event dangerous levels of toxins are detected, the DOH has authorization to close shellfish beds and beaches.

The Olympic Region Harmful Algal Bloom monitoring program is a collaboration of government, academia, businesses, and tribes established to study harmful algal blooms on the Washington coast. The program is based

in the Olympic Natural Resources Center and administered by the University of Washington.

The 2003 Legislature authorized the increase of shellfish license fees to cover the cost of shellfish testing and algal bloom monitoring through an assessment of various surcharges. Amounts collected must be deposited in the general fund-local account managed by the DOH except \$150,000 per year which is deposited into the general fund-local account managed by the University of Washington (UW). Amounts in excess of the annual costs of the DOH recreational shellfish testing and monitoring programs must be transferred to the state general fund.

The Department of Fish and Wildlife (DFW) is currently authorized by statute to collect:

- \$3.00 surcharge from the sale of resident and non-resident shellfish and seaweed licenses;
- \$2.00 surcharge on resident and non-resident adult combination licenses;
- \$2.00 surcharge on annual resident and nonresident razor clam licenses; and
- \$1.00 surcharge for the three-day razor clam license.

Summary: This bill clarifies that the UW \$150,000 annual appropriation can carry over into ensuing biennia rather than transferred to the state general fund and authorizes the DOH to carry forward its unspent biotoxin and monitoring funds. The DOH and the UW are required to provide an annual letter to the Legislature on the status of expenditures.

Votes on Final Passage:

Senate 46 0
House 92 0 (House amended)
Senate 34 5 (Senate concurred)

Effective: May 11, 2005

ESSB 5173
C 172 L 05

Enacting the Uniform Mediation Act.

By Senate Committee on Judiciary (originally sponsored by Senators Johnson, Weinstein, Esser and Kline).

Senate Committee on Judiciary
House Committee on Judiciary

Background: The Uniform Mediation Act (UMA) is the result of collaboration between the National Conference of Commissioners on Uniform State Laws and the Dispute Resolution Section of the American Bar Association. The stated intent of the UMA is the promotion of candor of parties through confidentiality, encouragement of prompt, economical, and amicable resolution of disputes, and advancement of the policy that decision-making authority in the mediation process rests with the parties. A work group representing a wide range of interest groups was formed by the Dispute Resolution

Section of the Washington State Bar Association. The work group concluded that the UMA would constitute a substantial improvement over existing Washington law, subject to several amendments contained in the legislation.

Summary: The UMA allows disclosure to the public of mediation communications made during a session of a mediation that is open, or is required by law to be open. There are six exceptions to the privilege of confidentiality in the UMA. The six exceptions include when the mediation communications: (1) constitute a threat or statement of a plan to inflict bodily injury or commit a violent crime; (2) are intentionally used to plan a crime, attempt to commit a crime, or conceal ongoing criminal activity; (3) are sought or offered to prove or disprove a claim of professional misconduct filed against a mediation party based on conduct occurring during a mediation; (4) are sought or offered to prove or disprove abuse, neglect, abandonment, or exploitation in a proceeding in which a child or adult protective services agency is a party; (5) are sought or offered in a court proceeding involving a criminal felony; and (6) are sought or offered in a proceeding to prove a claim or avoid liability on a contract arising out of the mediation.

The UMA applies to mediations mandated by any statute, court or administrative rule, mediations to which parties have been referred by a court, administrative agency, or arbitrator, and mediations conducted by a professional mediator. The UMA does not cover mediations conducted by a judge who might make a ruling on the case and mediations conducted under the auspices of a primary or secondary school, if all the parties are students, or a correctional institution for youths, if all the parties are residents of the institution.

The UMA applies to dissolution of marriage and legal separation mediations except that communications in postdecree mediations that are mandated by a parenting plan are admissible in subsequent proceedings for limited purposes. The limited purposes include proving: (1) abuse, neglect, abandonment, exploitation, or unlawful harassment of a child; (2) abuse or unlawful harassment of a family or household member; and (3) that a parent used or frustrated the dispute resolution process without good reason.

A mediator is not allowed to make a report regarding a mediation to a court, administrative agency, or other authority that may make a ruling on the dispute that is the subject of the mediation. The UMA requires prospective mediators to disclose conflicts of interest to the parties and answer the parties' questions about qualifications. A party has a right to be accompanied by a support person and have the person participate in the mediation. If the dispute is the subject of a pending small claims action, the person may not be represented by an attorney at the mediation, unless chapter 12.40 RCW allows it. Whenever any party participates in

mediation conducted by a state or federal agency under the provisions of a collective bargaining law or similar statute, the agency's rules govern questions of privilege and confidentiality.

Regardless of any provision to the contrary in chapter 42.17 RCW, the open records act, all work products or case files of dispute resolution centers are confidential and privileged unless a court, or administrative tribunal, determines that the materials were submitted by a participant to the center for the purpose of avoiding discovery of the material. The effective date is January 1, 2006.

Votes on Final Passage:

Senate	47	1
House	95	0

Effective: January 1, 2006

SB 5175

C 135 L 05

Declaring that international companies investing in Washington are eligible for tax incentives.

By Senators Shin, Schmidt, Kohl-Welles, Rasmussen, Rockefeller, Eide, Kline, Roach, Berkey, Doumit and McAuliffe.

Senate Committee on International Trade & Economic Development

House Committee on Economic Development, Agriculture & Trade

Background: Many international companies with an interest in operating in Washington are not aware of the various tax incentives available. The tax code's definition of "person" used for business and occupation taxes, as well as for sales and use taxes, and the various tax incentive statutes, does not include international companies investing in Washington.

Summary: A new section is added that specifies that international companies investing in Washington are included within the definition of person.

Votes on Final Passage:

Senate	47	0
House	94	2

Effective: July 24, 2005

SSB 5176
C 136 L 05

Regarding department of community, trade, and economic development programs.

By Senate Committee on International Trade & Economic Development (originally sponsored by Senators Shin, Doumit, Rasmussen, Eide, Roach and Berkey).

Senate Committee on International Trade & Economic Development
House Committee on Economic Development, Agriculture & Trade

Background: In 1993, the Legislature created the Department of Community, Trade, and Economic Development (CTED). Its two predecessor agencies were the Department of Community Development and the Department of Trade and Economic Development. Since CTED's creation, a number of programs originally assigned to its predecessor agencies have ceased operation. Further changes in state statutes and state funding have made existing statutory provisions obsolete.

Summary: Obsolete distressed area provisions are eliminated and references are updated. A number of employee ownership program requirements are eliminated. Obsolete references to the Development Loan Fund Committee are removed. CTED is to cooperate with the Economic Development Commission in development and implementation of strategic plans.

References to foreign trade offices, providing technical assistance in attracting capital, and providing entrepreneurial training to women and minority-owned businesses are eliminated as separate code sections and integrated with CTED's general trade and business responsibilities.

CTED's authority to solicit and receive gifts and fees for tourism purposes is replicated for film and video production purposes. An obsolete reference to the Business Assistance Center is removed.

A number of code sections are repealed. Repealed code sections include those requiring CTED to distribute pamphlets, operate the Investment Opportunities Office, run the Marketplace Program, operate rural enterprise zones, implement a small business bonding assistance program, and provide support to the Senior Environmental Council.

Votes on Final Passage:

Senate	47	0
House	95	0

Effective: July 1, 2005

SSB 5177
PARTIAL VETO
C 336 L 05

Modifying transportation benefit district provisions.

By Senate Committee on Transportation (originally sponsored by Senators Swecker, Jacobsen, Haugen and Oke).

Senate Committee on Transportation
House Committee on Transportation

Background: Current law permits a county or city to establish one or more transportation benefit districts (TBDs) within its jurisdiction to fund improvements to city streets, county roads, and state highways. When establishing the TBD area, the jurisdiction proposing to create the TBD may only include other counties and cities through interlocal agreements. A TBD expenditure plan must be specified in the ordinance establishing the TBD, and may not be changed without first going before a public hearing. A TBD must be dissolved when all debt has been paid and anticipated responsibilities have been satisfied.

TBDs are governed by the legislative authority of the jurisdiction proposing to create a TBD. When multiple jurisdictions are involved in establishing a TBD, however, the governance structure is controlled by interlocal agreement.

TBDs have independent taxing authority to implement the following revenue measures: (1) excess property taxes; (2) general obligation bonds; (3) transportation impact fees; and (4) border area motor vehicle fuel taxes. Additionally, TBDs may form local improvement districts with authority to impose special assessments on property benefitted by the improvements and to issue special assessment bonds.

Summary: The law governing transportation benefit districts is expanded.

Establishment of TBDs. TBDs may only be formed in areas throughout the state except in counties with a population greater than 1.5 million and any adjoining counties with a population greater than 500,000. Jurisdictions with authority to initiate a TBD include counties and cities. However, port districts and transit districts may participate in the establishment of a TBD. The TBD area must include the entire area within each participating jurisdiction. If a TBD includes more than one jurisdiction, the governing body must have at least five members, including at least one elected official from each of the participating jurisdictions.

Transportation Improvements. TBDs may fund projects that are of statewide or regional significance contained in a state or regional transportation plan. A TBD may spend up to 40 percent of its generated revenue on local street, road, and highway improvements.

Revenue Options. In addition to the revenue options

available to TBDs under current law, a TBD may implement the following revenue measures: (1) local option sales and use taxes; (2) local option vehicle license fees; and (3) vehicle tolls. A TBD may only implement revenue measures approved by the local voters.

Revenue rates, once imposed, may not be increased, unless authorized by voter approval. If project costs exceed original costs by more than 20 percent, a public hearing must be held to solicit public comment regarding how the cost change should be resolved. The district must be dissolved upon completion of the project(s) and the payment of debt service.

Votes on Final Passage:

Senate	40	6	
House	85	13	(House amended)
Senate	33	15	(Senate concurred)

Effective: August 1, 2005

Partial Veto Summary: The transfer of authority for the approval of construction of toll roads from the Department of Transportation to the Transportation Commission is removed.

VETO MESSAGE ON SB 5177-S

May 9, 2005

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning, without my approval as to Section 23, Substitute Senate Bill No. 5177 entitled:

“AN ACT Relating to transportation benefit districts.”

Section 23 of Substitute Senate Bill No. 5177 transfers the authority for approving construction of toll roads from the Department of Transportation (Department) to the Transportation Commission (Commission). Now that the Commission no longer possesses oversight authority, and the Department is now a cabinet level agency, it is inappropriate for the Commission to be approving construction of transportation facilities.

For these reasons, I have vetoed Section 23 of Substitute Senate Bill No. 5177.

With the exception of Section 23, Substitute Senate Bill No. 5177 is approved.

Respectfully submitted,



Christine O. Gregoire
Governor

SSB 5178

C 39 L 05

Issuing a moratorium on licensing specialty hospitals.

By Senate Committee on Health & Long-Term Care
(originally sponsored by Senators Kastama, Keiser, Benson and Brandland).

Senate Committee on Health & Long-Term Care
House Committee on Health Care

Background: The federal Medicare Modernization Act of 2003 prohibits a physician from referring a patient to certain specialty hospitals in which the physician has an ownership or investment interest, and prohibits the hospitals from billing Medicare or any other entity for services provided as a result of a prohibited referral. Effective December 2003 through June 2005, this moratorium applies to hospitals that are primarily or exclusively engaged in the care and treatment of patients with cardiac or orthopedic conditions and patients receiving surgical procedures.

During the moratorium, the Federal Centers for Medicare and Medicaid Services, the General Accounting Office, and the Medicare Payment Advisory Commission are conducting studies of specialty hospitals to determine their impact on general hospitals and the Medicare program. The study results are expected in March of this year.

However, pending further study of hospital reimbursement issues under Medicare, the Medicare Payment Advisory Commission recently voted to recommend to Congress that the moratorium on specialty hospitals be extended through January, 2007.

There are currently no restrictions specific to specialty hospitals under state law, although the establishment and operation of such a hospital is subject to the same Department of Health licensing requirements and regulatory oversight as hospitals in general.

Summary: From January 1, 2005 until July 1, 2006, the Department of Health may not grant a license to any specialty hospital in which a physician, or his or her immediate family member, has an ownership or investment interest.

Specialty hospitals are defined to include any hospital that is primarily or exclusively engaged in the care and treatment of: (1) patients with a cardiac condition; (2) patients with an orthopedic condition; (3) patients receiving a surgical procedure; and (4) and other specialized category of services that the Secretary of Health and Human Services designates as a specialty hospital.

Votes on Final Passage:

Senate	44	3
House	91	1

Effective: April 13, 2005

SB 5180
C 137 L 05

Authorizing the economic development finance authority to continue issuing bonds.

By Senators Kastama, Roach, Sheldon and Shin.

Senate Committee on Government Operations & Elections

Senate Committee on International Trade & Economic Development

House Committee on Economic Development, Agriculture & Trade

House Committee on Capital Budget

Background: The Washington Economic Development Finance Authority (WEDFA) was established in 1989 to help small and medium-sized businesses meet their capital needs. It is authorized to issue nonrecourse economic development bonds on both a taxable and tax-exempt basis. WEDFA has operated independent of state financial support since 1996.

WEDFA is not to exceed \$750 million in total outstanding debt; it is expected to reach this limitation prior to June 30, 2006, when its authority to issue bonds expires.

Summary: The limitation on WEDFA's outstanding debt is increased to \$1 billion. The restriction on issuing bonds after June, 30, 2006 is removed.

Votes on Final Passage:

Senate 45 0
House 96 0

Effective: July 24, 2005

SB 5181
C 173 L 05

Ensuring proper ownership to vehicle parts used in reconstruction.

By Senators Rasmussen, Esser, Kastama and Benson.

Senate Committee on Transportation

House Committee on Transportation

Background: Under current law, when a vehicle is wrecked beyond repair or declared a total loss, the owner must surrender the title and registration to the Department of Licensing (DOL) within 15 days. Once the title is surrendered to the DOL on the grounds of being a total loss, the vehicle is considered a "salvage vehicle." If the salvage vehicle is rebuilt, the DOL must issue a certificate of ownership indicating that the vehicle was rebuilt. A physical examination, by the Washington State Patrol (WSP) is also required for salvage vehicles that are rebuilt. The examination must verify that the vehicle identification number is genuine and agrees with the number shown on the original documents supporting the

vehicle purchase or ownership. WSP must ensure that all major component parts used for the reconstruction of a salvage vehicle were obtained legally, which may include invoices or notarized bills of sale.

Summary: The invoices, used to establish the legality of the used replaced component parts used, must be from a Washington licensed vehicle wrecker or a comparable business in a jurisdiction outside of Washington. Private individuals who sell used components or parts for rebuilt vehicles must have title to the vehicles from which the parts are taken.

Votes on Final Passage:

Senate 45 2
House 90 4

Effective: July 24, 2005

SSB 5182
C 359 L 05

Requiring disclosures for single burial use of multiple interment space.

By Senate Committee on Labor, Commerce, Research & Development (originally sponsored by Senators Franklin and Sheldon).

Senate Committee on Labor, Commerce, Research & Development

House Committee on Commerce & Labor

Background: Cemeteries offer burial plots which are used for single or multiple interments.

Summary: Any cemetery offering single burial use of multiple interment space, or any interment where a single burial use is offered in a burial plot where multiple interments will be made, must disclose on the interment contract the definition of multiple interment. The conspicuous notice of multiple interment is to be initialed by the person making cemetery arrangements.

Votes on Final Passage:

Senate 46 0
House 96 0 (House amended)
Senate 42 0 (Senate concurred)

Effective: July 24, 2005

ESSB 5186

C 360 L 05

Increasing the physical activity of the citizens of Washington state.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Franklin, Kohl-Welles, Keiser, Rockefeller, Doumit, Kline, Regala, McAuliffe, Poulsen, Fraser and Jacobsen).

Senate Committee on Health & Long-Term Care
House Committee on Health Care
House Committee on Appropriations

Background: It is widely accepted that regular physical activity and exercise is essential for maintaining good health. In a recent study, the two most popular forms of regular exercise by citizens of Washington are walking and biking. Health planners both nationally and in our state have developed public health policies which emphasize that access to safe and accessible ways to walk and bike should be a priority in every community. The state Department of Health has led an effort to include as many public and private partners as possible in planning for increased access to physical activity for citizens in the state.

Summary: The Legislature intends to promote state-wide policy and planning efforts that increase access to inexpensive or free opportunities for regular exercise in all communities.

County and city comprehensive plans are directed, wherever possible, to utilize urban planning approaches that promote physical activity.

The pedestrian and bicycle component includes collaborative efforts to identify and designate planned improvements for pedestrian and bicycle facilities and corridors that address and encourage enhanced community access and promote healthy lifestyles.

The Office of Superintendent of Public Instruction promotes the adoption of school-based curricula and policies that provide quality, daily physical education for all students, and encourage policies that provide all students with opportunities for physical activity outside of formal physical education classes.

The Health Care Authority must report to the Governor and Legislature no later than December 1, 2006, on progress in implementing, and evaluating the results of, a work site health promotion program.

Votes on Final Passage:

Senate	49	0	
House	93	2	(House amended)
Senate	42	0	(Senate concurred)

Effective: July 24, 2005

SSB 5190

C 40 L 05

Concerning adulterated commercial feed.

By Senate Committee on Agriculture & Rural Economic Development (originally sponsored by Senators Fraser, Schoesler, Rasmussen and Swecker).

Senate Committee on Agriculture & Rural Economic Development
House Committee on Economic Development, Agriculture & Trade

Background: The federal Food and Drug Administration has adopted rules as part of the prevention system for spread of bovine spongiform encephalopathy (BSE) that prohibits the use of by-products of ruminant animals as feed supplements for other ruminants. This is commonly referred to as the ruminant to ruminant feed ban. The Washington State Department of Agriculture administers the state commercial feed laws which also includes this federal rule.

It is a misdemeanor to distribute adulterated commercial feed in the State of Washington. The penalty under current law is a fine of up to \$50 for the first offense and up to \$250 for a second offense.

Summary: Language is added to include within the definition of adulterated commercial feed any ruminant feed that contains any animal protein that is prohibited and listed as unsafe pursuant to the current federal regulations that are in place under the federal Food, Drug, and Cosmetic Act. The penalty for intentionally violating the provision is increased from a misdemeanor to a gross misdemeanor. Gross misdemeanors are punishable by a fine not to exceed \$5,000 and up to one year in jail.

Other violations of the feed law are considered as standard misdemeanors which are punishable by a fine of up to \$1,000 and up to ninety days in jail.

Votes on Final Passage:

Senate	48	0
House	93	0

Effective: July 24, 2005

ESB 5194

FULL VETO

Including the longshore and harbor workers' compensation account within the Washington insurance guaranty association.

By Senators Franklin, Benton and Keiser; by request of Insurance Commissioner.

Senate Committee on Labor, Commerce, Research & Development
House Committee on Financial Institutions & Insurance

Background: Insurance guaranty associations have been created in Washington state to cover life and disability insurance policies and some casualty insurance policies. The purpose of the associations is to provide a mechanism for payment of covered claims when an insurer becomes insolvent and to assess the cost of such protection among insurers. The Washington Insurance Guaranty Association (WIGA), a statutorily created non-profit unincorporated legal entity, operates two accounts: (1) the automobile insurance account; and (2) an account for all other direct insurance (except life, title, surety, disability, credit, mortgage guaranty, workers' compensation, and ocean marine).

Under federal law, businesses whose employees work in maritime employment on or near navigable waters of the United States are required to purchase longshore and harbor workers' compensation act insurance. This insurance is available through private insurers or through an assigned risk plan created under Washington law. Insurers who provide longshore and harbor workers compensation act insurance (USL&H) policies are not currently covered by a Washington insurance guaranty association. Consequently, if an insurer becomes insolvent, there is no mechanism to pay covered claims by a pool to which all insurers in this type of plan contribute. Employers who purchase longshore and harbor workers' compensation insurance from private insurers remain responsible for an employee's job-related injury or death if the insurer becomes insolvent.

The U.S. Department of Labor is promulgating rules which will require all insurers writing USL&H in states without guaranty fund coverage to post full security for their USL&H business in that state.

In 2004, ESB 6158 directed the Insurance Commissioner to create a committee to study the best method by which to provide insurance guaranty protection for USL&H Workers' Compensation Act insurance policyholders and employees, with a report due to the Legislature by December 1, 2004.

Summary: A new account in the Washington Insurance Guarantee Association (WIGA) is created to cover USL&H insurance.

Key elements of this account are as follows:

An "unpaid claim" is one in which benefits are due and the insurer is insolvent and: (1) the worksite from which the injury occurred is within this state or on the navigable waters within or immediately offshore of this state; or (2) if the worksite from which the injury occurred is outside this state, the injured worker is a permanent resident of this state, the injured worker is temporarily working at the worksite from which the injury occurred, and the injured worker is not covered by a policy of the longshore and harbor workers' compensation insurance issued in another state.

In the event of insolvency of a member insurer who writes USL&H insurance, at least one member of the

WIGA Board of Directors must represent the interests of this class.

Loan amounts sought by the WIGA related to the USL&H account may be sought from the USL&H assigned risk plan or other parties.

The collection of a pre-insolvency assessment continues post-insolvency:

- 1) beginning July 1, 2005, USL&H insurers are assessed an amount determined by the board, but not to exceed 3 percent of net direct written premiums;
- 2) following an insolvency, USL&H insurers are assessed an amount determined by the board, but not to exceed 3 percent of net direct written premiums; and
- 3) an insurer assessment prior to an insolvency continue until a net fund balance is established that equals 4 percent of the aggregate net direct premium for the calendar year preceding the assessment on all insurers authorized to write such policies.

If any insurer fails to provide its net direct written premium data as requested by the association, the association may substitute that insurer's direct written premiums for worker's compensation reported in its annual statement to the state.

The WIGA must not access any funds from the automobile or insurance account or the account of all other insurance to cover the cost of claims or administration arising under this account.

Votes on Final Passage:

Senate	49	0
House	94	0

VETO MESSAGE ON SB 5194

April 22, 2005

*To the Honorable President and Members,
The Senate of the State of Washington*

Ladies and Gentlemen:

I am returning, without my approval, Engrossed Senate Bill No. 5194 entitled:

"AN ACT Relating to the United States longshore and harbor workers' compensation account in the Washington insurance guaranty association."

The House of Representatives forwarded an identical companion bill, Substitute House Bill 1196, to the Governor's Office on April 14, 2005. I signed that bill into law on April 20, 2005. Engrossed Senate Bill 5194, therefore, must be vetoed.

For these reasons, I have vetoed Engrossed Senate Bill No. 5194 in its entirety.

Respectfully submitted,

*Christine O. Gregoire
Governor*

SB 5196
C 337 L 05

Regulating insurable interests and employer-owned life insurance.

By Senators Fairley, Benton, Keiser, Benson, Franklin and Berkey; by request of Insurance Commissioner.

Senate Committee on Financial Institutions, Housing & Consumer Protection

House Committee on Financial Institutions & Insurance

Background: Generally, the ability to obtain insurance on another person depends upon whether there is an "insurable interest" in that person. An insurable interest is based on the relationship that supports the issuance of an insurance policy, and requires that the continued life of the insured be of real financial or familial interest to the insuring party.

Businesses can obtain employer or "corporate-owned" life and disability insurance on their employees. The purpose of this coverage has traditionally been to provide funds to maintain the business in the event of the loss of a "key person," such as an owner, partner or executive. Employees who are more easily replaceable in the job market are not usually insured in this manner.

Concern exists that some corporate employers may be able to obtain insurance on any of their employees, including those who are not "key" workers, without the employee's knowledge. This has the effect of functioning as a de facto nontaxable investment by the corporation, for its own benefit, rather than as true insurance.

Summary: Except for ocean marine and foreign trade insurance, insurance transactions in Washington State may not insure against the death or disability of another person unless the person contracting for the insurance has an insurable interest in the person being insured. In the case of corporate-owned life or disability insurance policies purchased by an employer on an employee, no policy may take effect unless, at the time the insurance contract is made, the individual insured consents to the contract in writing. An employer may not retaliate against an employee who does not want to be insured. For corporate-owned life insurance, an employer must provide the employee with written notice of the identity of the insurance carrier, the maximum face amount of the policy, and the identity of the beneficiary.

The provisions of the law apply prospectively to policies issued and delivered after the effective date of the act. Legislative intent is stated, and the Office of the Insurance Commissioner is required to do rulemaking and report to the Legislature.

Votes on Final Passage:

Senate	46	0	
House	95	1	(House amended)
Senate	37	0	(Senate concurred)

Effective: July 24, 2005

SB 5198
C 41 L 05

Implementing changes to medicare supplement insurance requirements as mandated by the medicare modernization act of 2003 and other federal requirements.

By Senators Keiser, Brandland and Berkey; by request of Insurance Commissioner.

Senate Committee on Health & Long-Term Care
House Committee on Health Care

Background: Medicare is the federally funded and administered program providing health insurance primarily to those 65 and older. Enrollees who wish to do so may purchase a policy in the commercial market to supplement the benefits provided under Medicare. Although such policies are regulated by the Office of the Insurance Commissioner under state statute, those statutes must be consistent with the requirements of federal law.

Both the Balanced Budget Act of 1997 and the Medicare Modernization Act of 2003 made changes to the federal law governing Medicare supplemental policies. Issues addressed included pre-existing condition waiting periods, termination and disenrollment, and the addition of the new Medicare prescription drug benefit. These changes were incorporated into the National Association of Insurance Commissioner's (NAIC) Medicare Supplemental Insurance Model Regulation, which serves as a template for the relevant laws in all 50 states. Washington statutes have not yet been amended to reflect the updated Model.

Summary: Washington laws governing Medicare supplemental plans are amended to be consistent with the NAIC Model Regulation, reflecting changes required by the Balanced Budget Act and the Medicare Modernization Act.

Votes on Final Passage:

Senate	46	0
House	94	0

Effective: July 24, 2005

SSB 5207
C 123 L 05

Limiting liability of ports providing pilots.

By Senate Committee on Transportation (originally sponsored by Senators Doumit, Hargrove and Sheldon).

Senate Committee on Transportation
House Committee on Transportation

Background: Under current law, a marine pilot licensed by Washington State is immune from liability for damages in excess of five thousand dollars for damages or loss due to the pilot's errors, omissions, fault, or neglect

E2SSB 5213

in the performance of his or her pilotage services. However, the liability protection does not apply if the pilot engages in willful misconduct or gross negligence.

Summary: The liability protection available to marine pilots is expanded to include any countywide port district located in part or in whole within the Grays Harbor pilotage district authorized to provide pilotage services. Such port districts are immune from liability for damages in excess of five thousand dollars for damages or loss due to a pilot's errors, omissions, fault, or neglect in the performance of his or her pilotage services. However, the liability protection does not apply if the pilot engages in willful misconduct or gross negligence.

Votes on Final Passage:

Senate	46	1
House	94	1

Effective: July 24, 2005

E2SSB 5213

C 174 L 05

Supporting the long-term success of families with children by removing barriers to Temporary Assistance for Needy Families and the WorkFirst programs.

By Senate Committee on Ways & Means (originally sponsored by Senators Brandland, Hargrove, Esser, Regala, McAuliffe, Thibaudeau, Stevens, Kohl-Welles and Shin).

Senate Committee on Human Services & Corrections
Senate Committee on Ways & Means
House Committee on Children & Family Services
House Committee on Appropriations

Background: Current state law permits eligible families to receive cash assistance through the Temporary Assistance for Needy Families (TANF) program if they are in need, otherwise eligible, and not an inmate at a public institution. They may be required to participate in a drug or alcohol treatment program in order to receive benefits if they have been assessed as drug or alcohol dependent and in need of treatment to become employable.

Washington State administers TANF benefits through its WorkFirst program. The WorkFirst program emphasizes the importance of gaining employment and staying employed. WorkFirst participants are assessed for employment barriers which may include mental health, medical or substance abuse issues which must be addressed before an applicant can become fully employable.

Current state law requires that in order to be eligible for this assistance, an applicant with a drug-related felony conviction after August 21, 1996 must have been assessed as chemically dependent and be participating in, or have completed, rehabilitation which includes chemical dependency and vocational components. It also

requires that they have not been convicted of a drug-related felony in the three years prior to the most current conviction. States can choose to opt out of such restrictions.

Summary: The eligibility requirements that a TANF applicant with a drug-related felony conviction after August 21, 1996 be assessed as chemically dependent, participate in or complete rehabilitation with chemical dependency and vocational components are removed. The requirement that they have not been convicted of a drug-related felony in the three years prior to the most current conviction is also removed.

Votes on Final Passage:

Senate	46	2
House	77	17

Effective: September 1, 2005

SSB 5227

C 418 L 05

Concerning wildlife reporting requirements.

By Senate Committee on Natural Resources, Ocean & Recreation (originally sponsored by Senators Jacobsen, Doumit, Fraser and Rasmussen; by request of Department of Fish and Wildlife).

Senate Committee on Natural Resources, Ocean & Recreation

Senate Committee on Ways & Means

Background: The Department of Fish and Wildlife (Department) mandates by rule that all hunters report their hunting activity for deer, elk, bear, or turkey by January 31 of each year. Currently, under RCW 77.15, a violation of the Department's reporting requirements is a misdemeanor.

According to Department figures, 70 percent of hunters reported wildlife harvests in 2001, 66 percent reported in 2002, and 65 percent reported in 2003. The Department asserts that a reporting rate below 90 percent reduces the accuracy of its harvest estimates, making it difficult to determine harvest impacts and increasing the cost of harvest estimation.

Summary: The Department may adopt a rule requiring the reporting of harvest effort for wildlife. The Department may also set an administrative penalty of up to ten dollars for failure to report harvest effort. The Department may require that this administrative penalty be paid before a hunter can obtain a new license.

The Department must provide reasonable options for a hunter to submit reporting information to a live operator prior to the reporting deadline. The Department must also report to the Legislature annually regarding the rate of hunter reporting compliance and the amount of administrative penalties collected.

Votes on Final Passage:

Senate 43 4
House 56 40

Effective: July 24, 2005

SSB 5230

C 42 L 05

Establishing the Washington's Wildlife license plate collection.

By Senate Committee on Transportation (originally sponsored by Senators Swecker, Jacobsen, Oke, Doumit, Fraser, Rockefeller, Kohl-Welles and Rasmussen).

Senate Committee on Natural Resources, Ocean & Recreation

Senate Committee on Transportation

House Committee on Transportation

Background: The Special License Plate Review Board was created in the 2003 session and charged with reviewing special license plate applications from groups requesting the creation of a special license plate series. Upon approval, the board forwards the application to the Legislature.

On December 10, 2004, the board formally approved the Department of Fish and Wildlife's "Washington's Wildlife" license plate collection application.

Summary: The Department of Licensing must issue a special license plate collection for vehicles displaying a symbol or artwork recognizing Washington's wildlife to include bear, deer, and elk.

An applicant for a "Washington's Wildlife" license plate must pay an initial fee of \$40 and a renewal fee each year thereafter of \$30. The initial revenue generated from the plate sales must be deposited into the motor vehicle account until the state has been reimbursed for the implementation costs. Upon reimbursement, the revenue must be deposited into the state wildlife account and may only be used for the Department of Fish and Wildlife's game species management activities.

Votes on Final Passage:

Senate 47 0
House 81 13

Effective: July 24, 2005

SSB 5242

C 361 L 05

Changing penalties for possession of weapons by inmates.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Doumit, Brandland, Hargrove, Pridemore, Kohl-Welles and Rasmussen).

Senate Committee on Human Services & Corrections
House Committee on Criminal Justice & Corrections

Background: The sentencing reform act defines a deadly weapon to mean "an implement or instrument which has the capacity to inflict death and from the manner in which it is used, is likely to produce or may easily and readily produce death. The following instruments are included in the term deadly weapon: Blackjack, sling shot, billy, sand club, sandbag, metal knuckles, any dirk, dagger, pistol, revolver, or any other firearm, any knife having a blade longer than three inches, any razor with an unguarded blade, any metal pipe or bar used or intended to be used as a club, any explosive, and any weapon containing poisonous or injurious gas." Persons in prisons and jails create weapons out of materials at hand and many of these weapons do not come within the list of deadly weapons in the definition.

The existing statute that prohibits inmates from possessing weapons contains differing prohibitions for prison and jail inmates. Jail inmates may not possess any deadly weapon. Prison inmates may not possess any weapon, firearm, or any instrument that, if used, could produce serious bodily injury. The prison language is a much broader prohibition. Prison inmates who violate the provision are guilty of a class B felony.

Summary: Jail inmates may not possess any weapon, firearm, or any instrument that, if used, could produce serious bodily injury. Jail inmates who violate this provision are guilty of a class C felony.

Votes on Final Passage:

Senate 47 0
House 95 0

Effective: July 24, 2005

SB 5254
C 355 L 05

Creating the legislative youth advisory council.

By Senators Jacobsen, Rasmussen, Franklin, McAuliffe and Kohl-Welles.

Senate Committee on Government Operations & Elections
House Committee on State Government Operations & Accountability

Background: Approximately three hundred children and adults have petitioned the Legislature to provide a way for youth to be directly involved with legislation that concerns them.

Summary: A legislative youth advisory council is established until June 30, 2007 to examine issues important to youth and advise the Legislature on these issues and related legislation.

The council has twenty-two members between the ages of fourteen and eighteen. Each of the two major caucuses in the Senate and House of Representatives appoints five of the members, and the Governor appoints two. The Office of the Superintendent of Public Instruction administers the council. The Senate and the House may provide briefings and help with drafting legislation and must adopt policies about providing staff assistance, resources, and funding.

The council can meet between three and six times a year, hold up to two public hearings, and conduct educational seminars for its members. It must report annually on its activities and any recommendations for legislation.

Votes on Final Passage:

Senate	41	7	
House	53	43	(House amended)
Senate	34	13	(Senate concurred)

Effective: July 24, 2005

SSB 5256
C 362 L 05

Revising provisions relating to the use of risk assessments in the supervision of offenders who committed misdemeanors and gross misdemeanors.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Hargrove and Stevens).

Senate Committee on Human Services & Corrections
House Committee on Criminal Justice & Corrections
House Committee on Appropriations

Background: In 2003, the Legislature passed ESSB 5990, which eliminated the Department of Corrections (DOC) supervision of certain felony offenders. Current law requires the DOC to perform a risk assessment of

felony offenders in order to classify them into one of four risk management classifications. Rather than supervising all felony offenders, the DOC supervises only felony offenders who rank in the two highest risk management classifications or who have been convicted of specific offenses (regardless of risk classification) or who have treatment requirements, first-time offender waivers, or supervision transferred to Washington from another state.

The DOC is also responsible for supervising persons who are convicted of a misdemeanor or a gross misdemeanor in Superior Court.

Summary: The law requiring the DOC to perform risk assessments on felony offenders is extended to require the DOC to perform risk assessments on misdemeanor and gross misdemeanor probationers who are sentenced in Superior Court. The DOC's supervision of misdemeanor and gross misdemeanor probationers is limited to misdemeanor and gross misdemeanor probationers who are sentenced in Superior Court and who rank in the two highest risk management classifications or who have been convicted of specific offenses (regardless of risk classification) or who have treatment requirements, first-time offender waivers, or supervision transferred to Washington from another state.

Votes on Final Passage:

Senate	47	0
House	97	0

Effective: May 10, 2005

SSB 5266
C 338 L 05

Reserving state authority to regulate customer financial transactions.

By Senate Committee on Financial Institutions, Housing & Consumer Protection (originally sponsored by Senators Fairley, Benson, Prentice and Benton).

Senate Committee on Financial Institutions, Housing & Consumer Protection

House Committee on Financial Institutions & Insurance

Background: The regulation of the financial services industry is typically overseen by federal and state governments. In Washington State, financial services providers, such as state chartered banks, savings banks, credit unions, check cashers, payday lenders and licensed securities dealers are regulated by the Department of Financial Institutions.

In some states, local government entities have attempted to regulate financial services. Almost 20 states have now enacted laws barring local government from enforcing ordinances or regulations pertaining to financial services.

Summary: Cities, towns, and local government entities are prohibited from regulating the terms or conditions of lawful transactions between financial institutions and their customers. The authority to regulate financial services, including disclosures to consumers, is reserved to the state.

Votes on Final Passage:

Senate	41	4	
House	95	0	(House amended)
Senate	39	3	(Senate concurred)

Effective: July 24, 2005

SB 5267
C 124 L 05

Clarifying the ability of Washington state patrol officers to engage in private law enforcement off-duty employment in plainclothes for private benefit.

By Senators Haugen, Esser, Rasmussen, Delvin and McAuliffe.

Senate Committee on Transportation
House Committee on Criminal Justice & Corrections

Background: Under current law, no state employee or officer may use any person, money, or property under his or her official control or direction for private benefit or gain. However, Washington State Patrol officers may engage in private law enforcement off-duty employment for benefit, if in uniform and subject to guidelines adopted by the chief of the state patrol. The use of uniforms is considered a de minimus use of state property.

Summary: Washington State Patrol officers may also engage in private law enforcement off-duty employment in plain clothes, under guidelines adopted by the Chief of the Washington State Patrol.

Votes on Final Passage:

Senate	49	0
House	96	0

Effective: July 24, 2005

SB 5268
C 43 L 05

Allowing assumptions of water-sewer districts by code cities.

By Senators Esser and Kastama.

Senate Committee on Government Operations & Elections
House Committee on Local Government

Background: Existing law allows a city to assume all or part of a water-sewer district, only if at least part of the district is inside the city. If more than 60 percent of the

district's area or assessed value is inside a city, the city can assume all or part of the district by ordinance. If less than 60 percent of the district's area and less than 60 percent of its assessed value is inside a city, the city can assume only the portion that is inside the city; for the city to take over the entire district, a vote of the district residents is required. There is no provision in existing law for a city to assume either all or part of a district that is entirely outside the city.

Summary: A water-sewer district with fewer than 250 customers can be assumed by a code city with more than 100,000 people, even if the district is entirely outside the city. The contract and assumption must be approved by both a resolution of the district's board of commissioners and an ordinance of the city council.

If there are no debts or monetary obligations outstanding on the date of the assumption, the district's surplus funds must be used for water services and facilities in the former district's territory, unless the contract provides otherwise.

Either the district or the city or both can provide for the dissolution of the district.

Votes on Final Passage:

Senate	48	0
House	93	1

Effective: July 24, 2005

SB 5274
C 339 L 05

Establishing a trainee real estate appraiser classification.

By Senators Keiser, Parlette, Franklin, Hewitt, Prentice and Mulliken.

Senate Committee on Labor, Commerce, Research & Development
House Committee on Commerce & Labor
House Committee on Appropriations

Background: A person must be certified or licensed by the Department of Licensing (DOL) to be compensated for a real estate appraisal or an appraisal review. There are three classifications of appraisers:

Certified general real estate appraisers are authorized to develop appraisals regardless of type, value, or complexity. Candidates for this certification must complete 180 hours of education and 3,000 hours of experience within 30 months, with 1,500 of the hours in non-residential property appraisal.

Certified residential real estate appraisers are authorized to develop appraisals of residential property of one to four units regardless of value or complexity, and non-residential properties valued up to \$250,000. Candidates for this certification must complete 120 hours of education and 2,500 hours of experience within two years.

Licensed real estate appraisers are authorized to

appraise real property consisting of up to four single-family residences; non-complex properties valued at up to \$1 million; complex or atypical properties valued at up to \$250,000; and non-residential properties valued up to \$250,000. Candidates for this license must complete 90 hours of education and 2,000 hours of experience within two years.

Only a certified appraiser may designate an appraisal as a "certified" appraisal.

During the training period required for any of the above-described credentials, a trainee does not need to have attained any educational standard or be registered with the DOL. Licensed or certified appraisers may employ trainees. In order for the trainee to receive credit toward the experience requirements, the trainee's name must appear on the appraisal.

The real estate appraiser commission consists of 7 members, one of whom must be a licensed real estate appraiser.

Summary: A new classification, "registered appraiser trainee," is created within the existing appraiser regulatory system. Registered trainees may be compensated by one or more supervising appraisers.

A trainee may register for a term of up to two years. The registration may be renewed no more than two times, but must be completed within seven years, unless the period is interrupted by service in the armed forces.

A certified appraiser in good standing may supervise a trainee within the scope of the credential held by the supervising appraiser. Both the trainee and the supervisory appraiser must sign and accept responsibility for the content, analyses, and conclusion of a report prepared by the trainee under the supervision of the supervising appraiser.

The Director of DOL must consider the recommendations of the Real Estate Appraiser Commission in determining: (1) the educational requirements for appraiser trainees; and (2) the maximum number of appraiser trainees that a supervisory appraiser may supervise.

An appraiser may be disciplined for being associated as a supervisory appraiser, independent contractor, or employer of a certified, licensed, or registered appraiser whose certificate, license, or registration has been suspended or revoked.

Votes on Final Passage:

Senate	46	0	
House	91	3	(House amended)
Senate	42	0	(Senate concurred)

Effective: July 1, 2005 (Sections 1, 2, 4, 7, 9, 13, 20, and 22)
July 24, 2005
April 1, 2006 (Sections 3, 5, 6, 8, 10-12, 14-18, and 21)
July 1, 2006 (Section 23)

ESSB 5285

C 469 L 05

Updating the water quality joint development act to provide local government flexibility.

By Senate Committee on Water, Energy & Environment (originally sponsored by Senators Poulsen, Morton, Rockefeller, Honeyford, Kline, Mulliken and Oke).

Senate Committee on Water, Energy & Environment
House Committee on Local Government

Background: Enacted in 1986, the Water Quality Joint Development Act facilitates privatization of water pollution control facilities, primarily sewage treatment plants. Local governments may contract with a public or privately-owned service provider to design, finance, construct, own, operate, or maintain these facilities. A proposal submitted by a service provider must demonstrate that the local government's costs will be lower under the proposal than they would be if the local government itself financed, constructed, owned, operated, and maintained the facilities.

A local government entering into an agreement with a service provider must assure that all procedural and other requirements are met. The local government retains authority to set utility rates.

The Department of Ecology (DOE) must review and approve service agreements before they are finalized to ensure compliance with the state Water Pollution Control Act.

Summary: The Water Quality Joint Development Act (Act) is revised to clarify ambiguities and reduce procedural constraints. Larger local governments currently authorized to use alternative public works contracting procedures (design-build and general contractor/construction manager) are expressly authorized to use the Act's procurement provisions.

Service Providers. A single service provider need not perform all design, finance, construction, operation, and maintenance services, but may perform one or more of these services.

Notice. A local government must provide final notice that it seeks the services of a service provider at least 30 days before the proposal submission date, rather than 60 days.

Proposals. A requirement obligating service providers to demonstrate that a local government's annual costs will be lower under its proposal than they would be if the local government itself financed, constructed, owned, operated, and maintained facilities is deleted. Instead, a service provider must demonstrate to the local government's satisfaction that it is in the public interest to enter into a service agreement and that the agreement is financially sound and advantageous to the local government, considering annual costs, quality of services, the provider's experience, risk reduction, and other factors.

Evaluation of Proposals. A restriction preventing a local government legislative authority from appointing one of its members to act as a designated issuer and evaluator of requests for proposals is deleted. Qualified, responsive proposals may be aggregated into a short list of qualified respondents. The legislative authority may participate in the bidder's conference held to assure a full understanding of qualified, responsive proposals.

Negotiations. A local government legislative authority is expressly authorized to negotiate with a service provider. If a designee conducts the negotiations, the legislative authority will continue to oversee negotiations and provide direction to the designee.

State Financing and Review. The Water Pollution Control Act is clarified to provide that the DOE may help finance design (in addition to construction) of facilities. DOE will review service agreements to ensure consistency with reclaimed water and water pollution control standards, and must complete its review within 30 days. DOE review of service agreements will not replace any additional review and approval required under other law.

Votes on Final Passage:

Senate	43	3
House	97	0

Effective: July 24, 2005

SSB 5289
C 125 L 05

Disregarding from federal accountability reporting those students receiving home-based instruction who participate in running start.

By Senate Committee on Early Learning, K-12 & Higher Education (originally sponsored by Senators McAuliffe, Hargrove, Stevens, Regala, Mulliken and Benton).

Senate Committee on Early Learning, K-12 & Higher Education
House Committee on Education

Background: The Running Start program was established by the Legislature in 1990 as part of the Learning By Choice Act (Chapter 9, Laws of 1990, First Extraordinary Session) to provide students a program option consisting of attendance at institutions of higher education and the earning of dual high school and college/university credit. Under current law, students in the eleventh and twelfth grades who have not yet received their high school diplomas and who meet entrance criteria established by participating colleges and universities may participate in the Running Start program. Students who first enroll in the program in eleventh grade may participate in the program for the coursework equivalent of two academic years. Students who first enroll in the program in grade twelve may participate for the course-

work equivalent of one academic year. State rules established by the Office of Superintendent of Public Instruction, the Higher Education Coordinating Board, and the State Board for Community and Technical Colleges allow a student to continue to participate in the Running Start program beyond grade twelve due to the student's absence, failure of one or more courses, or another similar reason as long as the student takes only the course or courses required to meet high school graduation requirements.

The federal No Child Left Behind Act of 2001 requires that the state school districts and high schools report the percentage of students who graduate from high school with a regular diploma in four years as a provision of making Adequate Yearly Progress. The state Academic Achievement and Accountability Commission (A+ Commission) has established state-wide graduation rate performance goals for the state, school districts, and schools.

Summary: A provision is added to the Running Start enrollment criteria to clarify that eleventh and twelfth grade students who meet entrance criteria established by participating colleges and universities are eligible to participate in the Running Start as long as they have not earned the credits required for a high school diploma.

Students receiving home-based instruction who enroll in a public high school for the sole purpose of participating in the Running Start program will not be counted in state and federal accountability reporting as long as the parents or guardians of the students filed a declaration of intent to provide home-based instruction and the students received home-based instruction during the school year before the school year in which the students intend to participate in the Running Start program.

Language is added that supports current law by stating students receiving home-based instruction and attending private schools are not required to take the Washington Assessment of Student Learning, earn a Certificate of Academic Achievement or a Certificate of Individual Achievement to graduate from high school, nor master the Essential Academic Learning Requirements.

Votes on Final Passage:

Senate	45	0
House	95	0

Effective: July 24, 2005

SSB 5290
C 419 L 05

Including goats in theft of livestock in the first degree.

By Senate Committee on Agriculture & Rural Economic Development (originally sponsored by Senators Delvin, Rasmussen, Schoesler, Shin, Morton, Jacobsen and Mulliken).

Senate Committee on Agriculture & Rural Economic Development

House Committee on Criminal Justice & Corrections

Background: First degree theft of livestock — the willful taking of horses, mules, cows, heifers, bulls, steers, swine, or sheep with intent to sell or exchange and to deprive or defraud the owner — is a class B felony. Class B felonies are punishable by imprisonment for up to ten years, or by a fine of up to \$20,000, or both.

A person who commits what would otherwise be first degree theft of livestock but without intent to sell or exchange, and for their use only, is guilty of second degree theft of livestock, a class C felony. Class C felonies are punishable by imprisonment for up to five years, or by a fine of up to \$10,000, or both.

In both cases, courts must impose a \$2,000 minimum fine for each animal killed or possessed, in addition to any other penalty.

A person who suffers damages from first or second degree theft of livestock may bring a civil action against the offender for treble damages and attorney's fees.

Goats are not included in livestock theft statutes. Instead, theft of a goat is punishable as ordinary property theft in the first degree (theft of property worth over \$1,500, a class B felony), second degree (theft of property worth over \$250 up to \$1,500, a class C felony), or third degree (theft of property worth up to \$250, a gross misdemeanor punishable by a jail term of up to one year and a fine of up to \$5,000). A minimum fine is not specified for any of these offenses.

It has been suggested that goats be included in the list of animals theft of which constitutes first or second degree theft of livestock and is the basis for a civil action for treble damages and attorney's fees.

Summary: Goats are added to the list of animals theft of which constitutes the felonies of first or second degree theft of livestock and is the basis for a civil action for treble damages and attorney's fees.

A person who suffers damage to livestock, including goats, as a result of criminal animal cruelty may bring a civil action against the offender for treble damages and attorney's fees.

Votes on Final Passage:

Senate	46	0	
House	93	1	(House amended)
Senate	37	10	(Senate concurred)

Effective: July 24, 2005

ESSB 5308
C 417 L 05

Changing provisions relating to mandatory reporting of child abuse or neglect.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Kohl-Welles, Hargrove and Oke).

Senate Committee on Human Services & Corrections
House Committee on Children & Family Services

Background: Current law requires a variety of individuals to report suspected child abuse or neglect to law enforcement or Department of Social and Health Services staff. These individuals are considered mandatory reporters and include: health care, law enforcement, school, counseling, pharmacy, childcare, Department of Social and Health Services, juvenile probation, and Office of Family and Children's Ombudsman staff.

Abuse or neglect means, the injury, sexual abuse, sexual exploitation, negligent treatment, or maltreatment of a child by any person under circumstance which indicate that the child's health, welfare, and safety is harmed.

An adult who resides with a child, who the adult reasonably believes has suffered "severe abuse" is also required to report the abuse to the proper authorities. Severe abuse means any of the following: any single act of abuse that causes physical trauma of sufficient severity that, if left untreated, could cause death; any single act of sexual abuse that causes significant bleeding, deep bruising, or significant external or internal swelling; or more than one act of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture or unconsciousness.

Summary: A supervisor in a for profit or non-profit organization is added to the list of mandatory reporters. If the supervisor has reasonable cause to believe the child has suffered abuse or neglect caused by someone they supervise and that person coaches, trains, educates, counsels, or regularly has unsupervised access to children as part of their employment, contract or voluntary service, then the supervisor must report the information to law enforcement.

Supervisors are not required to report child abuse if they receive the information solely as the result of a privileged communication as defined in RCW 5.60.060. The current list of mandatory reporters is not limited by the reference to supervisors.

Definitions for "official supervisory capacity" and "regularly exercises supervisory authority" are provided.

Votes on Final Passage:

Senate	46	0	
House	96	0	(House amended)
Senate			(Senate refused to concur)
House	98	0	(House receded)

Effective: July 24, 2005

SSB 5309

C 262 L 05

Defining sexual misconduct with a minor.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Kohl-Welles, Benton and Kline).

Senate Committee on Human Services & Corrections
House Committee on Criminal Justice & Corrections

Background: Sexual intercourse or sexual contact with a minor who is 16- or 17-years-old is not a crime, except for two situations. Sexual misconduct with a minor is a crime if the perpetrator is a school employee and the minor is a registered student of the school. Sexual misconduct with a 16- or 17-year-old is also a crime if the perpetrator is at least five years older, is not married to but is in a significant relationship to the minor, and abuses a supervisory position within that relationship to engage in or cause the minor to have sexual intercourse (first degree) or sexual contact (second degree). Sexual misconduct with a minor in the first degree is a class C felony, and sexual misconduct in the second degree is a gross misdemeanor.

In the context of the crime of sexual misconduct with a minor, "abuse of a supervisory position" means a direct or indirect threat or promise to use authority to the detriment or benefit of a minor. "Significant relationship" means a situation in which the perpetrator voluntarily or professionally provides education, health, welfare, or organized recreation, principally for minors. It also means a situation in which a person supervises minors in the course of his or her work. It also means a situation in which a person provides welfare, health, or residential assistance, personal care, or organized recreational activities to frail elders or vulnerable adults.

Summary: The definition of "abuse of a supervisory position," an element of the crime of sexual misconduct with a minor, is amended to include exploiting a significant relationship to obtain the consent of a minor. The section of the criminal law establishing the elements of the crime of sexual misconduct with a minor is also amended to include a situation in which a foster parent has sexual contact or sexual intercourse, or causes another person under the age of eighteen to have sexual contact or sexual intercourse, with his or her foster child who is at least 16 years old.

Votes on Final Passage:

Senate	44	0
House	94	0

Effective: July 24, 2005

SB 5311

C 259 L 05

Creating an autism task force.

By Senators Rasmussen, Jacobsen, McAuliffe, Mulliken, Stevens, Roach, Shin, Kohl-Welles and Spanel.

Senate Committee on Health & Long-Term Care
Senate Committee on Ways & Means
House Committee on Children & Family Services

Background: Autism is a complex neurological disorder that prevents normal brain development in the areas of communication and social interaction. The U.S. Centers for Disease Control and Prevention estimates that autism may affect as many as one of every 250 births. Autism typically appears during the first three years of life, and can be detected as early as 18 months of age by knowledgeable professionals. Data compiled by the U.S. Department of Education indicates that diagnoses of autism are increasing rapidly.

Research demonstrates that early, intensive interventions can significantly increase a child's mental, communication, and behavioral skills. Once identified, children with autism in Washington are eligible for early intervention and family support services through the Department of Social and Health Services, and for special education when they reach school age. However, there is concern that many children are not being identified as soon as they might be; and that new strategies need to be developed to better prevent, identify, and treat autism.

Summary: The Caring for Washington Individuals with Autism Task Force is established to study and to make recommendations regarding the incidence of autism in Washington, and ways in which service coordination and delivery could be improved. The task force is to submit recommendations to the Governor and Legislature by December 2006.

The task force is to consist of fourteen members, including two members of the Senate; two members of the House of Representatives; and ten parents and public agency representatives appointed by the Governor.

The Department of Health is to provide staff support to the task force, with additional assistance from the Office of the Superintendent of Public Instructions, and legislative committee staff.

Votes on Final Passage:

Senate	48	0	
House	95	0	(House amended)
Senate	42	0	(Senate concurred)

Effective: July 24, 2005

SSB 5316
C 44 L 05

Authorizing state parks and recreation commission license plates.

By Senate Committee on Transportation (originally sponsored by Senators Jacobsen, Swecker, Haugen, Parlette, Kohl-Welles and Oke; by request of Parks and Recreation Commission).

Senate Committee on Transportation
House Committee on Transportation

Background: The Special License Plate Review Board was created in the 2003 session and charged with reviewing special license plate applications from groups requesting the creation of a special license plate series. Upon approval, the board forwards the application to the Legislature.

On December 10, 2004, the board formally approved the "Washington state parks and recreation commission" license plate application.

Summary: The Department of Licensing must issue a special license plate for vehicles displaying a symbol or artwork recognizing the efforts of state parks and recreation in Washington State.

An applicant for a "Washington state parks and recreation commission" special license plate must pay an initial fee of \$40 and a renewal fee each year thereafter of \$30. The initial revenue generated from the plate sales must be deposited into the motor vehicle account until the state has been reimbursed for the implementation costs. Upon reimbursement, the revenue must be deposited into the state parks education and enhancement account. Expenditures from the account may only be used to provide public educational opportunities and enhancement of Washington State parks.

Votes on Final Passage:

Senate 47 0
House 84 10

Effective: July 24, 2005

SSB 5317
C 126 L 05

Providing confidentiality to certain insurance commissioner examinations.

By Senate Committee on Financial Institutions, Housing & Consumer Protection (originally sponsored by Senators Benton, Keiser, Benson, Prentice, Roach and Shin; by request of Insurance Commissioner).

Senate Committee on Financial Institutions, Housing & Consumer Protection
House Committee on Financial Institutions & Insurance

Background: The Office of the Insurance Commissioner (OIC) examines the market conduct and financial solvency of companies it regulates, including out-of-state insurers doing business in Washington State. Information obtained in these examinations can be exempt from the Public Disclosure Act, but only to the extent that it is protected from disclosure under the laws of the jurisdiction from which it originated.

Summary: Information obtained in a financial or market conduct examination is subject to disclosure only if the Insurance Commissioner cites that information in connection with an agency action. In this case, the Commissioner must notify the party that produced the information five business days prior to disclosure. The notified party can seek an injunction to prevent disclosure in any Washington state superior court.

Information used in an insurer change of control proposal is also subject to disclosure. However, if the information is otherwise privileged, or if the Commissioner finds that the public interest in nondisclosure outweighs that of disclosure, release of the documents is not required.

Where information exempt from disclosure relates to allegations of Commissioner misconduct in performing insurer examinations, a Washington State superior court can be petitioned for access to the information.

Votes on Final Passage:

Senate 49 0
House 95 0

Effective: July 24, 2005

SB 5321
C 340 L 05

Regulating disclosure of addresses of vehicle owners.

By Senators Haugen, Swecker, Jacobsen and Esser.

Senate Committee on Transportation
House Committee on Transportation

Background: The Department of Licensing (DOL) may provide legal and registered vehicle owner information only to certain groups for specified uses.

Summary: When both a residential and a mailing address are on file with the DOL, only the mailing address may be disclosed unless the request for information is from: courts, a law enforcement agency; or a government entity with enforcement, investigative, or taxing authority.

Votes on Final Passage:

Senate 48 0
House 93 3 (House amended)
Senate 46 0 (Senate concurred)

Effective: July 24, 2005

ESB 5332

C 90 L 05

Honoring the Reverend Doctor Martin Luther King, Jr.

By Senators Kline, Franklin, Shin, Keiser, Weinstein, Poulsen, Thibaudeau, Prentice, Kohl-Welles, Eide, Finkbeiner, Rasmussen and Pridemore.

Senate Committee on Government Operations & Elections

House Committee on State Government Operations & Accountability

Background: King County was established from a portion of Thurston County by the Oregon Territorial Legislature on December 22, 1852. It was named for William Rufus DeVane King of Alabama, vice-president of the United States from 1853 to 1857 under the Franklin Pierce administration. On February 24, 1986, the King County Council changed the origin of the name to honor Dr. Martin Luther King, Jr.

Summary: King County is renamed in honor of Reverend Doctor Martin Luther King, Jr.

Votes on Final Passage:

Senate	47	0
House	64	31

Effective: July 24, 2005

SB 5340**FULL VETO**

Creating the military department capital account and rental and lease account.

By Senators Rasmussen, Roach, Shin, Jacobsen, Delvin, Carrell, Rockefeller, Fraser, Franklin, Kastama, Regala and Pridemore; by request of Military Department.

Senate Committee on Ways & Means

House Committee on Capital Budget

Background: The Military Department manages thirty-eight readiness centers, also known as armories, throughout the state. Thirty-three are operational, and approximately half are over fifty years old.

Readiness centers are used for primarily national guard training, administration, and storage. The department may receive income from the lease or rental of these facilities. The income is deposited into the general fund.

Federal law permits states to rent out armories if the state uses the income received to support maintenance of the armories.

Summary: The Military Department Capital Account and the Military Department Rental and Lease Account are established in the state treasury.

All receipts from the sale of state-owned military department property will be deposited into the Military

Department Capital Account. Funds in the account are subject to appropriation and are to be spent only on military department capital projects.

All receipts from the rental or lease of state-owned military department property will be deposited into the Military Department Rental and Lease Account. Funds in the account are subject to appropriation and are to be spent only on operating and maintenance costs of military property.

Votes on Final Passage:

Senate	48	0
House	96	0

VETO MESSAGE ON SB 5340

May 3, 2005

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning, without my approval, Senate Bill No. 5340 entitled:

“AN ACT Relating to military department accounts.”

The House of Representatives forwarded an identical companion bill, House Bill No. 1457 to the Governor's Office on April 19, 2005. I will sign that bill today. Senate Bill No. 5340, therefore, must be vetoed.

For these reasons, I have vetoed Senate Bill No. 5340 in its entirety.

Respectfully submitted,



Christine O. Gregoire
Governor

SB 5347**FULL VETO**

Requiring the department of social and health services to defend temporary managers in nursing homes.

By Senators Keiser and Brandland; by request of Department of Social and Health Services.

Senate Committee on Health & Long-Term Care

House Committee on Judiciary

Background: Temporary managers are appointed to manage nursing homes experiencing difficult times. Examples of situations requiring the use of a temporary manager include the closing of a nursing home, investigations involving financial mismanagement, or when allegations of general mismanagement occur. It is only during the most extreme situation that temporary managers are called in. Managers may be needed for as little as thirty days or for as long as several months. Often, a manager will bring in his or her own team to assist in the crises. Since 1989, the department has called upon temporary managers seven times. The cost of liability insurance for temporary managers is prohibitive. The

department wishes to indemnify temporary managers to assist in off- setting insurance costs.

Summary: The Department of Social and Health Services (DSHS) will indemnify, defend, and hold harmless temporary managers and their agents for any actions that do not amount to intentional torts or criminal behavior.

Votes on Final Passage:

Senate	49	0
House	96	0

VETO MESSAGE ON SB 5347

May 10, 2005

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning, without my approval, Senate Bill No. 5347 entitled:

“AN ACT Relating to indemnifying and defending department of social and health services appointed temporary managers in nursing homes.”

The House of Representatives forwarded an identical companion bill, House Bill No. 1364, to the Governor’s Office on April 19, 2005. Both bills cannot be signed.

For these reasons, I have vetoed Senate Bill No. 5347 in its entirety.

Respectfully submitted,

Christine O. Gregoire
Governor

ESSB 5348
C 175 L 05

Authorizing certain PUDs to operate an electrical appliance repair service.

By Senate Committee on Water, Energy & Environment (originally sponsored by Senators Pridemore, Kastama, Fraser and Kline).

Senate Committee on Water, Energy & Environment
House Committee on Technology, Energy & Communications

Background: For nearly 60 years, Clark Public Utilities, also known as Clark County Public Utility District (PUD), has repaired major electrical appliances, such as central furnaces, heat pumps, and ovens. The utility offers the repair service to promote conservation and energy efficiency. The utility does not generally sell or lease appliances, although it sometimes sells water heaters.

In 1998, an opinion issued by the Washington State Attorney General concluded that PUDs do not have the legal authority to repair appliances other than those they sell or lease. The opinion sparked a controversy in Clark County. A group of Clark County taxpayers sued to stop

Clark Public Utilities from repairing appliances.

In 2002, a trial court permanently enjoined Clark Public Utilities from repairing appliances, declaring the utility did not have the legal authority to repair electrical appliances other than those it sold or leased. The court stayed the injunction pending appeals. The state Court of Appeals affirmed the trial court’s decision in 2003. But the utility appealed to the state Supreme Court, which accepted the case and heard oral arguments on January 19, 2005. An opinion is expected this year.

Summary: Legislative findings are made. Among other things, the Legislature recognizes the long tradition of repairing appliances by certain public utility districts. The Legislature also understands that the repair services help citizens save money and energy.

Any public utility district that has operated an electrical appliance repair service for at least ten years prior to the effective date of this act, may continue to operate an electrical appliance repair service within its service district.

When a PUD operates an electrical appliance repair service, it must do the following: (1) charge a true and fair cost for the service; (2) keep public financial records on the service; and (3) develop and use measures to evaluate the performance of the service.

Votes on Final Passage:

Senate	26	22
House	51	45

Effective: July 24, 2005

SB 5354
C 127 L 05

Revising administration of flood control zone districts.

By Senators Doumit and Zarelli.

Senate Committee on Government Operations & Elections

House Committee on Local Government

Background: A flood control zone district (zone) is a special district that may be created by a county to undertake flood control or storm water projects that benefit specific areas of the county. A zone is a quasi municipal corporation, an independent taxing authority, and a taxing district. The board of county commissioners are the zone’s supervisors, and the county engineer is its administrator. In 2003, zones with more than 2,000 residents were authorized to elect their own supervisors and election procedures were established, but the authorizing legislation did not specifically address compensation of elected supervisors or administration of a zone that has elected supervisors.

Summary: Zone administration remains in the county engineer, unless the elected supervisors provide otherwise, and express authority to do so is granted. Specific

provisions for compensation of elected supervisors are adopted. The act takes effect immediately.

Votes on Final Passage:

Senate 47 0
House 95 0

Effective: April 21, 2005

ESB 5355
C 308 L 05

Modifying provisions for salmon and steelhead recovery in the lower Columbia region.

By Senators Doumit, Zarelli and Jacobsen.

Senate Committee on Natural Resources, Ocean & Recreation

House Committee on Natural Resources, Ecology & Parks

Background: The lower Columbia River area has a salmon and steelhead planning group authorized by the 1998 Legislature. The regional group has developed a plan which has been submitted to the federal agencies and has been reviewed by both the Department of Fish and Wildlife and the Governor's Salmon Recovery Office.

Summary: The statute authorizing the lower Columbia recovery group is expanded to cover salmon. The group is authorized to oversee the implementation of the salmon and steelhead habitat recovery effort. The membership of the group is clarified and the termination date of July 1, 2006 is changed to July 1, 2010.

Votes on Final Passage:

Senate 46 0
House 96 0 (House amended)
Senate 32 0 (Senate concurred)

Effective: July 24, 2005

SB 5356
C 14 L 05

Modifying the alignment of state route number 290.

By Senator Brown; by request of Transportation Improvement Board.

Senate Committee on Transportation
House Committee on Transportation

Background: Under current law The Transportation Improvement Board (TIB) is designated as the state agency assigned to review route jurisdiction transfer requests. After soliciting public testimony TIB forwards any jurisdictional transfer requests to the Legislature for review. TIB is recommending that a portion of SR 290 be transferred to the City of Spokane. If a route being

considered for transfer is located wholly within one or more contiguous jurisdictions responsibility can remain at the local level, if local officials prefer.

Summary: The definition of SR 290 is amended. SR 290 would begin at SR 90 in Spokane. That portion of SR 290 currently beginning at SR 2 and ending at Hamilton Street would be transferred to the City of Spokane.

Votes on Final Passage:

Senate 42 0
House 86 0

Effective: July 24, 2005

SB 5358
C 45 L 05

Regarding speech-language pathologists and audiologists.

By Senators Keiser and Parlette.

Senate Committee on Health & Long-Term Care
House Committee on Health Care

Background: The Board of Speech and Hearing licenses speech-language pathologists, audiologists, and hearing instrument fitters/dispensers. It acts as the disciplining authority for unprofessional conduct under the Uniform Disciplinary Act.

Speech-language pathology includes the treatment of speech and language disorders that impede oral competencies and the normal process of communication. Audiology relates to hearing disorders that impede the process of human communication, and includes the application of aural rehabilitation and the fitting and dispensing of hearing instruments.

Interim permits may be issued to speech-language pathologists and audiologists who meet academic and practicum requirements for licensure but need to complete post-graduate professional experience and examination requirements. Interim permit holders must practice under the direct supervision of a licensed hearing instrument fitter/dispenser, licensed speech-language pathologist, or licensed audiologist. Direct supervision requires that the supervisor be physically present in the same room with the interim permit holder, observing the nondiagnostic testing, fitting, and dispensing activities at all times.

Audiologists and speech-language pathologists who are certified as educational staff associations by the state board of education are exempted from the licensing requirements.

Summary: The direct supervision requirement for speech-language pathologists and audiologists who practice pursuant to an interim permit is removed. Those practicing under an interim permit must do so under supervision, but not necessarily direct supervision.

The exception for audiologists and speech-language

pathologists who are certified by the State Board of Education, but who additionally practice outside of a school setting, is clarified to require that he or she be licensed.

Votes on Final Passage:

Senate 47 0
House 93 1

Effective: July 24, 2005

2SSB 5370
C 427 L 05

Creating the economic development strategic reserve account.

By Senate Committee on Ways & Means (originally sponsored by Senators Brown, Benson, Shin, Sheldon, Eide, Kohl-Welles and McAuliffe).

Senate Committee on International Trade & Economic Development
Senate Committee on Ways & Means
House Committee on Economic Development, Agriculture & Trade
House Committee on Capital Budget

Background: The Legislature established the Economic Development Commission in 2003 to develop the state's economic development strategy, provide advice on policy and programs, and make recommendations. The commission is directed to provide advice about strategies to make funds available for economic development purposes more flexible to meet emergent needs and maximize opportunities. The commission has recommended that the state establish an economic development strategic reserve account.

Summary: The Economic Development Strategic Reserve Account is created. The Governor may authorize expenditures from the account with the recommendation of the Director of Community Trade and Economic Development and the Economic Development Commission.

Funds are to be used to support the Economic Development Commission. Funds may also be used to attract businesses and prevent business closure or relocation. Authorized uses include funding workforce development, public infrastructure, and other assistance provided contractually with an assurance of job creation or retention.

Funds may not be expended unless the timely procurement of funding from other state sources is not possible and funding is accompanied by, and will not supplant, private investment. Any businesses assisted must produce significant economic benefits, including jobs or higher income, and may not require a continuing state subsidy.

One-third of unclaimed prize money from the state lottery is to be deposited in the Economic Development

Strategic Reserve Account. A maximum of \$15 million may be in the account at any time, with any excess being transferred to the Education Construction Account.

Votes on Final Passage:

Senate 47 0
House 60 36 (House amended)
Senate (Senate refused to concur)

Conference Committee

House 58 40
Senate 41 4

Effective: July 24, 2005

ESB 5381
C 305 L 05

Authorizing an independent, nonprofit Washington academy of sciences.

By Senators Kohl-Welles, Parlette, McAuliffe, Pridemore, Rockefeller, Brown, Rasmussen, Schoesler, Shin, Haugen, Schmidt, Keiser and Kline; by request of Governor Gregoire.

Senate Committee on Labor, Commerce, Research & Development
House Committee on Higher Education
House Committee on Appropriations

Background: Academies of Science are part of our Nation's history. The National Academy of Sciences (NAS) was signed into being by President Abraham Lincoln in 1863. Since its inception, the NAS has served to investigate, examine, experiment, and report upon any subject of science or art whenever called upon to do so by the federal government. The NAS is actually made up of four organizations. These non-profit organizations work outside the framework of government to ensure independent advice on matters of science, technology, and medicine.

There are also state level academies of science. California's Academy of Science is a private non-profit organization that provides scientific knowledge and expertise to visiting scientists, educators, adults, students, parents, children, conservation organizations, government leaders, and the media. The Mississippi Academy of Sciences is an organization of scientists, engineers, and others from schools and universities, government, industry and business that supports science within the state.

Summary: The Washington Academy of Science (Academy) is created as a nonprofit organization whose principal mission is to provide scientific analysis and recommendations on issues referred to the Academy by the Governor or the Legislature, including identifying past or present research projects in Washington State, or other, research institutions.

The presidents of the University of Washington and Washington State University serve as co-chairs of an

organizing committee for the purpose of creating the academy. The organizing committee is to be comprised of representatives of appropriate disciplines of academic, private, governmental, and research sectors.

The timeline for the creation of the Academy is as follows:

- January 1, 2006: organizing committee formed;
- April 30, 2007: committee's review is complete; and
- by April 30, 2007: academy files articles of incorporation.

The organizing committee is to recommend procedures and funding requirements for receiving and disbursing funding in support of the Academy's programs and services. The report is to be made to the Governor and the appropriate committees of the Senate and House of Representatives by April 30, 2007.

The bylaws or other operating guidelines are to outline procedures for selecting panels of experts to respond to Governor or legislative requests. The panel members are to avoid conflicts of interest, and proposed panelists must disclose any advocacy positions or financial interest, within the past ten years, related to the research at hand.

The Governor provides funding to the Academy for the actual expense of investigations, examinations, and reports. This funding is in addition to state funding assistance to the academy in its initial years of operation.

Votes on Final Passage:

Senate	48	0	
House	87	7	(House amended)
Senate	37	0	(Senate concurred)

Effective: July 24, 2005

SB 5391
C 46 L 05

Offering a tricare supplemental insurance policy to certain public employees.

By Senators Keiser, Franklin, Brandland, Kastama, Johnson, Kohl-Welles and Kline.

Senate Committee on Health & Long-Term Care
House Committee on Health Care
House Committee on Appropriations

Background: TRICARE is the U.S. Department of Defense's (DOD) worldwide health care program for uniformed service members and their families. The Public Employee Benefits Board (PEBB) provides health coverage for state and other public employees.

TRICARE coverage is available to service members upon their retirement, even if they subsequently become employed. Reportedly, however, many of those who are subsequently employed by the state or other public employers choose PEBB coverage instead.

Current law does not allow PEBB to offer other than

a comprehensive health benefit plan. It is suggested that if PEBB were allowed to offer a TRICARE supplement, retired military personnel employed by the state would retain their DOD funded TRICARE coverage, leaving the state to pay only for the less costly supplemental benefits.

Summary: The Health Care Authority may make available a TRICARE supplemental insurance policy to employees who are eligible.

Votes on Final Passage:

Senate	47	0
House	93	1

Effective: July 24, 2005

ESSB 5395
C 242 L 05

Requiring voting devices to produce paper records.

By Senate Committee on Government Operations & Elections (originally sponsored by Senators Kastama, Haugen, Roach, Rockefeller, Schmidt, Kohl-Welles, Spanel, Pridemore, Kline, McAuliffe and Franklin).

Senate Committee on Government Operations & Elections
House Committee on State Government Operations & Accountability
House Committee on Appropriations

Background: The Secretary of State (Secretary) must certify voting devices and their component software prior to use in any election in the state. Two counties in the state currently use poll site based electronic voting systems. The machines used in those counties are not currently required to produce a paper record. The Secretary has adopted rules preventing certification of poll site based electronic voting systems unless, beginning January 1, 2006, they produce a paper record that may be reviewed by each voter prior to finalizing his or her vote. The Secretary has also adopted rules regarding the use, storage, and preservation of paper records as follows:

- 1) the electronic record produced by the voting device is the official record for election purposes, and the paper record is used only in mandatory manual recounts, requested recounts, by order of the canvassing board, or by court order;
- 2) paper records are subject to the same handling, preservation, transit, and storage requirements as other ballots; and
- 3) voters may not leave the electronic voting device during the voting process except to verify his or her ballot or to request assistance.

Summary: Beginning January 1, 2006, all electronic voting devices must produce an individual paper record of each vote that may be accepted or rejected by the voter before finalizing his or her vote. The paper records

must be human readable without an interface and are subject to the same handling, preservation, transit, and storage requirements as other ballots. The electronic record produced by the voting device is the official record for election purposes, and the paper record is used only in manual recounts, by order of the canvassing board, by court order, or for random audit purposes. If the paper record is used, it becomes the official record of the election. Voters voting on electronic voting devices may not leave the device during the voting process except to request assistance from precinct election officers.

Prior to certification of the election, the county auditor must audit results of votes cast on direct recording electronic voting devices used in the county by comparing the results recorded by the device with the results recorded on the paper records. Up to four percent of the voting devices or one device, whichever is greater, must be randomly selected and three random races or issues must be audited on each machine. On one fourth of the devices selected for an audit, the paper records must be tabulated manually, and on the other devices the paper records may be tabulated by a mechanical device determined by the Secretary of State to be capable of accurately reading the votes. The audit process is open to observation.

Anyone who removes a paper record from the voting device or polling place without authorization is guilty of a class C felony.

Votes on Final Passage:

Senate	48	0	
House	95	1	(House amended)
Senate	39	0	(Senate concurred)

Effective: July 24, 2005

ESSB 5396
C 303 L 05

Expanding the criteria for habitat conservation programs.

By Senate Committee on Natural Resources, Ocean & Recreation (originally sponsored by Senators Fraser, Esser, Jacobsen, Oke, Regala, Swecker, Rockefeller, Spanel, Pridemore, Thibaudeau, Haugen and Kline).

Senate Committee on Natural Resources, Ocean & Recreation

Senate Committee on Ways & Means
House Committee on Capital Budget

Background: The Washington Wildlife and Recreation Program (WWRP) provides funds for the acquisition and development of outdoor recreation and habitat conservation areas. Counties, cities, ports, park and recreation districts, school districts, state agencies, and tribes are eligible to apply. Grant applications are evaluated annually and the Interagency Committee for Outdoor Recre-

ation (IAC) submits a list of prioritized projects to the Governor and Legislature for approval.

Half of the funds appropriated in a biennium for the WWRP are for habitat conservation, and are allocated according to a statutory formula for critical habitat, natural areas, and urban wildlife habitat. The other half of the funds are appropriated for outdoor recreation, allocated by formulas established in statute for state parks, local parks, trails, and water access sites. A portion of each account is left unallocated.

Summary: Two new funds are created for administration by the IAC. The riparian protection account is created to distribute funds for the acquisition or enhancement or restoration of riparian habitat. Riparian habitat is defined as land adjacent to water bodies, as well as submerged land and stream beds, which can provide habitat for fish and wildlife species. The farmlands preservation account is created and funds may be used for the acquisition of farmlands, their enhancement or restoration, or both.

Appropriations for a biennium of up to 40 million dollars or less are split equally between the habitat conservation account and the outdoor recreation account. The riparian protection account and farmlands preservation account receive a portion of any appropriations to the WWRP exceeding 40 million dollars. The IAC may use moneys appropriated to an account, that are not obligated to a specific project, to fund alternate projects from the same account in future biennia.

Within the habitat conservation account, allocations to the existing categories are increased and a new category is created for restoration and enhancement projects by state agencies, leaving no unallocated funds. Within the outdoor recreation account, allocations to the existing categories are also increased and a new category is created for development and renovation projects on state lands, leaving no unallocated funds.

Criteria for grants for habitat conservation and outdoor recreation are revised to include such considerations as consistency with land use, shoreline, watershed, and recovery plans, inclusion of noxious weed control management plans, and the statewide significance of critical habitat projects.

The IAC may retain up to three percent of WWRP funds for administration. The IAC may accept private donations to the WWRP accounts. Project lists are prepared and submitted to the Governor in even numbered years.

Lands acquired by the Department of Natural Resources (DNR) and the Department of Fish and Wildlife (DFW) using funds from the habitat conservation account are subject to payments in lieu of property taxes and for weed control. Lands acquired by state agencies using funds from the riparian protection account are also subject to payments in lieu of property taxes and for weed control. The IAC, DNR, DFW, and counties must,

by December 1, 2005, provide a report to the Legislature regarding the impact of payments in lieu of local property taxes.

State or local agencies must review a proposed project application with the local government with jurisdiction over lands proposed for acquisition with WWRP grant funds.

Moneys appropriated for purposes of riparian protection, critical habitat, and urban wildlife habitat may be used to fund mitigation banking projects. Such moneys may not, however, be used to supplant a state or local agency's obligation to provide mitigation.

Habitat and recreation lands acquired using WWRP grant funds may not be converted to a use other than that for which funds were originally approved without the approval of the IAC.

Votes on Final Passage:

Senate	44	4	
House	60	36	(House amended)
Senate	45	1	(Senate concurred)

Effective: July 1, 2005 (Section 15)
July 24, 2005 (Section 16)
July 1, 2007

SSB 5406
C 47 L 05

Modifying medicare supplemental insurance policy provisions to conform to federal law.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Franklin, Parlette and Keiser).

Senate Committee on Health & Long-Term Care
House Committee on Health Care

Background: Medicare is the federally funded and administered program providing health insurance primarily to those 65 and older. Enrollees who wish to do so may purchase a policy in the commercial market to supplement the benefits provided under Medicare. Such policies are regulated by the state, consistent with requirements of federal law.

Under current law, the state Health Care Authority (HCA), through the Public Employee Benefits Board (PEBB), must offer retired or disabled employees at least two Medicare supplemental insurance policies, one of which is required to include a pharmacy benefit. This requirement is inconsistent with provisions of the federal Medicare Modernization Act of 2003.

Current law also allows any state resident who is not a PEBB enrollee to purchase, at full cost, the Medicare supplemental policies otherwise available to PEBB enrollees.

In 1993, the Legislature directed the HCA to design a self-insured Medicare supplemental insurance plan,

and submit the plan for consideration by the Legislature. HCA completed a design and feasibility study that resulted in a recommendation that the state not offer the self-insured plan. Based on this report, HCA did not implement the plan.

Summary: The requirement that the HCA offer a Medicare supplemental policy which includes a pharmacy benefit is removed.

The statute directing the HCA to design a self-insured Medicare supplemental insurance plan is repealed.

Additional changes are made to clarify the current law and make it consistent with other statutory provisions.

Votes on Final Passage:

Senate	46	0
House	94	0

Effective: July 24, 2005

SSB 5414
C 341 L 05

Adjusting aviation fees and taxes.

By Senate Committee on Transportation (originally sponsored by Senators Haugen and Swecker).

Senate Committee on Transportation
House Committee on Transportation

Background: Under current law and with few exceptions, Washington pilots, and airmen or airwomen (e.g., certain mechanics, aircraft dispatchers, and air-traffic control tower operators), must register with the Washington State Department of Transportation. The registration fee is fifteen dollars. Effective during the current fiscal biennium (July 1, 2003 through June 30, 2005), seven dollars of each fee must be deposited into the aeronautics account to be used solely for airport maintenance. The remaining eight dollars must be deposited into the aircraft search and rescue, safety, and education account, to be used for: (1) search and rescue efforts; (2) safety and education; and (3) volunteer recognition and support. Effective July 1, 2005, this distribution expires and the entire fifteen dollar registration fee must be deposited into the aircraft search and rescue, safety, and education account.

Summary: Certain provisions regarding aviation fees and taxes are revised as follows: (1) the state pilot and airman/airwoman registration requirement is repealed; (2) the aircraft search and rescue, safety, and education account is repealed; (3) the aviation fuel tax is increased one cent to eleven cents per gallon; and (4) air carriers, subject to the commercial aircraft exemption from the aviation fuel tax, are defined.

Votes on Final Passage:

Senate 47 1
House 95 1 (House amended)
Senate 38 4 (Senate concurred)

Effective: July 1, 2005

ESSB 5415

C 256 L 05

Making loans under chapter 31.45 RCW to military borrowers.

By Senate Committee on Financial Institutions, Housing & Consumer Protection (originally sponsored by Senators Fairley and Kline).

Senate Committee on Financial Institutions, Housing & Consumer Protection

House Committee on Financial Institutions & Insurance

Background: Washington State Department of Financial Institutions (DFI) regulates payday lenders. Recent studies indicate a high concentration of payday lending companies near military bases. Around the country, military commanders and military relief societies report cases of soldiers, sailors, and marines getting into financial difficulties when dealing with payday lenders, with reported stress to their fitness for duty, and negative consequences for their families.

In response, the payday lending industry, through its professional associations, worked with the military to address concerns. Payday lenders have developed a set of "Military Best Practices," reflecting standards for ethical military loans.

Summary: Payday loan "Military Best Practices" are established in statute. For loans to military borrowers, licensees (payday lenders licensed by DFI) are required to do the following:

- when collecting delinquent loans, refrain from garnishment of military wages;
- defer collection when a military borrower is deployed for combat/combat support;
- refrain from contacting a borrower's commanding officer in an effort to collect debt;
- honor repayment terms worked out with military or 3rd party credit counselors; and
- make no loans to known military borrowers if the base commander has declared the specific payday lending location "off limits, in writing".

Votes on Final Passage:

Senate 48 0
House 66 28 (House amended)
Senate 43 0 (Senate concurred)

Effective: July 24, 2005

ESB 5418

C 342 L 05

Allowing consumers to place a security freeze on a credit report.

By Senators Berkey, Benton, Fairley, Shin, Kastama, Carrell, McAuliffe, Benson, Prentice, Delvin, Kohl-Welles, Keiser and Kline.

Senate Committee on Financial Institutions, Housing & Consumer Protection

House Committee on Financial Institutions & Insurance

Background: "Identity Theft" is one of the fastest growing crimes in 21st Century America, and Washington State has a significant number of victims. Many consumers are concerned with finding new ways to protect their financial identities. California recently enacted a law providing consumers with the right to place a "security freeze" on their own credit reports. The freeze provides almost total prevention of access to a person's credit report, and can be lifted by the consumer if they wish to allow specific access.

Summary: A victim of identity theft or data security breach may place a "credit freeze" on his or her credit report, by following a detailed procedure. The consumer receives an identification code, allowing them to lift the freeze, if they want to allow temporary access to their credit histories, for a specific party or a period of time, such as during a mortgage or car loan application.

Votes on Final Passage:

Senate 33 15
House 66 30 (House amended)
Senate 47 2 (Senate concurred)

Effective: July 24, 2005

ESB 5423

C 210 L 05

Regulating special license plates.

By Senators Haugen and Swecker.

Senate Committee on Transportation

House Committee on Transportation

Background: The Special License Plate Review Board was created in the 2003 session and charged with reviewing special license plate applications from groups requesting the creation of a special plate. A special license plate applicant must either: (1) pre-pay the implementation costs; or (2) submit signature sheets representing 2,000 intended plate purchases and an application fee of \$2,000. For those applicants who cannot prepay, the initial revenue generated from the plate sales must be deposited into the motor vehicle account until the state has been reimbursed for the implementation costs. The state must be reimbursed within two years

from the initial date of sale or the plate series will be put on probation for one year. If the state has not been fully reimbursed at the end of the probationary period, the plate series must be discontinued.

The Department of Licensing (DOL) offers a special accessible parking emblem version of special license plates to persons with disabilities who qualify for special parking privileges. Persons applying for a disabled parking emblem for a special license plate must pay the appropriate special license plate fee. The disabled parking emblem version of a special license plate is administered in the same manner as the special disabled parking license plates currently issued by DOL.

Summary: DOL is authorized to offer personalized special license plates. Persons applying to purchase a personalized special license plate must pay both the fee for the special plate and the fee for a personalized plate.

DOL must offer a license plate emblem for persons with disabilities for both personalized license plates and special plates that are personalized.

The special license plate design services fee is reduced from \$1,500 to \$200 dollars for the first six renditions, and to \$100 dollars for any subsequent rendition.

The special license plate application requirements are changed in the following ways: (1) the application option of submitting signature sheets with 2,000 signatures and an application fee of \$2,000 is removed; and (2) an applicant must provide 3,500 signatures with prepayment to the Special License Plate Review Board.

The Special License Plate Review Board is prohibited from accepting or approving any applications until June 1, 2007. The Legislature may not enact a special plate during this time unless the plate has been approved by the Special License Plate Review Board before February 15, 2005. The Special License Plate Review Board is required to make a policy recommendation to DOL concerning limiting the ability of governmental bodies and 501(c)(3) organizations to apply for more than one special license plate. DOL is required to adopt a rule pursuant to the Board's policy recommendation.

Votes on Final Passage:

Senate	47	0	
House	63	34	(House amended)
Senate	43	3	(Senate concurred)

Effective: July 24, 2005
 March 1, 2007 (Section 1)

SB 5424
 C 48 L 05

Authorizing the "Washington Lighthouses" special plate.
 By Senators Haugen, Swecker, Jacobsen, Hargrove and Doumit.

Senate Committee on Transportation
 House Committee on Transportation

Background: The Special License Plate Review Board was created in the 2003 session and charged with reviewing special license plate applications from groups requesting the creation of a special license plate series. Upon approval, the board forwards the application to the Legislature.

On September 10, 2004, the board formally approved the Lighthouse Environmental Programs "Washington Lighthouses" license plate application.

Summary: The Department of Licensing (DOL) must issue a special license plate for motor vehicles displaying a symbol or artwork approved by the Special License Plate Review Board and the Legislature recognizing an organization which supports selected Washington State lighthouses and environmental education programs.

An applicant for a "Washington Lighthouses" license plate must pay an initial fee of \$40 and a renewal fee each year thereafter of \$30. The initial revenue generated from the plate sales must be deposited into the motor vehicle account until the state has been reimbursed for the implementation costs. Upon reimbursement, the revenue must be deposited into the Lighthouse Environmental Programs account established under this bill.

The DOL must enter into a contract with a qualified nonprofit organization requiring that the organization use the revenue generated by the license plate sales to disseminate funds for supporting selected Washington State lighthouses that are accessible to the public and staffed by volunteers; to provide environmental education programs; and to provide grants for other Washington lighthouses to assist in funding infrastructure preservation and restoration and to encourage and support interpretive programs by lighthouse docents.

Votes on Final Passage:

Senate	47	0
House	81	13

Effective: July 24, 2005

ESSB 5432

C 304 L 05

Creating the oil spill advisory council.

By Senate Committee on Water, Energy & Environment (originally sponsored by Senators Spanel, Swecker, Poulsen, Doumit, Regala, Rockefeller, Pridemore, Haugen, Kohl-Welles, Fraser, Jacobsen, Shin and Kline).

Senate Committee on Water, Energy & Environment
Senate Committee on Ways & Means
House Committee on Natural Resources, Ecology & Parks
House Committee on Appropriations

Background: In response to the oil spill from the Exxon Valdez in April 1989, Congress passed the Oil Pollution Act of 1990 (referred to as "OPA 90"). The act created two regional citizen advisory councils (RCAC) in the State of Alaska, one for Prince William Sound and one for Cook Inlet.

The councils provide citizen oversight of environmental safety issues that seek to minimize the risk of oil spills and other environmental impacts, and enhance oil spill prevention and response. The councils specific duties include: providing advice and making recommendations relating to the oil terminal, oil tankers, and port; monitoring terminal and tanker operations; and reviewing the adequacy of oil spill prevention and contingency plans.

Congress requires the owners or operators of the terminal facilities or crude oil tankers operating in the region to provide annual funding of up to \$2,000,000 for the Prince William Sound RCAC and \$1,000,000 for the Cook Inlet RCAC (adjusted by the consumer price index).

In OPA 90, Congress made the following finding in regards to citizen involvement in monitoring oil operations: "[S]imilar programs should be established in other major crude oil terminals in the United States because recent oil spills . . . indicate that the safe transportation of crude oil is a national problem."

Summary: An Oil Spill Advisory Council (council) is created in the Office of the Governor to maintain the state's vigilance in the prevention of oil spills, while recognizing the importance of also improving preparedness and response. A chair-facilitator position is created as a nonvoting member of the Oil Spill Advisory Council. The council meets at least four times a year, with specified locations for three of the meetings.

The council is composed of 16 members appointed by the Governor, plus two invited tribal representatives. Members are appointed for the following interests: three environmental organizations; one commercial shellfish; one commercial fisheries; one marine recreation; one tourism; three county governments; two marine trade; one marine labor; one major oil facility; one public port;

and one individual who resides on a shoreline.

Appointments to the council must reflect a geographical balance and the diversity of populations within the areas potentially affected by oil spills in state waters. Members serve four-year terms, are reimbursed for travel expenses, and are eligible for per diem.

The duties of the council include: the hiring of professional staff and expert consultants to support its work; consulting with government decision-makers; providing independent advice, expertise, research, monitoring, and assessment of these programs; monitoring and providing information regarding state of the art programs; evaluating incident response reports; and seeking and promoting citizens involvement.

The council also serves as an advisory body on, and provides for stakeholder and public consideration of, matters relating to international, national, and regional oil spill issues.

The council makes annual recommendations for the continuing improvement of the state's oil spill prevention, preparedness, and response. By September 15, 2006, the council must make proposals for the long-term funding of the council's activities and for the long-term sustainable funding for oil spill preparedness, prevention, and response activities. To the extent possible, decisions of the council must be by consensus.

The Department of Ecology must evaluate all oil spill advisory committees and revise or eliminate functions which are no longer necessary.

Votes on Final Passage:

Senate	29	17	
House	61	37	(House amended)
Senate	45	1	(Senate concurred)

Effective: July 24, 2005

SB 5433

C 15 L 05

Changing the membership of the commission on judicial conduct.

By Senators Kline, Hargrove and Carrell.

Senate Committee on Judiciary
House Committee on Judiciary

Background: The Commission on Judicial Conduct has authority to investigate complaints against judges and to hold hearings to determine if a judge or justice should be admonished, reprimanded, censured, or if the judge's removal or suspension from office should be recommended to the supreme court.

The commission is composed of 11 members. Three members are judges selected by and from judges on the court of appeals, superior court, and district court. Two members are attorneys selected by the bar association, and six members are nonlawyers appointed by the Gov-

ernor.

District courts are county courts of limited jurisdiction. Municipal courts can be departments of district courts or can be independent city courts. Judges of municipal courts can be either elected or appointed, depending on the population of the municipality and other considerations.

Summary: The composition of the Commission on Judicial Conduct is modified to allow one member to be selected by and from the judges of all courts of limited jurisdiction instead of district courts. This would allow a municipal court judge to be a member of the commission.

This act will take effect on January 1, 2006 only if a proposed constitutional amendment to Article IV, section 31 is approved by the voters.

Votes on Final Passage:

Senate	47	0
House	88	1

Effective: January 1, 2006

E2SSB 5441
C 496 L 05

Requiring studies of the state's education systems.

By Senate Committee on Ways & Means (originally sponsored by Senators Weinstein, McAuliffe, Prentice, Kohl-Welles, Eide, Berkey, Poulsen, Keiser, Brown, Fraser, Shin, Haugen, Schmidt, Kline, Rockefeller, Spanel and Rasmussen; by request of Governor Gregoire).

Senate Committee on Early Learning, K-12 & Higher Education

Senate Committee on Ways & Means

House Committee on Appropriations

Background: Numerous studies, mostly at the national level, have explored the cost benefits of providing high-quality early learning opportunities for young children.

There have been numerous studies, particularly since the 1970's, on various aspects of the K-12 funding system, including issues pertaining to the finance structure of K-12 education, teacher compensation, remedial instruction, special education, transportation, and student enrollment. Most recently, the House of Representatives organized, during the 2004 interim, a House K-12 Finance Workgroup that studied the finance structure for the state's public schools.

There have been numerous studies exploring the various funding aspects of higher education in the state, including studies on access issues, dual enrollment, and high-demand enrollment. The Higher Education Coordinating Board (HECB) is required under state law to report to the Legislature standardized data on education-related expenditures by the state's universities and col-

leges that includes the costs of instruction, costs to provide degrees in specific fields, costs for pre-college remedial instruction, and state support for students. The HECB is required to conduct this higher education cost study every four academic years.

Summary: The comprehensive education study steering committee is created. Members of the steering committee include: the Governor, who will chair the steering committee; the Director of the Office of Financial Management; two members from the House of Representatives with one appointed by each major caucus; two members from the Senate with one appointed by each major caucus; four citizens appointed by the Governor; and the chairs of each of the three advisory committees, one each on early learning, K-12 education, and higher education. The chair of the advisory committee on K-12 will be the Superintendent of Public Instruction. The chair of the advisory committee on early learning will be appointed by the Governor from a list of names submitted by groups representing early learning. The chair of the advisory committee on higher education will be selected by the Governor from a list of three or more names submitted by the State Board for Community and Technical Colleges, the Higher Education Coordinating Board, and the Council of Presidents. The steering committee will appoint the members of the advisory committee on early learning, the advisory committee on K-12, and the advisory committee on higher education.

The steering committee will: direct and coordinate the studies, giving consideration to recently completed, related finance studies; develop recommendations based on the work of the studies; and develop recommendations about how the state can best provide stable funding for student learning for young children, students in the public schools, and students in the public colleges and universities. The steering committee may enter into contracts as needed to support the work of the study.

A comprehensive study of early learning must include: defining the populations being served, those that could be served, and program access; determining the state's role in supporting quality early learning opportunities; determining the state's role in training persons providing services; and providing for smooth student transitions to K-12 programs.

The comprehensive K-12 study must address: the constitutional and legal requirements of the current finance system and the impact of the goals of the current education reform on the system; the strengths and weaknesses of the current finance formulas and how those formulas affect school district operations and performance; potential changes to the current finance system; a review of the funding systems in at least five other states; local and regional funding challenges by individual school districts; the effectiveness of English language learner instruction; and specific issues facing schools in the areas of accountability, governance, student and educator

support; district spending practices; potential changes to the current salary system in terms of aligned to professional development and student performance; and reporting on remediation in mathematics, science, and language arts.

A comprehensive study of higher education must include: options for creating a new funding system; the number and distribution of enrollments at two and four-year institutions of higher education needed to meet demographic and work force training needs; methods for determining the cost of instruction in various program areas, the appropriate share of the cost of instruction that should be funded through tuition, general fund-state subsidies, and financial aid; providing for smooth transitions from high school to college, including dual credit options and adequate preparation for college-level coursework; identifying strategies and costs for increasing access to baccalaureate degrees; identifying incentives to optimize research by public colleges and universities that have the potential of affecting economic and social conditions for state citizens; options for using existing capacity in independent colleges and universities; a review of higher education governance as it relates to fiscal policy for higher education; methods for developing common articulation of lower-division coursework among institutions of higher education; and options for coordinating capital and operating appropriations.

The steering committee is required to provide interim reports to the appropriate policy and fiscal committees of the Legislature by November 15, 2005, and June 16, 2006. The final report and recommendations of the steering committee must be submitted by November 15, 2006.

This bill will expire July 1, 2007.

Votes on Final Passage:

Senate	31	18	
House	76	20	(House amended)
Senate	32	14	(Senate concurred)

Effective: July 24, 2005

SSB 5449

C 211 L 05

Providing lien authority to the department of ecology to facilitate the recovery of remedial action costs under the model toxics control act.

By Senate Committee on Water, Energy & Environment (originally sponsored by Senators Poulsen, Swecker, Pridemore, Kline, Fraser and Rockefeller).

Senate Committee on Water, Energy & Environment
House Committee on Natural Resources, Ecology & Parks

Background: The state Model Toxics Control Act authorizes the Department of Ecology (DOE) to recover,

from liable parties, costs the agency incurs in cleaning up toxic-contaminated sites. DOE uses recovered costs to fund cleanup of other contaminated sites.

DOE may face difficulties in recouping its costs, particularly when a liable party is absent or insolvent. The agency has lower priority in recovering its cleanup costs in bankruptcy proceedings than secured creditors such as mortgagees.

It has been suggested that DOE be authorized to file a priority lien to recover its cleanup costs and that it also be permitted to recover increases in property value attributable to state-funded cleanup.

Summary: If the state incurs costs when cleaning up real property contaminated by toxics, and is unable to recover its costs from a liable party, the DOE may file a lien against the property. The lien, which may be for either the full amount of state cleanup costs or the increase in fair market value due to state cleanup, cannot in any case exceed DOE's cleanup costs. Unless DOE determines that it is in the public interest to remove the lien, it will continue until liability has been satisfied through sale of the property, foreclosure, or other means agreed to by the agency. The Attorney General will conduct any lien foreclosure in the standard manner prescribed for mortgage foreclosures.

Lien for Up to Full Amount of State Cleanup Costs. This lien has priority over all other monetary encumbrances, except for liens for local and special district property tax assessments and mortgages recorded before DOE files the lien or records notice of its authority to file a lien prior to initiating cleanup.

Lien Limited to Increase in Fair Market Value Due to State Cleanup. A lien limited in this way has priority over all other monetary encumbrances affecting the property. It may only be filed if the property is abandoned — i.e., there has not been significant business activity for three years or property taxes are three years in arrears prior to DOE cleanup. Increase in fair market value will be determined by the bona fide purchase price of property or a real estate appraiser retained by DOE.

Notice of Potential Liability. When notifying persons of potential liability under the Model Toxics Control Act (MOTCA), DOE must include a notice stating that if it incurs unrecovered cleanup costs, the agency may file a lien against the property.

Notice Prior to Initiating Cleanup. Except for emergency cleanup actions, DOE must, before starting cleanup conducted by a contractor, provide notice to the property owner, mortgagees, lienholders of record, and contractors of its authority to file a lien. For emergency cleanup actions, DOE must provide this notice within 30 days after starting cleanup. DOE may record a copy of the notice, along with a legal description of the property, with the auditor in the county where the property is located. If DOE subsequently files a lien, the lien's effective date will be the date this notice was recorded.

Notice Prior to Filing Lien. Before filing a lien, DOE must give the property owner, mortgagees, and lienholders notice of its intent to file a lien. The notice must specify the lien's purpose, a property description, the state's cleanup costs, probable cause that the identified property is subject to the costs, and a 30-day time limit for a response. DOE must provide notice by certified mail.

Filing. DOE may file a lien if it receives no response or receives a response but determines that there is probable cause for filing the lien. The lien is effective when filed with the auditor in the county where the property is located. A filed lien statement must include a property description and the amount of the lien.

If exigent circumstances require filing a lien prior to giving notice, or prior to expiration of the 30-day time limit for a response, DOE may file the lien immediately. Exigent circumstances include an imminent bankruptcy filing by the owner, imminent property transfer, or both.

Challenge. An owner of property or a lender holding a mortgage on property subject to a DOE line may petition the agency to remove or reduce the lien. If DOE denies the request, the petitioner may, within 90 days, file suit to remove or reduce the lien. The lien will be removed if the petitioner can prove that they are not liable under MOTCA, and reduced if they can prove that the lien exceeds DOE cleanup costs. A lien limited to the increase in fair market value due to DOE cleanup will be reduced if the lien exceeds DOE cleanup costs or exceeds the increase in fair market value solely attributable to DOE cleanup.

DOE's decisions regarding filing, removing or reducing a lien are reviewable exclusively in superior court MOTCA actions, including cost recovery suits, suits to enforce an order or seek a civil penalty, suits for reimbursement, suits to compel investigative or remedial action, and citizens' suits.

Exemptions. Exemptions are specified for property owned by a local government or special purpose district and for residential property consisting of four residential units or less, unless the property was used for illegal drug manufacturing and storage.

Votes on Final Passage:

Senate	36	12	
House	67	29	(House amended)
Senate	41	6	(Senate concurred)

Effective: July 24, 2005

SB 5453

C 128 L 05

Providing civil immunity for broadcasters participating in the Amber alert.

By Senators Delvin, Shin, Kline and Brandland.

Senate Committee on Judiciary

House Committee on Judiciary

Background: The AMBER Alert Plan is a voluntary partnership between law-enforcement agencies and broadcasters to activate an urgent bulletin in the most serious child-abduction cases. Broadcasters use the Emergency Alert System (EAS), formerly called the Emergency Broadcast System, to air a description of the abducted child and suspected abductor. This is the same concept used during severe weather emergencies. The goal of the AMBER Alert is to instantly galvanize the entire community to assist in the search for and safe return of the child.

Summary: There is no cause of action for civil damages against any radio, television, and cable television broadcasting company, including their employees, officers, directors, managers, and agents, based on the broadcast of information under the voluntary broadcast notification system known as the "Amber Alert." This applies to the system under any other name in this state. This immunity applies to the broadcast of the following information: name or description of an abducted child, name or description of a suspected abductor, and the circumstances of a suspected abduction supplied by law enforcement officials. This bill does not limit or restrict any existing immunity or privilege held by any radio, television, or cable television broadcast company.

Votes on Final Passage:

Senate	46	0
House	95	0

Effective: July 24, 2005

E2SSB 5454

C 457 L 05

Revising trial court funding provisions.

By Senate Committee on Ways & Means (originally sponsored by Senators Hargrove, Kline, Delvin, Thibault, Johnson, Shin, Stevens, Rockefeller and Kohl-Welles; by request of Board For Judicial Administration).

Senate Committee on Judiciary

Senate Committee on Ways & Means

House Committee on Judiciary

House Committee on Appropriations

Background: Currently the funding of superior, district, and municipal courts is primarily provided by local juris-

dictions. The state's direct contribution to operation of the trial courts consists of the constitutionally required payment of one-half of superior court judges' salaries, all of the superior court judges' benefits, and roughly one-third of the cost of running juvenile courts. Indirect support includes funding to develop and maintain the judicial information system.

Local jurisdictions collect numerous fees from users of the trial court system and are required to transfer 46 percent of a portion of those fees to the State Treasurer for deposit into the public safety and education account. No fee is currently collected from parties filing counterclaims, cross-claims, and third party claims in civil actions.

Concern exists that court funding is inadequate, that access to justice is impaired due to lack of funding, and that the state should pay a greater share of trial court costs. A judicial funding task force composed of more than 100 members serving on work groups and subcommittees for the past two years has developed a plan for improvement of the funding and quality of trial courts in Washington, leading to proposed legislation.

Summary: The Legislature recognizes that the state is obligated to provide adequate representation to criminal indigent defendants and to parents in dependency and termination cases. The Legislature further finds that trial courts are critical to maintaining the rule of law and protecting rights and enforcing obligations. The Legislature therefore creates a dedicated revenue source to meet the state's obligations in the areas of indigent criminal defense, indigent civil legal services, and trial court improvement.

Fee Increases & Law Library Funding. District court civil filing fees are increased from \$31 to \$43, and superior court civil filing fees are increased from \$110 to \$200. Counterclaims, cross-claims, and third-party claims will be assessed the same filing fee as the fee for initiating the action. A new \$43 fee is assessed against a criminal defendant upon conviction or plea of guilty in a court of limited jurisdiction. Jury fee demand charges in district and superior courts are increased. Other increased fees involve small claims actions, courthouse facilitator programs, unlawful detainer complaints and answers, nonjudicial probate disputes, petitions for modifying decrees of dissolution or paternity, certified copy fees, supplemental proceeding filings, writs of garnishment, transcripts of judgment, and various fees associated with real property.

Funding for county law libraries is increased. The portion of each superior court civil filing fee which is distributed to county law libraries is increased from \$12 to \$17. The portion of each district court civil filing fee distributed to county law libraries is increased from \$6 to \$7. The filing fees which now must be paid for counterclaims, cross-claims, and third-party claims are subject to the law library fee division requirement.

The revenue from fee increases is deemed to be complete reimbursement from the state for the state's share of benefits paid to the superior court judges prior to the effective date of the bill, and the state must not be liable for benefits for prior periods.

Equal Justice Funding. The increase in fees generated by this act will be deposited into the equal justice subaccount, which is created as a subaccount of the public safety and education account. The funds in the subaccount must be appropriated only for the following purposes, and for the fiscal biennium ending June 30, 2007, are appropriated as follows:

- 1) 2.3 million dollars for criminal indigent defense assistance and enhancement at the trial court level, 1 million dollars of which is provided solely for a criminal indigent defense pilot program;
- 2) 5 million dollars for representation of parents in dependency and termination proceedings;
- 3) 3 million dollars for civil legal representation of indigent persons; and
- 4) 2.4 million dollars for contribution to district court and elected municipal court judges' salaries.

For the 2005-2007 fiscal biennium, the state must appropriate 25 percent of the revenues to the equal justice subaccount, less 1 million dollars, to the administrator for the courts for the purpose of contributing to district and elected municipal court judges' salaries. For the 2007-2009 fiscal biennium and subsequent fiscal biennia, one-half of the revenues to the equal justice subaccount must be appropriated to the administrator for the courts for salaries of district court and elected municipal court judges.

The administrator for the courts must develop a distribution formula for these funds which does not differentiate between district and elected municipal court judges. A city qualifies for contribution to municipal court judges' salaries if the judge is elected and if the city compensates the judge by payment of between 95 percent and 100 percent of a district court judges' salary, or by a pro rata share of that amount for a part-time judge.

Trial Court Improvement Accounts. All cities, towns, and counties for which the state contributes to district or municipal court judges' salaries are required to create trial court improvement accounts. An amount equal to 100 percent of the state's contribution to the judges' salaries must be deposited into the trial court improvement account. Funds in the account must be appropriated by the legislative authority of each county, city, or town and must be used to fund improvements to court staffing, programs, facilities, and services.

Votes on Final Passage:

Senate	45	3	
House	87	9	(House amended)
Senate			(Senate refused to concur)
House	84	11	(House amended)
Senate	40	7	(Senate concurred)

Effective: July 24, 2005

SB 5461
C 263 L 05

Changing limits on costs of incarceration charged to offenders.

By Senator Fairley.

Senate Committee on Human Services & Corrections
House Committee on Criminal Justice & Corrections

Background: Under current law, felony offenders can be ordered to pay for the cost of incarceration at a rate of \$50 per day if the court determines that the offender has the means to pay. In Department of Corrections facilities, cost of incarceration is deducted from earnings from prison work and from any outside funds the offender receives. Misdemeanor offenders can be required to pay up to \$50 per day for costs of incarceration.

Summary: If the court determines that an offender has the means to pay, the court may order the offender to pay costs of incarceration of \$50 per day if confined in a prison or the actual cost of incarceration up to \$100 per day if confined in a county jail. This change applies to both felony and misdemeanor offenders confined in a county jail.

Votes on Final Passage:

Senate	46	0
House	96	0

Effective: July 24, 2005

SSB 5463
C 264 L 05

Allowing small appurtenances on recreational vehicles.

By Senate Committee on Transportation (originally sponsored by Senators Doumit and Morton).

Senate Committee on Transportation
House Committee on Transportation

Background: Under current law, the outside width of any vehicle or load may not exceed eight and one-half feet. Excluded from this calculation are safety appliances and appurtenances, provided they do not extend more than three inches beyond the extreme limits of the body.

Summary: Motor homes, travel trailers, and campers may have appurtenances up to four inches beyond the vehicle body, unless it is an awning in which case it may extend up to six inches beyond the vehicle body. Appurtenance is an appendage installed by a factory or vehicle dealer and intended to be an integral part of the vehicle. An appurtenance is not a temporarily fixed item, an item

for the purpose of transporting another item, or any item that obstructs the driver's rearward vision.

Votes on Final Passage:

Senate	48	0
House	96	0

Effective: July 24, 2005

ESSB 5470
C 293 L 05

Allowing the importation of certain prescription drugs from nondomestic wholesalers.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Franklin, Thibaudeau, Keiser, Kline, Poulsen, Berkey, Haugen, McAuliffe, Rockefeller, Shin and Kohl-Welles; by request of Governor Gregoire).

Senate Committee on Health & Long-Term Care
House Committee on Health Care
House Committee on Appropriations

Background: The combination of Canadian price controls and a favorable exchange rate between Canadian and United States currencies has created prescription drug prices in Canada that are between 30 and 80 percent less expensive than in the United States.

The Department of Health currently licenses pharmacies located in Washington state, and out-of-state pharmacies that provide services to Washington residents. The Department maintains reciprocal licensing agreements with other state's pharmacy licensing authorities.

The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) authorizes the Secretary of Health and Human Services to allow for the importation of Food and Drug Administration approved medicines from Canada by United States-licensed pharmacists and drug wholesalers for commercial re-sale. Drug importation becomes effective only if the Secretary is able to certify that implementing the program will pose no additional risk to public health and safety and result in a significant reduction in cost to consumers.

Summary: The Board of Pharmacy is required, no later than September 1, 2005, to submit a request to the federal Food and Drug Administration authorizing Washington to license Canadian, Irish, United Kingdom, and other nondomestic prescription drug wholesalers.

Savings associated with purchasing prescription drugs from Canadian, United Kingdom, Irish, and other nondomestic wholesalers is passed on to consumers.

Prescription drug purchases from pharmacies under the request is limited to those not eligible for reimbursement by third party insurance coverage, whether public or private.

Prescription drugs purchased from Canadian, United

Kingdom, Irish, and other nondomestic wholesalers is limited to those that are not temperature sensitive or infused.

Upon approval of the federal waiver, the Board of Pharmacy is required to submit an implementation plan to the Governor and appropriate committees of the Legislature.

Votes on Final Passage:

Senate 40 6
 House 76 19 (House amended)
 Senate 40 5 (Senate concurred)

Effective: July 24, 2005

SSB 5471

C 129 L 05

Authorizing a prescription drug purchasing consortium.

By Senate Committee on Ways & Means (originally sponsored by Senators Thibaudeau, Keiser, Fraser, Berkey, Poulsen, Kline, Franklin, Brown, Haugen, McAuliffe, Rockefeller and Kohl-Welles; by request of Governor Gregoire).

Senate Committee on Health & Long-Term Care
 Senate Committee on Ways & Means
 House Committee on Health Care
 House Committee on Appropriations

Background: Influenced by price increases, greater utilization, and changes in the types of prescriptions used, national expenditures for prescription drugs have been one of the fastest growing components of health care spending in recent years, increasing at double-digit rates in each of the past eight years. Although they remain a relatively small proportion of total health care expenditures, the annual amount spent in the United States for prescription drugs has quadrupled since 1990.

The increase in prescription drug expenditures has contributed to the significant growth in the cost of state health care programs in recent years. To address this, agencies that administer state purchased health care programs participate in an evidence-based prescription drug purchasing program. Based on the findings of an independent pharmacy and therapeutics committee, a preferred drug list is established and negotiations with pharmaceutical manufacturers result in discounted prescription drug prices for state purchased health care programs. Only state agencies participate in the evidence-based prescription drug purchasing program.

Summary: The administrator of the state Health Care Authority (HCA) will establish a prescription drug purchasing consortium, whose activities must be based on the state's existing evidence-based prescription drug purchasing program.

In addition to state agencies, the consortium may include, on a voluntary basis, local government, private

entities, labor organizations, and individuals without insurance, or who are underinsured for prescription drug coverage. The HCA may impose fees on participants to cover the administrative expense of operating the purchasing consortium. An 11 member advisory committee is created to advise the HCA on the implementation of the purchasing consortium. The Joint Legislative Audit and Review Committee will complete a performance audit of consortium operations and outcomes by December 1, 2008.

Votes on Final Passage:

Senate 25 24
 House 56 42

Effective: July 24, 2005

SB 5477

C 68 L 05

Revising sentencing procedures for exceptional sentences.

By Senators Kline, Brandland, Hargrove, Esser, Fairley, Kastama, Shin, Pridemore, Weinstein, Haugen, Berkey, Prentice and Rockefeller.

Senate Committee on Judiciary
 House Committee on Criminal Justice & Corrections
 House Committee on Appropriations

Background: Under current Washington statutes, convicted offenders and those that plead guilty are sentenced by a judge during a sentencing hearing. Most offenders receive sentences within the standard sentence range, but the judge can impose a sentence other than the standard sentence if the judge finds substantial and compelling reasons that justify a mitigated (shorter) or aggravated (longer) sentence. Non-exclusive lists of mitigating and aggravating factors are provided by statute.

In relation to aggravated sentences, this procedure was invalidated by the U. S. Supreme Court in *Blakely v. State of Washington*. The U. S. Supreme Court held that, because the facts of Blakely's exceptional sentence were neither admitted nor found by a jury, the sentence violated his Sixth Amendment right to trial by jury under the Constitution of the United States.

The rule now is that "other than the fact of a prior conviction, any fact that increases the penalty for a crime beyond the prescribed statutory maximum must be submitted to a jury, and proved beyond a reasonable doubt." The relevant statutory maximum is the top of the standard range for that crime. Since the Washington statute does not provide for a jury to find the facts necessary to justify an exceptional sentence longer than the standard range sentence, sentencing under its provisions violate the Sixth Amendment. The Washington Supreme Court subsequently held that the Legislature must provide the

appropriate processes for imposing aggravated sentences.

Summary: The list of mitigating factors justifying a mitigated sentence (downward departure) remains illustrative and the process for determining whether a mitigated sentence is appropriate remains unchanged. Either party or the court may initiate proceedings for a mitigated sentence and the court determines, by a preponderance of the evidence, whether substantial and compelling reasons exist to impose a sentence below the standard sentence range.

The list of aggravating factors used to justify an upward departure from the standard sentence range is made exclusive. The aggravating factors list is expanded to include current judicially recognized factors. Four aggravating factors, all based on questions of law, may be used to impose a sentence above the standard range without findings of fact by a jury. The remaining twenty-five aggravating factors pose questions of fact that must be submitted to a jury.

At any time prior to trial or entry of a guilty plea, the state may give notice that it is seeking a sentence above the standard sentence range. A judge may no longer independently seek a sentence above the standard sentence range. The court then makes an initial determination regarding whether the evidence allegedly supporting a sentence above the standard sentence range can be admitted during the trial for the underlying offense or whether: (1) the evidence is not part of the evidence required to prove the crime; (2) the evidence is not otherwise admissible; and (3) admission of the evidence would be unfairly prejudicial at trial. If the evidence is not admitted at the trial for the underlying offense and the defendant is found guilty, a separate sentencing departure hearing is conducted using the same jury.

The state has the burden of proving, beyond a reasonable doubt, the existence of one or more aggravating factors. The jury verdict must be unanimous. To impose a sentence above the standard sentence range, the court must then find that the factors constitute substantial and compelling reasons justifying the exceptional sentence and must set forth those reasons in written findings and conclusions of law.

The Sentencing Guidelines Commission is directed to study and draft proposed legislation addressing judicial discretion issues under the Sentencing Reform Act. The study and proposed legislation must be submitted to the Legislature by December 1, 2005.

Votes on Final Passage:

Senate	48	0	
House	96	1	(House amended)
Senate	46	0	(Senate concurred)

Effective: April 15, 2005

SSB 5479

C 130 L 05

Changing provisions relating to the unlawful detainer process under the residential landlord-tenant act.

By Senate Committee on Financial Institutions, Housing & Consumer Protection (originally sponsored by Senators Berkey, Benton, Prentice, Esser and McAuliffe).

Senate Committee on Financial Institutions, Housing & Consumer Protection
House Committee on Judiciary

Background: Courts are governed by the rules of civil procedure. In interpreting periods of time, the rules provide that if a period of less than seven days is used in any applicable statute, court order, or rule, weekends and legal holidays are not included; however, if a period of seven or more days is used, weekends and legal holidays are included. There are concerns that the rules of civil procedure, which are not contained in the statutes, may cause confusion in regards to giving timely notice of eviction proceedings, as it is unclear on the face of the statute when weekends are and are not included.

A summons issued in the case of a forcible or unlawful detainer or forcible entry, must provide the date on which the summons is to be returned, the date cannot be less than six days, nor more than 12 days from the date of service.

A judicial order for a show cause hearing in cases of forcible entry and forcible or unlawful detainer must be set to take place not less than six nor more than 12 days, calculated from the date that the order is served upon the defendant.

Summary: A summons for a forcible entry, or forcible or unlawful detainer, must provide that the summons is to be returned on a specified date, which is at least seven and not more than 30 days from the date of service. Further, an order for a show cause hearing for forcible entry, or forcible or unlawful detainer, must set a date that is at least seven days from the date the order is served. Therefore, weekends and legal holidays, according to the governing rules of civil procedure, will be included when determining whether the statutory time frame was satisfied.

Defendants may serve, in reply to an eviction summons, a copy of an answer, notice of appearance, or a sworn statement regarding non-payment of rent by fax. Service by fax is complete upon successful transmission to the number provided on the summons.

Technical corrections are made to remove obsolete terms and to provide that the statutes addressing forcible entry and forcible and unlawful detainer are gender neutral.

Votes on Final Passage:

Senate	45	0
House	95	0

Effective: July 24, 2005

SSB 5488
C 49 L 05

Concerning the fruit and vegetable district fund.

By Senate Committee on Agriculture & Rural Economic Development (originally sponsored by Senators Rasmussen and Schoesler).

Senate Committee on Agriculture & Rural Economic Development
House Committee on Economic Development, Agriculture & Trade

Background: The Department of Agriculture inspects fruits and vegetables and collects inspection fees. The fees are placed into a fruit and vegetable district fund for use in the region that the inspections are performed.

In 1997, legislation was first enacted that authorized a transfer of \$200,000 in District Number Two funds derived from fees collected from the inspection of tree fruits to the Plant Pest Account for activities related to apple maggot control. Funds from this transfer that are unexpended by June 30, 2005, are to be returned to the district fund.

Summary: The date by which monies transferred from the fund of District Number Two must be expended from the Plant Pest Account for apple maggot control activities or be returned to the district fund is extended by four years to June 30, 2009.

Votes on Final Passage:

Senate 48 0
House 94 0

Effective: July 24, 2005

SSB 5492
C 470 L 05

Modifying hospital reporting of restrictions on health care practitioners.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Keiser, Deccio, Kline, Parlette, Mulliken and Pflug; by request of Department of Health).

Senate Committee on Health & Long-Term Care
House Committee on Health Care

Background: Hospitals are required to report to certain state or federal government agencies when they take specific actions to restrict or terminate some health care providers' licenses. In Washington, when a hospital terminates or restricts the clinical privileges of a physician because of his or her commission of any act of unprofessional conduct, it must notify the Medical Qual-

ity Assurance Commission within sixty days of the action.

Nationally, hospitals and other health care entities must report any professional review actions that adversely affect a physician's or dentist's clinical privileges to the National Practitioner Data Bank (NPDB). Hospitals also have the option of reporting to the NPDB when any adverse actions are taken against the clinical privileges of health care providers other than physicians and dentists. Reports must be made to the NPDB within fifteen days from the date that action was taken.

Summary: The requirement that hospitals report to the Medical Quality Assurance Commission the restriction or termination of a physician's privilege due to the commission of an act of unprofessional conduct is broadened to include additional categories of health care providers. The broader requirements direct hospitals to report to the Department of Health (Department) when the practice of a health care provider is restricted, suspended, limited, or terminated due to the commission of an act of unprofessional conduct, or if it is voluntarily or involuntarily restricted or terminated to avoid action by a hospital.

The health professions that are subject to the reports are: pharmacists, occupational therapists, physical therapists, audiologists, speech-language pathologists, advanced registered nurse practitioners, dentists, naturopaths, optometrists, osteopathic physicians and surgeons, osteopathic physicians assistants, physicians, physician assistants, podiatrists, and psychologists.

The time for a hospital to report to the Department is reduced from sixty days to fifteen days. The fifteen day period will begin tolling: (1) from the date of the finding by the hospital that the practitioner has committed unprofessional conduct; or (2) from the date of the voluntary restriction or termination.

The maximum penalty for a hospital that does not comply with the reporting requirements remains \$250. A hospital, hospital administrator, or hospital executive officer that files a report is immune from liability related to the report.

The Department must forward the reports received to the appropriate disciplining authority within fifteen days, and is also obliged to notify a hospital that has made a report of the results of a disposition as decided by the disciplining authority within fifteen days. The Department may not increase hospital license fees to carry out this section before July 1, 2007.

Votes on Final Passage:

Senate 47 0
House 98 0 (House amended)
Senate 49 0 (Senate concurred)

Effective: July 24, 2005

SSB 5497

C 131 L 05

Allowing terminally ill members to remove themselves from their retirement plan.

By Senate Committee on Ways & Means (originally sponsored by Senators Delvin, Hewitt, Honeyford, Schoesler, McCaslin, Deccio, Mulliken, Morton, Roach, Swecker and Pflug).

Senate Committee on Ways & Means
House Committee on Appropriations

Background: The Public Employees', Teachers', and School Employees' Retirement Systems (PERS, TRS, and SERS) each have two types of plans. Plans 1 and 2 are defined benefit plans, while Plan 3 consists of a defined benefit portion and a defined contribution portion.

Until separation from employment, all active members of PERS, TRS, and SERS earn service credit and must make contributions toward their retirement system. Members of PERS 1/2, TRS 1/2, and SERS 2 who leave employment before retirement can either withdraw their own contributions plus investment income, or they can leave their contributions in the retirement system up until reaching retirement age. Members of PERS 3, TRS 3, or SERS 3 may withdraw the amounts in their defined contribution account at any time after separation.

Federal law generally precludes a member from concurrently receiving both a pension benefit and salary from an employer.

Summary: A member of PERS 2/3, TRS 2/3, or SERS 2/3 may voluntarily be removed from membership in the pension plan if: (1) the medical adviser certifies that the member has a terminal illness with a life expectancy of five years or less; and (2) the Director agrees with the recommendation of the medical adviser.

Members who are removed from the retirement system continue their employment but do not make retirement contributions and do not accumulate additional service credit in the retirement plan.

Votes on Final Passage:

Senate	47	0
House	94	0

Effective: April 21, 2005

ESSB 5499**PARTIAL VETO**

C 243 L 05

Clarifying and standardizing various election procedures.

By Senate Committee on Government Operations & Elections (originally sponsored by Senators Kastama, Berkey, Fairley, Pridemore, Franklin, Haugen, Shin, Kohl-Welles, Doumit, Rasmussen and Keiser).

Senate Committee on Government Operations & Elections

House Committee on State Government Operations & Accountability

House Committee on Appropriations

Background: Generally, county auditors are responsible for conducting elections. The county auditors, as the supervisors of elections, are charged with providing places for holding elections, and providing supplies and materials necessary for the conduct of elections. The Secretary of State is the chief election officer for all federal, state, and local elections. The Secretary is responsible for certifying voting equipment, administering state primaries and general elections, training and certification of state and local elections personnel, filing initiative and referendum petitions, and keeping records of elections as required by law. State law provides a framework in which the county auditors and the Secretary of State must conduct elections. The Secretary also has been given the authority to implement the laws of the state through the rule making process.

The 2004 gubernatorial election was the closest statewide election in Washington State history. After two recounts and two court battles in front of the state supreme court, Governor Gregoire was certified the winner by the Secretary of State. The margin of victory was 129 votes out of over 2.8 million votes cast. An election contest was filed in superior court and is pending as of February 17. Due to the closeness of the race and the related litigation, much attention has been focused on state election laws.

Summary: The bill creates and/or amends a number of election statutes as follows:

Training. The Secretary of State is to establish guidelines, in consultation with certified document examiners and state and local law enforcement, for signature verification processes. All election personnel assigned to verify signatures on absentee or provisional ballots must receive training on the guidelines.

Provisional and absentee ballots. Opening and processing of absentee return envelopes may begin upon receipt. All received absentee return envelopes must be placed in secure locations from delivery until their subsequent opening. Counties with a population greater than 75,000 must process absentee ballots and canvass

the votes cast on a daily basis.

The absentee voter's name and address must be printed on absentee return envelopes. Return envelopes must have space where a voter may include his or her telephone number and a secrecy flap that will cover the voter's signature, return address, and optional phone number. The declaration on the return envelope must inform the voter that it is illegal to vote if the voter is not a citizen; it is illegal to vote if the voter has been convicted of a felony and has not had his or her voting rights restored; and except as otherwise provided by law, it is illegal to cast a ballot or sign an absentee envelope on behalf of another voter.

Provisional ballots must be issued to appropriate voters as required by law or for other circumstances as determined by the precinct election board. The ballot envelope must include information the county auditor can investigate to determine the validity of the ballot.

Provisional and absentee ballots must be visually distinguishable from other ballots and be either printed on colored paper or imprinted with a bar code that identifies the ballot as a provisional or absentee ballot. Provisional and absentee ballots must be incapable of tabulation at the poll site.

If the voter neglected to sign the affidavit on the outer envelope, or if the signature on the absentee or provisional ballot doesn't match the signature on the original registration record, the county auditor must telephone the voter to advise of the procedure to correct an unsigned absentee or provisional ballot envelope or to correct a mismatched signature. If the voter cannot be reached by phone, he or she must be contacted by first class mail. A voice mail message is not considered personal contact. Any signature problems must be fixed no later than the day before certification. A voter may not cure a missing or mismatched signature in a recount.

A record must be kept of all mismatched and unsigned ballots, and this record is a public record and may be disclosed upon written request.

If the signature doesn't match because the name is different, the ballot can be counted as long as the handwriting is clearly the same. If the signature doesn't match because the voter used initials or a common nickname, the ballot may be counted as long as the surname and handwriting are clearly the same.

The county auditor must examine and investigate all provisional ballots before certification. The auditor must provide the disposition of the provisional ballot on a free access system.

Voter identification at the polling location. Any person wanting to vote in person must provide identification. If the person cannot provide identification, they must vote a provisional ballot. The identification requirement can be satisfied by providing a valid photo identification, such as a driver's license or state identification card, student identification card, or tribal identifi-

cation card, a voter's voter identification issued by a county elections officer, or a copy of a current utility bill, bank statement, paycheck, or government check or other government document.

The Secretary of State may adopt rules to implement the identification requirement.

Reconciliation provisions. The county auditor must prepare a report and make it available at the time of certification that discloses the number of registered voters; the number of ballots counted; the number of provisional and absentee ballots issued, counted, and rejected; the number of federal write-in ballots; and the number of out-of-state, overseas, and service ballots issued, counted, and rejected. Within 30 days of certification, the county auditor must prepare a final report that discloses the numbers of different types of voters that were credited with voting and any other information deemed necessary to reconcile the number of votes counted with the number of voters credited with voting.

Ballot duplication. A voter's original ballot may not be altered. If a ballot is damaged or otherwise unreadable, the county auditor may refer the ballot to the canvassing board or duplicate the ballot if so authorized by the canvassing board. A ballot may only be duplicated if voter intent is clear. Duplication must be done by two or more people working together and an audit trail must be created for each duplicated ballot.

Re-canvass and rejection of ballots. The canvassing board can re-canvass ballots during the initial counting process or during any subsequent recount if the board finds that election staff has made an error regarding the treatment or disposition of a ballot.

A ballot is not considered rejected until the canvassing board has rejected the ballot individually, or the ballot was included in a batch or on a report of ballots that was rejected in its entirety by the canvassing board.

Recount provisions. With regards to recounts, the canvassing board determines the date at which the recount will be conducted and the Secretary may require that the amended abstracts be certified by each canvassing board on a uniform date.

The vote difference necessary to trigger an automatic recount is changed for statewide elections from 150 votes to 1,000 votes. (Existing law also requires that the difference be less than one quarter of one percent of all votes cast, and this remains unchanged).

Certification. The deadline for canvassing boards to complete the canvass and certify the results of a general election is changed from 15 days to 21 days. After the Secretary receives election returns from all counties, the Secretary must canvass and certify the returns of the election as to candidates for state offices, federal offices, and all other candidates whose districts extend into multiple counties. The Secretary must transmit a copy of the certification to the Governor and Legislature.

Election contests. An affidavit alleging that an error

or omission has occurred or is about to occur in the issuance of a certificate of election must be filed in court no later than 10 days following official certification, or in the case of a recount, no later than 10 days after official certification of the amended abstract. (Existing law requires such an affidavit to be filed no later than 10 days following the issuance of a certificate of election).

Write-in provisions. A write-in vote for a candidate who also appears on the ballot is a valid vote as long as the candidate's name is clearly discernible, even if the voter also marked the ballot next to the candidate's name such that an over vote was registered. The write-in votes need not be tabulated unless the difference between the number of votes cast for the apparent winner and non-winner is less than the sum of the total number of write-in votes cast plus over and under votes; or a manual recount is conducted for that office.

Transmittal of cumulative returns. Cumulative returns produced by the county auditors for state, judicial, and federal offices must be immediately transmitted by electronic means to the Secretary.

Criminal and civil infraction provisions. The bill creates the crime of destroying, altering, defacing, or discarding a completed voter registration form or signature affidavit. The crime is a gross misdemeanor. It is not a criminal act if the voter who completed the form or the county auditor or authorized registration assistant destroys the voter registration form.

The statute criminalizing double voting is clarified, and the penalty is increased, such that any person who intentionally or knowingly votes or attempts to vote in this state more than once at the same election is guilty of a class C felony. A person who votes or attempts to vote in both this state and another state at any election is also guilty of a class C felony.

Any person who negligently votes or attempts to vote more than once has committed a class 1 civil infraction.

Study provisions. The Secretary of State must study the feasibility of requiring that the top two vote-getters for judicial and Superintendent of Public Instruction races appear on the general election ballot, regardless of whether the top vote-getter receives a majority of the vote.

Votes on Final Passage:

Senate	26	21	
House	56	39	(House amended)
Senate			(Senate refused to concur)

Conference Committee

House	97	1
Senate	30	19

Effective: July 24, 2005

Partial Veto Summary: The section imposing additional requirements for absentee return envelopes is removed. The same absentee envelope requirements

appear in another bill (ESSB 5743) that was passed by the Legislature and signed by the Governor.

VETO MESSAGE ON SB 5499-S

May 3, 2005

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning, without my approval as to Section 4, Engrossed Substitute Senate Bill No. 5499 entitled:

“AN ACT Relating to election reform.”

This bill reforms and strengthens our election system. As one of its priorities, our Legislature has passed several bills on election reform. Many of those bills have reached my desk for signature. Section 4 of this bill is essentially identical to Section 21 of Engrossed Substitute Senate Bill 5743, which I also sign today. The only difference between the two bills is their effective date. Engrossed Substitute Senate Bill No. 5499 becomes effective in 90 days. Engrossed Substitute Senate Bill 5743 becomes effective on January 1, 2006.

The above-noted bill sections concern absentee ballot envelopes, and the declarations required on those envelopes. As certain rural counties have already begun purchasing envelopes for this year's election cycle, and in light of limited funds to purchase new envelopes, it would create unnecessary hardship to require them to immediately purchase new return envelopes under Section 4 of Engrossed Substitute Senate Bill No. 5499. I am therefore vetoing Section 4 of Engrossed Substitute Senate Bill 5499.

This veto does not take away the strong warnings on absentee ballot return envelopes concerning the need for voters to return them in timely fashion. It just gives our cash-strapped rural county auditors an additional six months to comply with the new envelope requirements.

For these reasons, I have vetoed Section 4 of Engrossed Substitute Senate Bill No. 5499

With the exception of Section 4, Engrossed Substitute Senate Bill No. 5499 is approved.

Respectfully submitted,



Christine O. Gregoire
Governor

SB 5501
C 265 L 05

Authorizing use of lie detector tests on juvenile court services employment applicants.

By Senators Hargrove, Stevens, Delvin, Regala and Shin.

Senate Committee on Human Services & Corrections
House Committee on Commerce & Labor

Background: In general, employers in Washington are not permitted to require employees or job applicants to take a polygraph, or similar test, as a condition of employment. The Washington State Patrol and several local law enforcement agencies may, however, and do require applicants to pass a psychological examination or

ESSB 5506

polygraph test in order to be hired as law enforcement officers.

Summary: The law allowing law enforcement agencies to conduct a polygraph, or similar test, as a condition of employment is extended to allow county juvenile court services agencies to conduct a polygraph, or similar test, as a condition of employment.

Votes on Final Passage:

Senate	44	1
House	92	2

Effective: July 24, 2005

ESSB 5506

C 74 L 05

Placing restrictions on the marketing or merchandising of credit cards to students at the state's institutions of higher education.

By Senate Committee on Financial Institutions, Housing & Consumer Protection (originally sponsored by Senators Kohl-Welles, Fairley, Regala and Thibaudeau).

Senate Committee on Financial Institutions, Housing & Consumer Protection

House Committee on Financial Institutions & Insurance

Background: According to many national studies, college students may develop problems with money management and the overuse of credit cards. Some believe that this is partially the result of aggressive marketing practices aimed at students. College students have expressed interest in having a more active role in decisions regarding the type and extent of credit card marketing on their campuses.

Summary: State institutions of higher education are each required to develop policies regarding the on-campus marketing of student credit cards. Each school is responsible for developing its own official policy, which must include the consideration of student comments. The policies are required to consider (but not required to regulate) the registration of credit card marketers, limitations on the times and locations of marketing, and prohibitions on material inducements to complete credit card applications, unless the student has been provided credit card debt education literature.

The policies must include a requirement that marketers inform students about good credit management practices, through programs developed in concert with the institution. The institution's official credit card marketing policy is made available to all students upon request.

Votes on Final Passage:

Senate	49	0
House	59	39

Effective: July 24, 2005

ESSB 5509

C 12 L 05

Concerning high-performance building standards.

By Senate Committee on Water, Energy & Environment (originally sponsored by Senators Poulsen, Esser, Fraser, Schmidt, Pridemore, Fairley, Berkey, Kohl-Welles, Kline, Regala, Rockefeller, Weinstein, Brown, Keiser and McAuliffe).

Senate Committee on Water, Energy & Environment

Senate Committee on Ways & Means

House Committee on Capital Budget

Background: "Green building" is a term used to describe development and construction standards that promote environmental conservation. Introduced in 2000 by the U.S. Green Building Council, LEED (Leadership in Energy and Environmental Design) provides national design-guidelines and a third-party certification tool for rating commercial green buildings.

LEED certification is voluntary and fee-based. It is based on a point system, focusing on six major areas: sustainable sites; water efficiency; energy and atmosphere; materials and resources; indoor environmental quality; and innovation and design process. LEED certification has four ranks: (1) certified; (2) silver; (3) gold; and (4) platinum.

In January 2003, the legislatively created Joint Task Force on Green Building recommended legislation to adopt LEED silver standards, or comparable design standards, for the state-funded construction or renovation of buildings. A House bill was introduced during the 2003 session, and reintroduced during the 2004 session, but it never received a hearing.

In January 2005, Governor Locke issued an executive order directing state agencies to incorporate green building practices in all new construction projects and major remodels over 25,000 gross square feet. LEED silver standard certification is required or an alternative equivalent certification as determined by the Department of General Administration (GA).

"Building commissioning" is the process of testing all the systems in a building to determine if they are installed and working properly and making the necessary corrections to assure all the building systems are performing efficiently. Current State Board of Education (SBE) rules require school districts to perform building commissioning for projects greater than 50,000 square feet.

Summary: LEED silver certification required for projects funded in capital budget. All major facility projects funded in the capital budget, or projects financed through a financing contract as established in law, must be designed, constructed, and certified to at least the LEED silver standard, to the extent appropriate LEED silver standards exist for a project type. This

requirement applies to any entity, including public agencies and public school districts, although the school districts may use the Washington Sustainable School Design Protocol.

Except for public school districts, the LEED standards apply to projects that enter into the design phase or the grant application process after the effective date of the act. School districts are subject to the following dates: July 1, 2006, for volunteering school districts; July 1, 2007, Class I school districts; and July 1, 2008, for Class II school districts.

Operational savings of LEED projects must be documented and reported. Public agencies and school districts must document and report the operational savings of their LEED projects. Public agencies must annually report to GA, while public school districts must annually report to the Office of the Superintendent of Public Instruction (OSPI). Starting on September 1, 2006, and each even-numbered year until 2016, GA and the OSPI must consolidate the individual reports into a single biennial report for the Governor and the Legislature. If applicable, the consolidated reports must explain why high performance building standards were not used on a project.

Administrative guidelines must be issued by GA and the SBE. GA and the SBE must issue guidelines for the public agencies affected by this act, and fee schedules must be amended to accommodate the design standards required under this act.

An advisory committee is created. GA must create a high-performance buildings advisory committee to give advice on implementing this act. The committee must consist of representatives from the design and construction industry, affected public agencies, the SBE, OSPI, and others at the GA's discretion. In addition, OSPI must use the school facilities advisory board as a high-performance buildings advisory committee.

Preproposal conferences and building commissioning are required. Requests for proposals on qualifying projects must provide for preproposal conferences to discuss the appropriate performance standards. Qualified major facility projects must include building commissioning as part of the construction process.

SBE to adopt implementing rules. In adopting rules to implement this act, the SBE must, among other things, review, and modify current rules concerning energy conservation in the design of public buildings.

Liability is limited. Members of design and construction teams who act in good faith are not liable for the failure of a major facility project to meet LEED standards.

Certain wood not recognized by LEED must be credited. GA must credit projects for using wood products with a credible third party sustainable forest certification or from forests regulated under the Washington Forest Practices Act.

Affordable housing is exempted from LEED standards. Affordable housing projects funded in the capital budget are exempt from LEED standards. By July 1, 2008, the Department of Community Trade and Economic Development (CTED) must adopt and administer an existing sustainable building program for affordable housing. From 2009 to 2016, CTED must annually report to GA.

Joint Legislative Audit Review Committee (JLARC) to conduct performance review. JLARC must conduct a performance review of the high-performance building program, which must include identification of costs and savings. The committee must make a preliminary report of its findings and recommendations by December 1, 2010, and a final report by July 1, 2011.

Terms are defined. Various terms are defined, such as "Washington sustainable school design protocol," "major facility project," and "public agency." "Washington sustainable school design protocol" means the school design protocol developed by the SBE and OSPI. "Major facility project" generally means: (1) a construction project larger than 5,000 gross square feet of occupied or conditioned space as defined in the Washington State Energy Code; or (2) a building renovation project when the cost is greater than 50 percent of the assessed value and the project is larger than 5,000 gross square feet of occupied or conditioned space as defined in the Washington State Energy Code. "Major facility project" does not include, among other things, hospitals, research facilities, and projects where it is determined that the LEED silver standard or the Washington sustainable school design protocol is not practicable. "Public agency" means every state office, officer, board, commission, committee, bureau, department, and public higher education institution.

Intent is established. Among other things, the Legislature finds that high-performance public buildings save money, improve school performance, and increase worker productivity. The Legislature affirms the LEED program goal to increase the demand for locally extracted and manufactured building materials and products.

Votes on Final Passage:

Senate	32	16
House	78	19

Effective: July 24, 2005

ESB 5513
PARTIAL VETO
C 319 L 05

Restructuring certain transportation agencies.

By Senators Haugen, Shin, Kohl-Welles, Rasmussen, Fairley and Prentice.

Senate Committee on Transportation
House Committee on Transportation

Background: Under current law, the Washington Transportation Commission oversees the Washington State Department of Transportation (WSDOT) and appoints the Secretary of Transportation. The Secretary may only be removed for cause. The Commission is composed of seven voting members, appointed by the Governor with the consent of the Senate, and the Secretary who sits as a nonvoting member. The seven appointed members serve for six year terms, may not include more than four members from the same political party, and must include four members from Western Washington and three members from Eastern Washington. In addition to overseeing the WSDOT, the Commission has numerous other statutory duties, including statewide transportation planning, bonds issuance, serving as the state's tolling authority and setting ferry fares, and sharing responsibility for project selection and funding.

The Legislative Transportation Committee (LTC) is a statutory legislative agency established to, among other things, conduct studies of designated transportation issues and to make recommendations to the full Legislature regarding statewide transportation policy. The LTC is composed of twelve senators and twelve representatives, with not more than six members from each house representing the same political party.

The Transportation Performance Audit Board (TPAB) was established in 2003 to primarily provide oversight and accountability of transportation-related agencies through the use of directed agency reviews, and functional and performance audits. The TPAB is composed of four legislators, five citizen members with specified transportation-related expertise appointed by the Governor, an at large member appointed by the Governor, and the legislative auditor as an ex officio member. The TPAB may conduct agency performance and outcome measurement reviews, and must recommend to the LTC's executive committee whether a full performance or functional agency audit is appropriate. If a performance audit is requested by the LTC, the Joint Legislative Audit and Review Committee must add the audit to its biennial audit work plan. The legislative auditor must, to the greatest extent possible, hire private consultants to conduct the performance audits.

Summary: The Secretary of Transportation is appointed by the Governor, with the advice and consent of the Senate, and serves at the pleasure of the Governor. The Sec-

retary assumes authority previously directed to the Washington Transportation Commission to propose the WSDOT agency budget and to authorize departmental request legislation.

The Washington Transportation Commission retains certain authority, including statewide transportation planning, bonds issuance, serving as the state's tolling authority and setting ferry fares, and sharing responsibility for project selection and funding. Additionally, the Commission receives an expanded role as a public forum for transportation policy development.

The Joint Transportation Committee (JTC) is established to review and research transportation programs and issues. The chairs and ranking minority members of the House and Senate transportation committees serve as the JTC executive committee, and the chairs of those committees serve as co-chairs of the JTC. The other members of the transportation committees are eligible to be appointed by the JTC executive committee on a study-by-study basis.

The LTC is dissolved. The LTC staff support of TPAB is removed and replaced with staff support provided by the Washington Transportation Commission; however, the Commission must designate, subject to TPAB approval, a staff person to serve as the TPAB administrator. The TPAB has separate authority to direct performance audits. The TPAB administrator must, to the greatest extent possible and subject to available funds, hire private consultants to conduct the performance audits. However, the TPAB may contract with the legislative auditor to serve as the contract manager of the reviews and performance audits. The TPAB's authority regarding directed agency reviews, and functional and performance audits, is expanded to include certain local transportation entities.

The TPAB membership is adjusted by reducing from five to three the number of citizen members with transportation-related expertise, adding two citizen members with performance measurement expertise, and adding one member of the Transportation Commission.

Votes on Final Passage:

Senate	45	3	
House	92	5	(House amended)
Senate			(Senate refused to concur)
House	95	3	(House amended)
Senate	40	5	(Senate concurred)

Effective: July 1, 2005
July 1, 2006 (Section 103)

Partial Veto Summary: The requirement that the JTC conduct a review of state level transportation governance is removed.

VETO MESSAGE ON SB 5513

May 9, 2005
To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning, without my approval as to Section 14, Engrossed Senate Bill No. 5513 entitled:

“AN ACT Relating to restructuring of certain transportation agencies.”

The Legislature has created, through this bill, the Joint Transportation Committee to conduct a unilateral study of the appropriate functions of the Department of Transportation (Department) and the Transportation Commission (Commission). Now that the Department is a cabinet level agency, it is critical that the executive branch exercise its responsibility for reviewing the powers, functions, roles and duties of the Department and the Commission.

The Legislature passed several bills this session that redefine the roles of the Department and the Commission, and the relationship of those agencies to the Legislature. I am directing my staff to work with the Department and the Commission to examine the statutory roles and duties of the agencies, including transportation innovative partnerships, and report back to me with any recommendations for change. I invite the chairs and ranking members of the House and Senate Transportation Committees and the Joint Transportation Committee to join the executive branch in this analysis with the hope that a joint recommendation can be submitted for consideration during the 2006 legislative session.

For these reasons, I have vetoed Section 14 of Engrossed Senate Bill No. 5513.

With the exception of Section 14, Engrossed Senate Bill No. 5513 is approved.

Respectfully submitted,



Christine O. Gregoire
Governor

SB 5518
C 343 L 05

Increasing certain fees of licensing subagents.

By Senators Eide, Swecker, Spanel, Stevens, Mulliken, Rasmussen and Benson.

Senate Committee on Transportation
House Committee on Transportation

Background: Under current law, subagents have a contract with a county auditor to perform vehicle licensing functions. Subagents collect a service fee of \$8.50 for changes in a certificate of ownership, with or without registration renewal, or verification of the records and preparation of an affidavit of lost title. Subagents charge a \$3.50 service fee for renewing a vehicle registration, issuing a transit permit or other vehicle services.

Summary: The subagent service fee for changes in certificate of ownership, verification of record and preparation of an affidavit of lost title is increased to \$10.00. The fee for renewing a registration, issuing a transit permit, or other services is raised to \$4.00.

Votes on Final Passage:

Senate	49	0
House	93	3

Effective: July 24, 2005

SB 5522
C 363 L 05

Extending the ability to purchase service credit lost due to injury.

By Senators Franklin, Weinstein, Keiser, Kastama, Zarelli, Rasmussen, Hewitt, Kline, Schmidt and Rockefeller.

Senate Committee on Ways & Means
House Committee on Appropriations

Background: The Public Employees' Retirement System (PERS) Plans 1, 2, and 3 provide retirement benefits to most Washington State and local government employees. Each plan includes provisions for members to purchase service credit for periods of leave from employment, such as temporary leave for disabilities and for periods of state service interrupted by military service. Depending on the plan and the type of optional service a member has earned, the member may have to make contributions to the retirement systems to claim the service credit.

Members of PERS who become disabled in the line of duty and are receiving benefits from the Department of Labor and Industries can continue to earn service credit for up to 12 months if they pay employee contributions based upon the regular compensation the member would have received had the disability not occurred. Employer contributions will be collected by the Department of Retirement Systems (DRS) for the service related to contributions made by the disabled employee. If contributions are made retroactively, interest is charged on both the employee and employer contributions at a rate determined by the Director of DRS. This provision is not available to members who separate from employment.

Summary: The period of unearned service credit that a member of PERS may purchase related to an injury incurred in the line of duty is increased from 12 months to 24 months.

Votes on Final Passage:

Senate	48	0	
House	94	0	(House amended)
Senate	46	0	(Senate concurred)

Effective: July 24, 2005

SSB 5539
C 257 L 05

Establishing the veterans conservation corps.

By Senate Committee on Ways & Means (originally sponsored by Senators Jacobsen, Oke, Rasmussen, Doumit, Schmidt, Benson, Kastama, Shin, Pridemore, Franklin and Roach).

Senate Committee on Natural Resources, Ocean & Recreation

Senate Committee on Ways & Means

Background: Veterans often return from conflicts with serious stress problems which effect their ability to adjust to civilian life. Working in a natural setting has been shown to help veterans with that adjustment. Washington timber and salmon enhancement programs could benefit from employed or volunteer returning veterans, and the work in these natural settings could help ease the transition of these veterans back to civilian and family life.

Summary: A veteran conservation corps is created and is administered by the Salmon Recovery Funding Board, in consultation from the Department of Veteran Affairs. The Veterans Conservation Corps Program Account is created. Grants from the account are for salmon recovery, watershed, and water clean up projects. Grant recipients must demonstrate that at least 75 percent of grant funds are for activities involving veterans coping with posttraumatic stress disorder. The program must be organized and marketed by the Department of Veterans Affairs.

Votes on Final Passage:

Senate	45	1
House	74	22

Effective: July 24, 2005

SSB 5552
C 266 L 05

Requiring school districts to request information from employment applicants' out-of-state employers.

By Senate Committee on Early Learning, K-12 & Higher Education (originally sponsored by Senators Kohl-Welles, McAuliffe, Benton, Johnson, Shin, Carrell, Rasmussen, Mulliken and Roach).

Senate Committee on Early Learning, K-12 & Higher Education

House Committee on Education

Background: Under legislation passed last session, certificated and classified school district employees who apply to another school district must sign a release authorizing the disclosure of any sexual misconduct information, including any related documents in their

previous school district employer's personnel files. Hiring school districts must request from the applicant's previous school district employers any information about that employee's sexual misconduct including related documents. The information must be provided within 20 days of receiving the request.

Sexual misconduct information is only used to evaluate the applicant's qualifications for the position for which he or she has applied and the information is not disclosed to anyone not directly involved in the evaluation process. A person who wrongfully discloses information is guilty of a misdemeanor.

Applicants may be employed on a conditional basis pending review of any sexual misconduct information. School districts must not hire an applicant who refuses to sign the release.

The State Board of Education defined the term "sexual misconduct" for the purposes of this section.

Summary: Language is added regarding the release of information statement signed by the applicant to clarify that this release applies to disclosure by all school district employers including out-of-state employers. Language is added to clarify that school districts must request information from all current and past school district employers including out-of-state employers.

For out-of-state applicants, if the laws or policies of the other state prevent the documents requested from being made available to Washington State school districts or if that out-of-state school district fails or refuses to cooperate with the request, the applicant may still be hired.

Votes on Final Passage:

Senate	47	0
House	96	0

Effective: July 24, 2005

SSB 5558
C 267 L 05

Establishing a prescription drug assistance foundation.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Brown, Swecker, Fraser, Keiser, Benson, Brandland, Weinstein, Roach, Rasmussen, McAuliffe, Pridemore, Shin, Rockefeller and Kohl-Welles).

Senate Committee on Health & Long-Term Care
House Committee on Health Care

Background: Individuals in recent years have become much more reliant on prescription drugs to improve and maintain their health. At the same time, retail drug prices have increased substantially, leaving many unable to afford their prescribed medications.

In an effort to address this, pharmaceutical manufacturers have developed prescription drug assistance pro-

grams that provide free or low cost drugs to those otherwise unable to afford them. The structure of these programs, however, including their application process and eligibility criteria, varies from company to company. A person is often required to apply multiple times over the course of a year, and must wait while his or her application is processed before returning to his or her physician to get the drugs. There is concern that these factors present significant barriers to the use of these programs by those who need them.

In some states, non-profit organizations have been created to streamline and reduce variations in the application and distribution process of these assistance programs, giving those in need easier access to the free drugs supplied by manufacturers.

Summary: The Health Care Authority is to establish a nonprofit foundation to assist uninsured individuals with an income below three hundred percent of the federal poverty level in obtaining free or low cost prescription drugs. The foundation's five-member board of directors will be appointed by the Governor. No general fund state dollars may be used for the on-going operation of the foundation.

Votes on Final Passage:

Senate	46	0	
House	94	0	(House amended)
Senate	44	0	(Senate concurred)

Effective: July 24, 2005

SB 5563
C 75 L 05

Including women's contributions in the World War II oral history project.

By Senators Franklin, Schmidt, Oke, Rasmussen, Thibaudeau, Kohl-Welles, Pflug, Regala, Parlette, Pridemore, Hargrove, Fraser, Hewitt, Doumit, Spanel, Prentice, Stevens, McAuliffe, Mulliken, Haugen, Berkey, Swecker, Carrell, Fairley, Kline, Keiser, Kastama, Shin, Delvin, Roach, Poulsen, Sheldon, Eide, Johnson and Rockefeller.

Senate Committee on Government Operations & Elections

House Committee on Education

House Committee on Appropriations

Background: The World War II oral history project was established for the purpose of providing oral history presentations, documentation, and other materials to assist the Office of the Superintendent of Public Instruction and educators in the development of a curriculum for use in kindergarten through twelfth grade.

Summary: The Legislature finds that the women of the greatest generation made essential contributions to our nation's success in World War II. Many directly served

the country in the armed forces; many provided nursing and support services to the troops; and many back at home worked in industries that supported the service members. Other women held our families, businesses, and communities together. The Legislature further finds that to have a clearer reflection of women's sacrifices on behalf of freedom and democracy, it is necessary to include the memories of these women in the World War II oral history project.

Any funding provided to the World War II oral history project through the omnibus appropriations act for the 2005-2007 biennium must be used to record the memories of women who served in the armed forces or contributed to the war effort through national or community contributions during World War II.

Votes on Final Passage:

Senate	47	0
House	94	0

Effective: August 1, 2005

SB 5564
C 244 L 05

Requiring the secretary of state to prepare a manual of election laws and rules.

By Senators Schmidt, Kastama, Weinstein, Roach, Shin, Rockefeller, Oke and Kohl-Welles.

Senate Committee on Government Operations & Elections

House Committee on State Government Operations & Accountability

Background: The vote-counting center is the facility designated by the county auditor to count and canvass mail ballots, absentee ballots and polling place ballots that are transferred to a central site to be counted, rather than being counted by a poll-site ballot counting device, on the day of a primary or election.

Observers from each major political party, if they have been appointed by their parties, and members of the public, observe the counting of voted ballots by the county auditor at the counting centers. Only those persons employed and authorized by the county auditor may touch the ballots, ballot containers, or operate vote tallying equipment.

Canvassing is done by the county canvassing board. This board is chaired by the county auditor and includes the county prosecutor, and the chair of the county legislative authority, or their designees. The board must adopt administrative rules to facilitate and govern the canvassing process in its jurisdiction. These rules must be adopted in a public meeting and be available to the public for review and copying.

Recounts are performed by the canvassing board, the only persons who may handle the ballots, and observed

by all witnesses in attendance.

The Secretary of State is the chief election officer for all federal, state, county, city, town, and district elections.

Summary: The Secretary of State must prepare a manual for use during vote counting, recounting, tabulation, and canvassing. The manual must be in easy-to-understand, plain language and available in all vote-counting centers in the state.

Votes on Final Passage:

Senate 38 10
House 96 0

Effective: July 24, 2005

SB 5565

C 245 L 05

Informing out-of-state, overseas, and service voters of rights and procedures.

By Senators Schmidt, Kastama, Weinstein, Roach, Keiser, Sheldon, Shin, Rockefeller, Oke and Kohl-Welles.

Senate Committee on Government Operations & Elections

House Committee on State Government Operations & Accountability

Background: The Secretary of State provides county auditors with envelopes and instructions for out-of-state voters, overseas voters, and service voters.

Summary: The Secretary of State must provide the following information, at a minimum, to out-of-state voters, overseas voters, and service voters:

- return postage of the voted ballot is free;
- the date written on the return envelope by the voter is considered the date of mailing;
- the envelope must be signed by election day;
- the signed declaration on the envelope is the equivalent of voter registration;
- faxed voted ballots are allowed if the voter agrees to waive secrecy;
- faxed documents must be accompanied by an original signed ballot by the day of election certification, which is fifteen days after the election; and
- ballots by electronic mail are available under the federal Uniformed and Overseas Citizens Absentee Voting Act, which is administered at the county level, and from the Secretary of State's website. Both services provide a ballot to voters by e-mail. The voter may print the ballot, complete it, and return it by mail.

The required information can be provided on the ballot envelope or on an instruction sheet. The return postage is free if the envelope is mailed through the United States postal service, the United States armed forces

postal service, or the postal service of a United States foreign embassy.

Votes on Final Passage:

Senate 48 0
House 96 0 (House amended)
Senate 39 0 (Senate concurred)

Effective: July 24, 2005

ESSB 5577

C 364 L 05

Making available relocation assistance payments to tenants.

By Senate Committee on Financial Institutions, Housing & Consumer Protection (originally sponsored by Senators Fairley, Keiser, Kline, Fraser, Poulsen and Kohl-Welles).

Senate Committee on Financial Institutions, Housing & Consumer Protection

House Committee on Housing

Background: The Residential Landlord Tenant Act (RLTA) provides that if a landlord has been notified by a government agency of a housing, or any similarly applicable, code violation that renders the dwelling condemned, or otherwise legally uninhabitable, the landlord must not enter into any rental agreement until the conditions creating the violation are remedied.

A tenant is entitled to the following remedies, if a landlord knowingly entered into a rental agreement prior to correcting such code violations: (1) three months rent or treble actual damages, which ever is greater, (2) costs of suit or arbitration, and (3) reasonable attorney's fees. In the event that the tenant either opts, or is required, to vacate the dwelling due to the building's condition, the tenant is also entitled to recover any amounts paid as a deposit or prepaid rent.

If the local legislative body finds applicable code violations that require a dwelling to be closed and vacated, repaired, altered, or demolished, that government may adopt ordinances to address such violations, which may include assessing the local government's costs of repairs, vacating and closing, or demolition against the real property that incurred the costs.

There are concerns that certain tenants are forced to remain in housing that is below the state's minimum standards for health and safety due to the inability to pay for relocation costs. Further, in cases where such buildings have been condemned, low-income families are often displaced without any where else to go and that therefore, a process to provide relocation funds in such instances is needed.

Summary: Under RLTA a statutory procedure is created to provide relocation assistance to tenants of dwellings that fail to meet the state's health and safety

standards. This procedure provides that, if a landlord has been notified that a dwelling is to be condemned or is uninhabitable due to conditions in violation of applicable health and safety laws, the landlord is required to pay relocation assistance to the displaced tenants. Relocation assistance will be the greater of 2,000 dollars per dwelling unit or three times the monthly rent. However, landlords are not required to pay relocation assistance in the event the damage resulting in the condemnation or no occupancy order is: (1) directly the result of a tenant or third party's illegal conduct of which the landlord had no prior knowledge; (2) due to natural disasters; or (3) the result of an eminent domain action.

Relocation assistance, along with any deposit or prepaid rent, must be paid to the tenant within seven days of government notice of condemnation, eviction, or displacement. This may be paid to the tenants individually or in a lump sum to the government agency issuing the notice. If the amount is not paid within seven days, the local government may advance the relocation costs to the tenants.

Between the time a landlord is given notice of a violation under these provisions to the time the relocation assistance is paid or the conditions leading to the violation are corrected, the landlord should not: (1) evict, harass, or intimidate tenants; (2) reduce tenant services; or (3) materially increase or change tenant obligations.

Displaced tenants are also entitled to recover any actual damages that exceed the relocation assistance payments, as well as court or arbitration costs and reasonable attorneys fees incurred.

A local government that advanced relocation costs will assess a penalty of 50 dollars per day for each tenant that the government has advanced and collect interest, if the landlord has failed to repay such amounts within 60 days from the advance. The local government is entitled to attorney's fees and costs associated with any legal actions necessary to collect unpaid funds.

Tenants of a condemned or uninhabitable dwelling must be notified of their rights to relocation assistance. This notice will be provided by the same government agency that notified the landlord of code violations.

Any funds that displaced tenants receive under these provisions are not considered income for the purposes of determining eligibility to state assistance programs and are not to reduce those payments. These payments are also not subject to any excise tax.

Local ordinances regarding relocation assistance preempt this legislation.

Votes on Final Passage:

Senate	48	0	
House	84	12	(House amended)
Senate	46	0	(Senate concurred)

Effective: July 24, 2005

E2SSB 5581

C 424 L 05

Establishing the life sciences discovery fund authority.

By Senate Committee on Ways & Means (originally sponsored by Senators Brown, Finkbeiner, Kohl-Welles, Rasmussen, Prentice, Hewitt, Fairley, Esser, Doumit, Keiser, Haugen, McAuliffe and Shin; by request of Governor Gregoire).

Senate Committee on Labor, Commerce, Research & Development

Senate Committee on Ways & Means

House Committee on Technology, Energy & Communications

House Committee on Appropriations

Background: At Governor Locke's request, the Legislature provided funds in 2003 to contract with an outside entity to develop a plan to direct state and private resources to Washington's universities and nonprofit research institutions and their industry partners to make the state a leader in the emerging field of predictive and preventive medicine. The plan, known as "Bio 21," developed by a committee comprised of scientists and staff from large research organizations, executives of biotech and technology companies, and venture capitalists among others, was designed to build upon Washington's existing assets in life sciences and information technology to generate new jobs and health care innovations. The plan was submitted to the Governor in January 2004 and this bill represents one of the plan's major recommendations.

Summary: The Life Sciences Discovery Fund Authority (Authority) is created as a public instrumentality and agency of the state. The powers of the Authority are vested in a board of trustees. The board of trustees is composed of two members of either the House Appropriations Committee or the House committee dealing with technology issues, one from each caucus, and two members of either the Senate Ways and Means Committee or the Senate committee dealing with technology issues, one from each caucus. Seven additional members are appointed by the Governor and confirmed by the Senate. The Open Public Meetings Act applies to board meetings. The Authority is subject to audit by the State Auditor and is advised by the Attorney General. The Authority staff are exempt from state civil service laws.

The Life Sciences Discovery Fund (Fund) is established as an account in the state treasury, and retains its investment earnings. Only the board or the board's designee may authorize expenditures from the fund. The Legislature is directed to transfer the strategic construction payments from the Tobacco Master Settlement agreement to the Fund.

The Authority also has the power to enter into agreements with public and private entities to receive funds.

In exchange, the Authority promises to leverage those funds with amounts received from other public and private sources.

The Authority can also make grants to entities pursuant to contract for the promotion of life sciences research to be conducted within the state. The Authority must solicit requests for funding and evaluate the requests by considering the following factors:

- the quality of the proposed research;
- the potential to improve health outcomes and lower health care costs;
- the potential for leveraging additional funding;
- the potential to provide health care benefits or benefit human learning and development;
- the potential to stimulate health care delivery, biomedical manufacturing, and life sciences related employment in the state;
- the geographic diversity of the grantees within Washington;
- evidence of potential royalty income and contractual means to recapture such income; and
- evidence of public and private collaboration.

The income of the Fund is not subject to business and occupation taxes. Certain information in grant applications is exempt from public disclosure which, if revealed, would reasonably be expected to result in private loss to the providers of the information.

The Fund's executive director must report to the Legislature by December 2005 on the potential to direct revenues into higher education, and by December 2006 on the potential returns on investment of public funds in the Fund, including potential job growth, royalty income, intellectual property rights and other significant long-term benefits to the state.

Votes on Final Passage:

Senate	45	4	
House	53	40	(House amended)
Senate	25	24	(Senate concurred)

Effective: May 12, 2005
June 30, 2005 (Section 16)

SB 5582
C 344 L 05

Clarifying how demographic factors are used with regard to sexually violent predators.

By Senators Regala, Hargrove, Stevens, Carrell, Franklin, McAuliffe and Kohl-Welles.

Senate Committee on Human Services & Corrections
House Committee on Criminal Justice & Corrections

Background: Under current law a sexually violent predator who is civilly committed under chapter 71.09 RCW has an annual review to determine whether he or she continues to meet the commitment standard and whether

conditional release to a less restrictive alternative is appropriate. If the Department of Social and Health Services does not support a conditional release to the community or an unconditional release in the annual review process, a civilly committed person may seek a review or a new commitment trial at any time. The committed person must present a prima facie case in a show cause hearing that he or she has "so changed" that he or she no longer meets commitment criteria or that conditional release to a less restrictive alternative is in his or her best interest, and that conditions can be imposed that adequately protect the community. Until 2004, the demonstration that the person had "so changed" focused on actual changes in the offender due to health issues or success in treatment.

In 2004, Mr. Andre Brigham Young brought such a case to the trial court. Mr. Young argued that, because he is over 60, he is statistically unlikely to commit a new sex offense and, therefore, he has "so changed" that he no longer meets the definition of a sexually violent predator. Mr. Young's case was based on a demographic study of sex offenders leaving Canadian prisons that included seven persons over the age of 60. The trial court rejected Mr. Young's argument. The appellate court reversed the trial court and ordered a new commitment trial for Mr. Young based on its holding that the trial court could not make a judgment about the credibility of the evidence because stating a prima facie case means that, assuming everything in the claim were proved true, the person making the claim would be likely to win (*In re Young*, 120 Wn. App. 753 (2004)). The state Supreme Court did not accept the case for review. Consequently, a trial court must assume the validity of the petition, even where it knows it is not valid. Several trial courts and at least one appellate decision have followed the *Young* decision.

Summary: A showing that a person has "so changed" requires a showing that, since the person's last commitment proceeding, there has been a substantial change in the committed person's physical or mental condition that indicates either that the person no longer meets the commitment standard or that conditional release to a less restrictive alternative is in the person's best interest and conditions can be imposed that adequately protect the community. The changes include an identified physiological change that renders the person unable to commit a sexually violent act and a change in the person's mental condition brought about through positive response to continuing treatment.

A change in a single demographic factor, without more, does not establish probable cause for a new trial proceeding under the "so changed" prong. Demographic factors include, but are not limited to age, marital status, and gender.

Votes on Final Passage:

Senate 47 0
 House 96 0

Effective: May 9, 2005

ESB 5583

C 345 L 05

Requiring training of children's administration employees concerning older children who are victims of abuse or neglect.

By Senators Regala, Hargrove, McAuliffe, Stevens, Carrell, Kline, Rasmussen and Kohl-Welles.

Senate Committee on Human Services & Corrections
 House Committee on Children & Family Services

Background: The Legal Requirement that the Department of Social and Health Services Investigate and Report Abuse and Neglect of Children Aged 18 and Under. The law requires the Department of Social and Health Services (DSHS) to investigate complaints if a parent's or caretaker's actions result in serious physical or emotional harm or present an imminent risk of serious harm to a person under 18. If the harm arises under circumstances which indicate that the child's health, welfare, and safety are harmed, then the DSHS has a statutory responsibility to report that harm to law enforcement authorities, unless it was the result of reasonable and moderate physical discipline. When determining whether the physical punishment was reasonable and moderate, the DSHS must consider factors such as the age, size, and condition of the child and the location of the injury.

The Role of the Office of Family and Children's Ombudsman. The Office of Family and Children's Ombudsman (OFCO) is required by law to monitor procedures established by the DSHS with a view toward appropriate preservation of families and ensuring children's health and safety. The OFCO is also authorized to investigate specific complaints involving violations of laws, rules, and policies.

The OFCO must recommend changes in the procedures for addressing the needs of families and children. The OFCO is required to submit an annual report to the Governor and the Legislative Children's Oversight Committee, analyzing OFCO's work and making recommendations.

Findings Made by the Office of Family and Children's Ombudsman Concerning Allegations of Abuse and Neglect of Older Children and Adolescents. The OFCO's 2003 annual report stated that the OFCO had received complaints that referrals to Children's Protective Services (CPS) are often screened out or assigned for a lower standard of investigation, based on children's ages, on the assumption that an adolescent is able to pro-

tect himself, or herself, from abuse or neglect. The report further stated that, in some cases, referrals alleging maltreatment are referred to Family Reconciliation Services and characterized as a "family in conflict," based on children's ages, even though allegations of child abuse or neglect are present.

Summary: Within its existing resources, the DSHS must develop a curriculum and train staff members of the DSHS's Children's Administration how to screen and respond to referrals to Child Protective Services when those referrals may involve victims of abuse or neglect between the ages of eleven and eighteen. The curriculum must include certain elements, such as a review of relevant laws and policies, and an explanation of safety assessment and risk assessment models. The DSHS is required to request that the OFCO review and comment on its proposed training materials on this matter.

The DSHS must use the curriculum to train Children's Administration staff who screen intake calls and assess or provide services to older children and adolescents. The DSHS must train new staff on this matter.

The DSHS must conduct quarterly reviews through June 30, 2007 of a sampling of screening decisions by Child Protective Services related to children between the ages of eleven and eighteen. The quarterly reviews must be used to improve practice and to improve the curriculum on this matter.

Votes on Final Passage:

Senate 49 0
 House 96 0 (House amended)
 Senate 43 0 (Senate concurred)

Effective: July 24, 2005

SSB 5584

C 76 L 05

Authorizing a customer facility charge on rental car customers to finance consolidated rental car facilities.

By Senate Committee on Transportation (originally sponsored by Senators Jacobsen, Swecker and Haugen).

Senate Committee on Transportation
 House Committee on Transportation

Background: Rental car facilities at the Seattle-Tacoma International Airport are located at numerous sites near the airport as well as the first two floors of the airport parking garage. The decentralization of rental car facilities contributes to area and airport congestion in the form of trip counts in and out of the airport by multiple commercial shuttle operators and rental cars. Also, by having car rental facilities located in the airport parking garage, on-site parking capacity for other customers is diminished.

Summary: Municipal airports are authorized to levy a customer finance charge (CFC) on rental car patrons at

the airport for the purpose of financing the design, construction, and operation of a consolidated rental car facility and common use busing system to shuttle passengers between the facility and airport terminal. The CFC is a user fee paid only by those using rental cars at the airport. Rental car companies would collect the CFC as part of each rental car agreement and remit revenue to the municipality for costs associated with the facility, common use busing operations, and debt service on bonds used to finance the construction of the facility. The CFC is similar to the passenger facility charge collected by airlines on behalf of airports.

Votes on Final Passage:

Senate 31 18
House 77 21

Effective: July 24, 2005

SB 5589

C 77 L 05

Providing for proceedings for excluding agricultural land from the boundaries of a charter or noncharter code city.

By Senators Haugen and Spanel.

Senate Committee on Government Operations & Elections

House Committee on Local Government

Background: A code city can reduce city limits through an election initiated in two ways: (1) a petition filed with the city; or (2) by a resolution calling for the election passed by the legislative body of the city. If three fifths of the votes cast favor the city limit reduction, the legislative body of the city is required to adopt an ordinance effecting the reduction.

Summary: Property owners of agricultural land may petition for exclusion from the incorporated area of a code city. The petition must be signed by owners of 100 percent of the land and if residents exist within the area, a majority of registered voters residing within the area.

The petition must set forth a legal description of the territory to be excluded, and must be submitted to the legislative body of the city. When the petition is filed with the legislative body, the body must set a date for public hearing on the petition within 60 days. After the hearing, if the legislative body determines to effect the exclusion, they must do so by ordinance. The petition is not submitted to the voters for approval.

Votes on Final Passage:

Senate 48 0
House 94 0

Effective: July 24, 2005

ESSB 5599

C 268 L 05

Providing for a central resource center for the nursing work force.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Franklin, Kastama, Thibaudeau, Benson, Kline and McAuliffe).

Senate Committee on Health & Long-Term Care

House Committee on Health Care

House Committee on Appropriations

Background: In 2002, the Workforce Training and Education Coordinating Board convened a task force to examine the extent of the shortage of trained health care providers in Washington and to develop recommendations for increasing their numbers. The board's 2002 report to the Legislature noted that hospital registered nurse vacancy rates were 9.2 percent statewide in 2001 and that there is potential for more severe shortages as the population ages. According to a report by the United States Department of Health and Human Services, Health Resources and Services Administration, Washington state is forecasted to experience a shortage of over 25,000 registered nurses by 2020. There are approximately 70,000 registered nurses in Washington.

Summary: The Nursing Resource Center Account is created. The account is funded through a \$5 surcharge, authorized through June 30, 2013, to licenses for registered nurses and licensed practical nurses. The Department of Health (Department) must consult with the Workforce Training and Education Coordinating Board to use the funds to provide grants to a Central Nursing Resource Center that must be not-for-profit and that is comprised of and led by nurses. The Central Nursing Resource Center will demonstrate coordination with relevant nursing constituents and must have as its mission to contribute to the health and wellness of the residents of Washington by ensuring that there is an adequate nursing force.

The grants may be used to: (1) maintain information on the current and projected supply and demand of nurses; (2) monitor and validate trends in the nursing program applicant pool; (3) facilitate partnerships to promote diversity, career mobility, and leadership development within the nursing profession; (4) evaluate the effectiveness of nursing education; (5) provide technical assistance and information; (6) promote strategies to ensure a safe, healthy, and respectful workplace environment for nurses; and (7) educate the public about careers and opportunities in nursing.

The account is a nonappropriation account and the Secretary of Health may authorize expenditures. The Department may be compensated for the reasonable costs associated with the collection and distribution of the surcharge and the administration of the grants. The

Department may also adopt rules to implement the account. The Central Nursing Resource Center may not use money from the account for administrative costs associated with activities not specifically delineated or for lobbying.

Grants will be awarded annually, with funds distributed quarterly. The first grant distribution must be within six months of the enactment of the law. The Central Nursing Resource Center must annually report to the Department on meeting the grant objectives.

The Central Nursing Resource Center must report all progress and activities conducted by the center to the relevant committees of the Legislature by November 30, 2011. The Department of Health is required to conduct a review of the program and make recommendations on the effectiveness of the program and whether it should continue. This review must be paid for with the funds from the nursing resource center account, and must be completed by June 30, 2012.

Votes on Final Passage:

Senate	33	13	
House	93	1	(House amended)
Senate	41	3	(Senate concurred)

Effective: July 24, 2005

SSB 5602
PARTIAL VETO
C 510 L 05

Managing livestock nutrients.

By Senate Committee on Agriculture & Rural Economic Development (originally sponsored by Senators Rasmussen and Schoesler; by request of Department of Agriculture).

Senate Committee on Agriculture & Rural Economic Development
House Committee on Economic Development, Agriculture & Trade

Background: The Federal Clean Water Act created two categories of programs. The point source program, administered through the National Pollution Discharge Elimination System (NPDES) permit system, requires specified concentrated livestock feeding operations to obtain a permit. These permits are generally renewed at five year intervals. The non-point program includes an array of activities that do not have a discrete discharge and includes livestock grazing operations. The Department of Ecology (DOE) has been the state agency that received delegation from the Federal Environmental Protection Agency to administer most of the federal program. State law provides the DOE authority to receive this delegation.

In 1998, amendments to the Dairy Nutrient Management Act were enacted that required each dairy in the

state to develop and implement a nutrient management plan to assure the dairy does not discharge to state waters. This act contained inspection requirements and set deadlines for the development and implementation of plans for all commercial dairies.

In February 2003, amendments to federal concentrated animal feeding operation (CAFO) regulations included additional livestock operations under the point source regulatory system. Any animal feeding operation (AFO) either defined or designated as a CAFO is required to develop and implement nutrient management plans. These rules apply to additional categories of livestock facilities including defined and designated cattle feedlots, and swine and poultry operations. The federal rule establishes standards, inspection requirements, and deadlines for compliance. A February 28, 2005, federal court of appeals ruling may cause these rules to be modified.

In 2003, ESSB 5889 transferred administration of the existing state Dairy Nutrient Management Act to the Department of Agriculture (DOA). This legislation also created a multi-interest and multi-agency committee to assist the DOA in the development of a livestock nutrient management program that maintains the Dairy Nutrient Management Act plus transfers the remaining livestock operations (certain beef, feedlot, poultry, swine, etc.) with NPDES obligations into a single program to be administered by the DOA.

Once the program is in place, including the statutory authority provided by this bill, it is anticipated that the Environmental Protection Agency (EPA) will approve delegation of the CAFO, NPDES program directly to the DOA.

Summary: The livestock nutrient management program is to be implemented within the DOA. It is clarified that the section applies to animal feeding operations and not to pasture and rangeland operations. The Departments of Agriculture and Ecology are to examine current statutory authorities, in consultation with the Development and Oversight Committee, and recommend to the Legislature statutory changes for full program implementation. These recommendations are to be submitted to the Legislature prior to applying for EPA delegation.

Legislators, and representatives of horses and sheep producers, are added to the Development and Oversight Committee with additional tasks assigned to the committee. An additional task is to conduct an evaluation of simplified nutrient management planning tools and systematic practices, including coordinated resource management, for those livestock operations not required to have permits or farm plans. The goal is to introduce practical models through technical assistance, education, and outreach so that all livestock owners will have clear guidance on how to meet basic responsibilities to protect water quality.

The DOE is required to develop protocols for moni-

toring water quality of state waters in the vicinity of concentrated animal feeding operations and dairies. These protocols are to be submitted to the appropriate committees of the Legislature by December 1, 2005.

Information obtained from dairies, animal feeding operations, and concentrated animal feeding operations that are not required to obtain a federal permit are to be disclosable to the public only in ranges that provide meaningful information to the public while ensuring confidentiality of business information. The DOA is to adopt rules in consultation with affected state and local agencies.

By July 1, 2005, composting guidelines for routine disposal of cattle and horses are to be developed by involved state agencies. People who compost of cattle or horse carcasses are exempt from the metals testing and permit requirements under the solid waste handling rules if specified conditions are met.

Votes on Final Passage:

Senate	42	6	
House	85	11	(House amended)
Senate			(Senate refused to concur)
House	96	0	(House amended)
Senate	47	0	(Senate concurred)

Effective: July 24, 2005

Partial Veto Summary: The additional requirement that the Livestock Nutrient Program Development and Oversight Committee (committee) evaluate simplified tools and practices that can be offered to livestock operations not required to have permits or farm plans is deleted. The requirement that sheep and horse producer representatives be appointed to this committee is also deleted. The official that is to make the appointments to the committee continues to be the Governor rather than being changed to the Director of the DOA. It is not mandatory that legislative representatives be added to the committee. The specific requirement that a report on proper methods to dispose of animal carcasses be given at a legislative assembly in September 2005 is deleted. The termination date for the committee of June 30, 2006 is retained rather than have the committee continue in effect until the federal Environmental Protection Agency delegates authority to the DOA for administration of the federal permit program.

VETO MESSAGE ON SB 5602-S

May 17, 2005

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning, without my approval as to Section 2, Substitute Senate Bill No. 5602 entitled:

“AN ACT Relating to managing livestock nutrients.”

This bill directs the Departments of Agriculture and Ecology, together with legislators and affected and interested parties, to jointly develop recommendations for changes to the law to

establish a single state livestock nutrient program within the Department of Agriculture.

The bill also calls for rules that will allow disclosure of farm plan information to provide meaningful information to the public while protecting confidential business information. It will also establish composting guidelines to ensure safe farm practices for disposal of dead animals in a way that protects animal health, water supplies and food supplies.

Section 2 of the bill amends the membership of the Development and Oversight Committee that works with the Department of Agriculture on this program. It also assigns them a couple new tasks, one of which would direct the agency and committee to develop nutrient management tools for smaller livestock producers that are not part of the new federal and state regulatory programs. While these tools could help smaller producers protect water quality, it would divert the limited state agency and committee resources away from the work needed to help larger producers comply with the new federal requirements.

To fulfill the Legislature’s intent regarding the membership of the committee and the reporting requirements for composting of dead animals:

1. I will ask legislative leadership to appoint representatives to serve as members of the Development and Oversight Committee. I will also review the membership of the Development and Oversight Committee to ensure effective representation of affected and interested parties, and, as needed, seek nominations from statewide organizations to identify the best candidates for the committee.
2. I hereby direct the Departments of Agriculture and Ecology, and the Department of Health, working with the State Board of Health, to provide reports on their programs related to safe disposal of animal carcasses, including disposal through composting, rendering, burying, and land filling methods. I further direct that the agencies provide their reports to the assigned committees of the Legislature at their legislative assembly in September 2005.

For these reasons, I have vetoed Section 2 of Substitute Senate Bill No. 5602.

With the exception of Section 2, Substitute Senate Bill No. 5602 is approved.

Respectfully submitted,

Christine O. Gregoire
Governor

ESB 5606
C 9 L 05

Concerning the activation of the national guard.

By Senators Pridemore, Schmidt, McAuliffe and Kohl-Welles; by request of Governor Gregoire.

Senate Committee on Government Operations & Elections

House Committee on State Government Operations & Accountability

Background: The Governor has the power to order the organized militia of Washington into active service for a number of reasons, including, but not limited to, war, insurrection, rebellion, invasion, and whenever responsible civil authorities fail to preserve law and order or protect life or property.

When the militia is called into active service for these reasons, bills, claims, demands for military purposes, and warrants for pay and expenses are drawn from the existing funds for those purposes.

Summary: The Governor has the power to order the organized militia of Washington into active service for the additional following reasons: when required for the public health, safety, or welfare; to perform any military duty authorized by state law; or to prepare for, or recover from any of these events or the consequences of them.

When the organized militia performs duties, other than anticipated planning, training, exercises, and other administrative duties not of an emergent nature, bills, claims, demands for military purposes, and warrants for allowed pay and expenses are drawn from the existing funds for those purposes.

Votes on Final Passage:

Senate	47	0
House	85	1

Effective: March 28, 2005

SSB 5610
C 309 L 05

Promoting salmon recovery on a regionwide basis.

By Senate Committee on Natural Resources, Ocean & Recreation (originally sponsored by Senator Jacobsen).

Senate Committee on Natural Resources, Ocean & Recreation

House Committee on Natural Resources, Ecology & Parks

House Committee on Appropriations

Background: In 1990 coastal and Puget Sound restrictions were placed on coho and chinook fisheries due to declining stocks. The Legislature created regional fisheries enhancement groups to help increase stocks in 1991. Following numerous salmon and steelhead listings by the federal government during the 1990's the Legislature required a significant fish restoration program to be coordinated with the federal agencies and with the indian tribes as co-managers. Plans have been developed for regional enhancement based on the state's watersheds. The program needs to be coordinated and implemented at the direction of the Legislature.

Lead entities are organizations made up of counties, cities, conservation districts, special districts, and tribal governments that volunteer to work together on salmon recovery.

Summary: Salmon recovery must be implemented through activities consistent with strong regional and watershed plans. A coordinated monitoring system must be implemented. Salmon recovery regions are defined based on watershed groups with common stocks of salmon. The Governor must report on statewide imple-

mentation on the salmon strategy in December of 2006, 2008, 2010, and 2012.

The Salmon Recovery Office will submit regional plans to the federal government and must assist in obtaining federal assurances under the federal Endangered Species Act. Block grants may be given to lead entities by the Salmon Recovery Funding Board. The Board may also give grants to regional recovery organizations to carry out implementation of the plans.

Votes on Final Passage:

Senate	44	3	
House	80	14	(House amended)
Senate			(Senate refused to concur)
House	94	4	(House amended)
Senate	40	3	(Senate concurred)

Effective: July 24, 2005

SSB 5615
C 451 L 05

Receiving a disability allowance under the law enforcement officers' and fire fighters' retirement system, plan 2.

By Senate Committee on Ways & Means (originally sponsored by Senators Franklin, Delvin, Kohl-Welles, Parlette, Roach, Brown, Schmidt, Berkey, McAuliffe and Oke; by request of LEOFF Plan 2 Retirement Board).

Senate Committee on Ways & Means
House Committee on Appropriations

Background: Members of the Law Enforcement Officers' and Fire Fighters' Retirement System, Plan 2 (LEOFF 2) are eligible for a retirement allowance equal to 2 percent of average final salary for each year of service credit earned at age 53. Members of LEOFF 2 may apply for early retirement beginning at age 50; however, the member's benefit is reduced by 3 percent per year below age 53 if the member has 20 or more years of service, and fully actuarially reduced if the member has less than 20 years of service.

A member of LEOFF 2 who is disabled outside of the line of duty may receive a retirement allowance based on the 2 percent of average final salary formula that is actuarially reduced from age 53 to the age at disability.

A LEOFF 2 member disabled in the line of duty is eligible to receive a base retirement allowance of 10 percent of final average salary, which is not subject to income taxes or to actuarial reduction for early retirement, and an additional allowance of 2 percent per year of service beyond five years that is actuarially reduced for the difference between age 53 and age at retirement. A member of LEOFF 2 who is disabled in the line of duty may request a refund of 150 percent of his or her accumulated contributions in lieu of a disability retirement allowance.

ESSB 5620

Members of LEOFF 2 are also eligible for job-related disability, medical, and death benefits from the Workers' Compensation System administered by the Department of Labor and Industries.

Summary: A member of LEOFF 2 who is disabled in the line of duty is eligible to receive a basic disability retirement allowance 10 percent of final average salary that is exempt from income taxes and actuarial reduction for early retirement, plus an additional benefit of 2 percent per year of service for each year of service beyond five, which is subject to taxation but not to actuarial reduction for early retirement.

Votes on Final Passage:

Senate 47 0
House 98 0

Effective: May 13, 2005

ESSB 5620

C 310 L 05

Providing for priority consideration in current use taxation for lands used as buffers.

By Senate Committee on Government Operations & Elections (originally sponsored by Senators Kline, Mulliken, Pridemore, Kastama, Poulsen, Rockefeller, Fairley and Kohl-Welles).

Senate Committee on Government Operations & Elections

House Committee on Local Government

Background: The state's Open Space Taxation Act allows property owners to have their open space, farm and agricultural, and timber lands valued according to current use rather than highest and best use, in order to help assure the continued existence of sufficient lands for production of food, fiber, and forest crops and for the use and enjoyment of natural resources and scenic beauty. Counties are authorized to set open space priorities, adopt an open space plan, and create a "public benefit rating system" for tax assessment purposes. There must also be an "assessed valuation schedule" for determining the taxable value of qualifying land, and only the current use, and not the potential uses, of the land may be considered.

Summary: In adopting open space plans, public benefit rating systems, and assessed valuation schedules, counties must give priority consideration to lands used for buffers that have primarily native vegetation. Priority consideration includes establishing classification eligibility and maintenance criteria. Counties that do not already give priority consideration to buffers must do so by July 1, 2006.

Votes on Final Passage:

Senate 44 3
House 91 5 (House amended)
Senate 45 0 (Senate concurred)

Effective: July 24, 2005

SSB 5623

C 515 L 05

Modifying the excise taxation of maintenance service agreements for regional transit authorities.

By Senate Committee on Ways & Means (originally sponsored by Senators Haugen and Esser).

Senate Committee on Ways & Means
House Committee on Transportation

Background: Sales tax is imposed on retail sales of most items of tangible personal property and some services. The use tax is imposed on the same privilege of using tangible personal property or services in instances where the sales tax does not apply. Sales and use taxes are levied by the state, counties, and cities, and total rates vary from 7 to 8.9 percent.

With few exceptions, all retail sales of tangible personal property or services defined as retail between any two political subdivisions of the state are subject to the retail sales tax. Political subdivisions of the state engaging in any activity for which a specific charge is made are also subject to the business and occupation tax.

Summary: The definition of retail sale does not apply to agreements to provide maintenance services for bus, rail, or rail fixed guideway equipment when a regional transit authority is the recipient of the maintenance service and the services are being provided by another transit agency.

Votes on Final Passage:

Senate 34 14
House 60 35

Effective: July 24, 2005

SSB 5631

C 346 L 05

Changing provisions relating to inmate work programs.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Regala, Hargrove, Stevens, Brandland, Kline, McAuliffe, Franklin, Prentice, Esser, Delvin and Kohl-Welles).

Senate Committee on Human Services & Corrections
House Committee on Criminal Justice & Corrections
House Committee on Appropriations

Background: The Legislature has authorized the Department of Corrections (DOC) to establish and operate a comprehensive work program for inmates by setting up various classes of industries. Class I and Class II industries are two components of the DOC's comprehensive work program.

Class I or "free venture" industries were designed to allow profit-making or non-profit organizations under contract with the DOC to employ inmate laborers to produce goods and services for sale to the public and private sectors. Class I industries were also designed to allow the DOC to manage and operate industries to produce the kinds of goods and services that would otherwise be available to Washington businesses only through vendors located out of state. The statute authorizing Class I industries contemplates a Class I worker's pay to be comparable to the prevailing wage for similar work in the local community. However, by law, a Class I worker's pay is subject to deductions by the DOC for crime victims' compensation, the inmate's savings account, costs of incarceration, and any legal financial obligations that may be owed by the inmate.

Class II or "tax reduction" industries are owned by the state. They are set up to make goods and services that can be sold to public agencies and non-profit organizations cheaply. Rather than being run to make a profit, the ultimate goal of these industries is to lower the cost of doing business for their public agency and non-profit customers. Class II workers are paid a gratuity, ranging from 35 cents to \$1.10 per hour and are subject to deductions by the DOC for crime victims' compensation, the inmate's savings account, costs of incarceration, child support, and legal financial obligations.

In May 2004, the Supreme Court of Washington determined that the law authorizing Class I industries conflicts with article II, section 29 of the state constitution, which states, "[a]fter the first day of January eighteen hundred and ninety the labor of convicts of this state shall not be let out by contract to any person, copartnership, company or corporation, and the Legislature must by law provide for the working of convicts for the benefit of the state."

Since the Supreme Court's decision in May 2004, nine businesses have stopped employing Class I industries workers at three correctional institutions in the state. Approximately 270 Class I jobs have been lost.

The loss of Class I industries represents lost revenue to the Department of Corrections and a loss of funds that would have gone toward the cost of incarceration, victims' restitution, and legal financial obligation payments. The DOC expects the loss of jobs to be reflected in increased recidivism because inmates will not have the opportunity to gain job skills and experience while serving their sentences. Idleness is also expected to create a need for increased security and to put corrections officers at higher risk.

Summary: The list of potential customers for products and services produced by Class II industries is expanded to include employees and family members of employees of the DOC and persons under the supervision of the DOC and their family members. The Correctional Industries board of directors must authorize the type and quantity of items produced by Class II Industries that may be purchased and sold to persons under DOC supervision, DOC employees, and their respective family members. School districts are permitted to purchase goods, such as furniture, equipment, and supplies from Class II industries.

Votes on Final Passage:

Senate	47	0	
House	55	41	(House amended)
Senate	40	2	(Senate concurred)

Effective: July 24, 2005

SSB 5644

C 269 L 05

Extending the stay on driver's license suspensions pending entry of a deferred prosecution.

By Senate Committee on Judiciary (originally sponsored by Senators Kline, Roach, Benton, Esser, Prentice, Shin, McAuliffe, Haugen, Fairley, Hargrove and Rasmussen).

Senate Committee on Judiciary
House Committee on Judiciary

Background: Any person who operates a motor vehicle within this state is deemed to have given consent to a test of his or her breath or blood for the purpose of determining the alcohol concentration or presence of any drug in his or her breath or blood. This provision is applicable if the person is arrested for any offense where the arresting officer has reasonable grounds to believe the person had been driving while under the influence of liquor or any drug (DUI). The provision is referred to as "implied consent". If the test is administered and the alcohol concentration of the driver's breath or blood is .08 or more, the driver's license of the person will be suspended or revoked.

If a person whose driver's license has been or will be suspended or revoked due to an implied consent violation, petitions a court for a deferred prosecution on criminal charges arising out of a DUI arrest, the court may direct the department to stay any actual or proposed suspension or revocation for at least 45 days but not more than 90 days. There is concern that, in some counties, criminal charges are not filed for a long period of time. Consequently, there is no court to which a defendant can provide notice of a deferred prosecution and no court to direct the department to stay the license suspension action.

Summary: When license suspension is required due to an implied consent violation, the Department of Licensing will stay the suspension of a person's driver's license if he or she notifies the department of the intent to seek a deferred prosecution. The duration of the stay is not longer than 150 days after the date charges are filed or two years after the date of the arrest for driving under the influence of alcohol or any drug, whichever time period is shorter.

Votes on Final Passage:

Senate 48 0
House 96 0

Effective: July 24, 2005

2SSB 5663

C 420 L 05

Changing the tax exemptions for machinery and equipment used to reduce agricultural burning.

By Senate Committee on Ways & Means (originally sponsored by Senators Rasmussen, Schoesler, Doumit, Honeyford, Parlette, Jacobsen and Mulliken).

Senate Committee on Agriculture & Rural Economic Development

Senate Committee on Ways & Means

House Committee on Economic Development, Agriculture & Trade

House Committee on Finance

Background: The burning of residues in the production of field and turf grass seed was phased out between 1996 and 1998 pursuant to rules adopted in 1995 by the Department of Ecology (DOE). A reduction in the burning of cereal grain stubble is subject to a memorandum of understanding between the DOE and cereal grain growers that requires a 50 percent reduction in emissions take place between 2000 and 2007.

In 2000, the Legislature established tax incentives to encourage implementation of alternatives to burning of cereal grains fields, and fields that produce field grass seed or turf grass seed. An exemption from sales and use taxes is provided for machinery and equipment, and for services in constructing and repairing of buildings. To be eligible, the machinery, equipment, or structures must be used more than half the time in activities related to reduction of field burning. The machinery and equipment exempt from the sales and use tax is also exempt from personal property taxes.

The person taking the exemption must keep records for the Department of Revenue (DOR) to verify eligibility. The exemption is available when the buyer provides the seller with an exemption certificate in a form and manner prescribed by the DOR. The seller is to retain a copy of the certificate for the seller's files.

These exemptions are scheduled to expire on January 1, 2006.

Summary: The existing sales and use tax exemption described above would be replaced by new provisions which would continue in effect until January 1, 2011. The exemption from personal property taxes and the credit from business and occupation taxes expire on July 1, 2005.

To qualify for the exemption, the farmer must have more than 50 percent of his or her tillable acres in cereal grains, or field and turf grasses grown for seed production, and be located in a qualified county. To be a qualified county, the county must have at least fifteen thousand acres of cereal grain production.

Sales of the specified machinery and equipment to qualified farmers is exempt from the sales and use tax. Labor and services rendered in respect to constructing hay sheds for qualified farmers or to sales of tangible personal property to qualified farmers that becomes an ingredient or component of hay sheds is exempt from the sales and use tax.

Specified machinery and equipment includes no-till and minimum-till drills, sprayers, plows, chisels, discs, cultivators, harrows, mowers, swathers, power rakes, balers, bale handlers, shredders, transplanters, and tractors over two hundred fifty horsepower designed to pull conservation equipment on steep slopes and highly erodible lands.

No application is necessary for the tax exemption but records are necessary for the DOR to verify eligibility. These records are to be deemed taxpayer information and thus exempt from public disclosure. The seller of qualified equipment must obtain an exemption certificate from the buyer.

Votes on Final Passage:

Senate 46 0
House 94 2 (House amended)
Senate 44 0 (Senate concurred)

Effective: July 1, 2005

SSB 5664

C 393 L 05

Improving teachers' skills with regard to children with learning differences.

By Senate Committee on Early Learning, K-12 & Higher Education (originally sponsored by Senators McAuliffe, Eide, Brandland, Regala, Thibaudeau, Stevens, Keiser, Kline and Rasmussen).

Senate Committee on Early Learning, K-12 & Higher Education

House Committee on Education

Background: Dyslexia is a language-based learning disability, which results in students having difficulties

with specific language skills, particularly reading. Students with dyslexia may experience difficulties in other language skills such as spelling, writing, and speaking. It is referred to as a learning disability because dyslexia can have an adverse affect on student academic performance.

Dysgraphia is a neurological disorder manifested in a difficulty with handwriting. There are several different kinds of dysgraphia. Some people with dysgraphia have handwriting that is often illegible and shows irregular and inconsistent letter formations. Others write legibly, but very slowly and/or very small. When these individuals revert to printing, as they often do, their writing is often a random mixture of upper- and lowercase letters. In all cases of dysgraphia, writing requires inordinate amounts of energy, stamina, and time.

The International Dyslexia Association has estimated that 15 to 20 percent of the population has a reading disability and that 85 percent of those with a reading disability have dyslexia. Under current state administrative rules, a student with dyslexia may qualify for special education services as a student with a specific learning disability. To qualify for special education services, the student's dyslexia must adversely affect the student's educational performance and cannot be addressed exclusively through general education environment with or without individual accommodations. The prevalence of dysgraphia is indeterminate due to general reports of under-diagnosis, mis-diagnosis, and co-existence with other learning disabilities. Some students with dysgraphia receive special education services when other disabilities exist. Other students may receive occupational therapy to address dysgraphia but usually in connection with other fine and gross motor skills difficulties.

Summary: For approved in-service, continuing education, or internship credits to be applied to movement along the state teacher salary schedule, the course content of such credits must include the knowledge of the use of research-based assessments and instructional strategies for students with dyslexia, dysgraphia, and language learning disabilities when mastery of state learning goal one is addressed, as applicable and appropriate for individual teachers.

Votes on Final Passage:

Senate	48	0	
House	96	0	(House amended)
Senate	41	0	(Senate concurred)

Effective: July 24, 2005

SSB 5676

C 78 L 05

Requiring oil spill contingency plans to include shellfish beds.

By Senate Committee on Water, Energy & Environment (originally sponsored by Senators Poulsen, Kline, Shin, Spanel, Fraser and Kohl-Welles).

Senate Committee on Water, Energy & Environment
House Committee on Natural Resources, Ecology & Parks

Background: The Legislature enacted oil spill prevention and response measures in 1991 to promote the safety of marine transportation and protect state waters from oil spills. The Director of the Department of Ecology has the primary authority to oversee prevention, abatement, response, containment, and cleanup efforts for oil spills in state waters.

The oil spill program requires oil spill prevention plans, contingency response plans, and documentation of financial responsibility for vessels and facilities that may discharge oil into navigable waters.

Owners and operators of onshore and offshore facilities must prepare and submit oil spill contingency and prevention plans. The plans are valid for five years and may be combined into a single document. Facilities may opt to submit contingency plans for tank vessels unloading at the facility

Summary: Shellfish beds are added to the list of natural resources to be considered for facility and vessel oil spill contingency planning purposes.

Votes on Final Passage:

Senate	47	0
House	93	1

Effective: July 24, 2005

SSB 5692

C 471 L 05

Regulating tax refund anticipation loans.

By Senate Committee on Financial Institutions, Housing & Consumer Protection (originally sponsored by Senators Berkey, Benton, Prentice and Keiser).

Senate Committee on Financial Institutions, Housing & Consumer Protection

House Committee on Financial Institutions & Insurance

Background: Refund anticipation loans (RALs) are loans made by a lender to a taxpayer based on that taxpayer's anticipated federal income tax refund. If a refund is due, a loan may be offered to a taxpayer at the time of tax preparation and filing by a tax preparer or "facilitator." The taxpayer/borrower signs a contract authorizing the lender to receive the tax refund from the federal

Internal Revenue Service (IRS). The borrower is given an immediate loan secured by the refund. Broker fees are deducted from the borrower's IRS tax refund. The borrower is liable if the refund paid by the IRS is less than the loan.

State law is preempted by federal regulation in regards to the lending practices of national banks. Therefore, RALs are generally not subject to regulation by the Department of Financial Institutions (DFI), as the majority of these loan products are made by national banks or their subsidiaries. However, the state is not preempted from regulating the non-banking activities of national tax preparers.

Summary: The Tax Refund Anticipation Loan Act is created. The Act defines a "facilitator" as a person who receives or accepts for delivery an application for a RAL, delivers a check in payment of RAL proceeds, or acts in any other manner to allow the making of a refund anticipation loan. In addition, a facilitator must be a tax preparer or work for a tax preparer. Facilitator does not include financial institutions, the affiliate of a financial institution, or any person who acts solely as an intermediary and who does not deal with the taxpayer in the making of the refund anticipation loan.

A facilitator is required to be registered with DFI and must be an IRS-authorized e-file provider.

Under the Act, the following must be clearly disclosed, in a minimum of 10 point font, by the facilitator to the borrower prior to completion of the loan application:

- the refund anticipation fee schedule;
- the RAL is a loan, not the borrower's actual tax refund;
- the taxpayer can file a tax return electronically, without applying for a RAL;
- the average time it takes a taxpayer to receive a refund from the IRS, if that taxpayer was to apply directly to the IRS either electronically or by mail and depending upon whether the taxpayer were to elect to receive the refund by mail or direct deposit;
- the IRS does not guarantee that it will pay the full amount of the anticipated refund;
- the IRS does not guarantee a specific date that a refund will be mailed or deposited into a taxpayer's banking account;
- the borrower is responsible for repayment of the loan and related fees, if the tax refund is less than the loan amount;
- the estimated time in which the loan proceeds will be paid to the borrower, if the loan is approved;
- the fee that will be charged, if any, if the loan is not approved; and
- the borrower's right to rescind a RAL by the close of business on the following business day.

In addition, the facilitator must provide the borrower with the estimated total fees for the RAL, along with the

estimated annual percentage rate disclosures required under the federal Truth In Lending Act.

A facilitator is expressly prohibited from engaging in the following activities: (1) misrepresenting material facts; (2) failing to process an application promptly; (3) participating in any dishonest, fraudulent, unfair, unconscionable, or unethical practice or conduct in connection with the RAL; (4) arranging for a creditor to take a security interest in any of the consumer's property, other than the proceeds from the tax refund to secure payment of the loan; and (5) providing a loan for more than the amount of the borrower's anticipated tax refund, exclusive of related loan fees.

A knowing and willful violation of these requirements is a misdemeanor, subject to a fine of up to 500 dollars per offense. Further, a violation under this Act is also a violation of the Consumer Protection Act and as such, is subject to the penalties thereunder. This Act retroactively and prospectively preempts any other state and local laws relating to RAL facilitators.

Votes on Final Passage:

Senate	48	0	
House	94	0	(House amended)
Senate	43	0	(Senate concurred)

Effective: July 24, 2005

ESSB 5699

C 464 L 05

Preventing and controlling aquatic invasive species and algae.

By Senate Committee on Natural Resources, Ocean & Recreation (originally sponsored by Senators Oke, Jacobsen, Spanel, Doumit, Kline, Rockefeller and Rasmussen).

Senate Committee on Natural Resources, Ocean & Recreation

Senate Committee on Ways & Means

House Committee on Natural Resources, Ecology & Parks

House Committee on Appropriations

Background: Invasive species pose a serious threat to Washington State. This threat has increased with improvements in travel technology and increased travel in recent years. Once nonnative species become established in a new environment, the conditions that kept their population in check in their native environment may be missing.

Currently, an applicant for a vessel registration must pay a registration fee of \$10.50 per year, plus an excise tax. In addition, \$2 must be collected annually from every vessel registration application for deposit in the derelict vessel removal account.

Summary: In addition to the \$10.50 vessel registration fee, the excise tax, and \$2 for derelict vessel removal, an additional \$3 must be collected from every vessel registration application. This \$3 must be distributed as follows: \$1.50 for aquatic invasive species prevention; \$1 for freshwater aquatic algae control; and \$.50 for aquatic invasive species enforcement.

To carry out the purposes of this bill, three accounts are created. The aquatic invasive species account is created to develop an aquatic invasive species prevention program for recreational watercraft within the Department of Fish and Wildlife. Funds from this account must be used for such purposes as inspecting watercraft and educating law enforcement officers on invasive species laws. The freshwater aquatic algae control account is created to develop a freshwater aquatic algae program. Funds from this account must be used for such purposes as grants to tribes and local governments, with a focus on lakes in which harmful algae blooms have occurred within the past three years, and technical assistance regarding invasive species control. The aquatic invasive species enforcement account is created to fund the creation of an aquatic invasive species enforcement program within the Washington State Patrol. Funds from this account must be used for such purposes as the inspection of recreational watercraft and the establishment of invasive species check stations in areas of high boating activity.

The collection of the additional \$3 from vessel registration applications for aquatic invasive species and algae programs expires June 30, 2012.

Votes on Final Passage:

Senate	46	3	
House	91	5	(House amended)
Senate	44	2	(Senate concurred)

Effective: July 24, 2005
August 1, 2005 (Section 2)

SB 5701
C 63 L 05

Revising provisions relating to regional law libraries.

By Senators Hewitt and Delvin.

Senate Committee on Government Operations & Elections

House Committee on Local Government

Background: Counties with populations of eight thousand and more but less than one hundred twenty-five thousand, may agree to create a regional law library. The counties' board of trustees determines the location of the library. The individual counties must also maintain a library in their local courthouse where their superior court is housed.

Summary: If counties with the requisite populations create a regional law library, that library may continue operating, by continuing agreement of the counties, if any of the individual counties' populations increase beyond one hundred twenty-five thousand.

Votes on Final Passage:

Senate	47	0
House	93	1

Effective: July 24, 2005

SB 5707
C 391 L 05

Creating a women's history consortium.

By Senators Fraser, Eide, McAuliffe, Kohl-Welles, Keiser, Franklin, Kline, Haugen, Spanel and Rasmussen.

Senate Committee on Early Learning, K-12 & Higher Education

House Committee on State Government Operations & Accountability

House Committee on Appropriations

Background: Currently, there is no systematic effort to compile the history of Washington State's efforts to achieve substantial improvements in the legal rights and opportunities for women and girls. The 2004 Washington State Legislature directed the Institute for Public Policy (Institute) to make recommendations to the 2005 Legislature for the development of a state's women's history organization. To solicit a range of views, the Institute was directed to convene an advisory group of experts, survey the public, and research the work of similar organizations across the country.

Summary: The Women's History Consortium (Consortium) is created with the Washington State Historical Society (Society) as the managing agency. On behalf of the Consortium, the Society must:

- direct and supervise administrative and clerical functions;
- include budgetary requests within the Society's departmental budget;
- collect and deposit all nonappropriated revenues;
- provide staff support;
- print and disseminate notices, rules and orders adopted; and
- provide or allocate office space.

The Consortium is managed by a board of advisors consisting of 15 members: 11 members are appointed by the Governor; two Senators, one from each caucus, are appointed by the President of the Senate; and two Representatives, one from each caucus, are appointed by the Speaker of the House. The board of advisors must be appointed by September 30, 2005. The responsibilities of the board include:

- management, planning and oversight of organizational and fiscal activities;
- adoption of Consortium membership criteria and procedures;
- identification of long- and short-term priorities;
- appointment of special committees and task forces; and
- development of recommendations for the commemoration of the women's suffrage centennial.

Within available resources, the Consortium is responsible for:

- compiling and making available a comprehensive index of materials;
- identifying publicly unrepresented or inaccessible topics, historical periods, or materials and developing strategies for public availability, including topics related to the accomplishments of mothers;
- encouraging collection and preservation of historically relevant materials;
- referring potential material donors and developing procedures for protection of material donations, loans, leases and purchases;
- encouraging exhibit development, curriculum material development, and public access to women's history information and materials;
- seeking private funding and developing the concept for a grant program; and
- developing a volunteer program.

The board of advisors must provide the appropriate committees of the Legislature with a report by December 1, 2006, on the progress of required activities undertaken by the Consortium and the board of advisors. The report must also include the Consortium needs and plans for the future.

Votes on Final Passage:

Senate	47	0	
House	94	0	(House amended)
Senate	43	0	(Senate concurred)

Effective: July 24, 2005

SSB 5708

C 463 L 05

Regarding the administration of epinephrine by emergency medical technicians.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Finkbeiner, Thibaudeau, Keiser, McAuliffe and Kohl-Welles).

Senate Committee on Health & Long-Term Care
House Committee on Health Care

Background: Anaphylaxis is an allergic hypersensitivity reaction of the body to a foreign protein or drug. Anaphylaxis can be caused by drugs, insect stings, foods, and inhalants. In some cases it can result in convulsions,

unconsciousness, and even death. Epinephrine is used to treat anaphylactic reactions.

In 1999, the Legislature passed legislation requiring emergency medical technicians (EMTs) to carry epinephrine and authorizing EMTs to administer it to patients of any age upon evidence of a prescription. EMTs were also authorized to administer epinephrine to minors upon the request of the patient or his or her parent or guardian, or at the request of an authorized individual. In 2001, the expiration date on the legislation was removed.

Summary: This bill authorizes an emergency medical technician to administer epinephrine.

Votes on Final Passage:

Senate	47	0	
House	94	0	(House amended)
Senate			(Senate refused to concur)
House	98	0	(House receded)

Effective: July 24, 2005

SSB 5709

C 79 L 05

Exempting vehicles in inaccessible national recreation areas from license renewal fees.

By Senate Committee on Transportation (originally sponsored by Senators Parlette, Swecker, Honeyford, Mulliken, Sheldon and Benton).

Senate Committee on Transportation
House Committee on Transportation

Background: Under current law, failure to initially register a vehicle in the state prior to operation on highways of the state is a misdemeanor punishable by a fine of no less than \$330. Failure to renew an expired registration before operating on a highway of the state is a traffic infraction. Exemptions are allowed for: state and publicly owned vehicles; vehicles owned by Indian tribes; motorized foot scooters; electric assisted bicycles; farm vehicles if operated within a fifteen mile radius of the farm; spray or fertilizer applicator rigs; fork lifts under certain conditions; and certain highway construction equipment.

Summary: If a motor vehicle is operated solely within a national recreation area that is not accessible by a state highway, it is exempt from the annual registration renewal and associated fees after it has been initially registered.

Votes on Final Passage:

Senate	46	2
House	96	0

Effective: July 24, 2005

SB 5713
C 80 L 05

Assisting tenants in multiple-unit housing proposed for rehabilitation.

By Senators Regala, Franklin and Kohl-Welles.

Senate Committee on Financial Institutions, Housing & Consumer Protection
House Committee on Housing

Background: Current law provides a property tax exemption as an incentive to encourage the rehabilitation or construction of new multifamily housing in certain urban centers, with the intended additional effects of promoting community development, affordable housing, neighborhood revitalization, and limiting urban sprawl.

The tax exemption provides that new housing construction and the rehabilitation of existing buildings that meet certain criteria is exempt from property taxation for 10 successive years, following the calendar year that the eligibility requirements were met. The exemption does not include the value of the land, non-housing related improvements, and construction improvements to existing buildings that were made prior to applying for the exemption.

To qualify for the tax exemption, the new or rehabilitated multiple-unit housing must meet the following general criteria:

- be located within a residential target area, as designated by the city;
- meet any guidelines adopted by the governing local government, which may include, among other requirements, height, density, public benefit features, and low or moderate income occupancy requirements;
- have at least 50 percent of the space within the structure dedicated to permanent residential occupancy;
- be completed within three years from the date of application approval;
- be vacant at least 12 months before submitting an application and fail to meet applicable building or housing codes, if it is a property that is proposed for rehabilitation; and
- the applicant and the city must contractually agree to the terms and conditions of development.

Summary: It is no longer required that a property proposed for rehabilitation be vacant 12 months prior to application for the exemption. However, if such a building is not vacant, the property owner must provide all existing tenants with comparable housing and a reasonable opportunity to relocate.

Votes on Final Passage:

Senate	48	0
House	94	0

Effective: July 24, 2005

ESSB 5719
FULL VETO

Extending the community commitment disposition alternative pilot program.

By Senate Committee on Human Services & Corrections (originally sponsored by Senator Hargrove).

Senate Committee on Human Services & Corrections
House Committee on Juvenile Justice & Family Law

Background: In 2003, the Legislature passed a law that changed certain aspects of juvenile sentencing. Part of that law established a pilot program for a community commitment disposition alternative.

Under the pilot program, the community commitment disposition alternative is available to juvenile offenders, subject to a standard range commitment of 15 to 36 weeks, who are ineligible for certain other disposition alternatives.

In order to impose the community commitment disposition alternative, the court must find that one of the following circumstances exists. First, the court could find that keeping the youth in detention close to home would facilitate a smoother reintegration after the youth returns home. Second, the court could find that detention close to home would allow the youth to benefit from local services, such as family intervention programs, school, employment, and drug and alcohol or mental health counseling. Finally, the court could find that confinement in a facility operated by the Department of Social and Health Services would result in a negative disruption to local services, school, or employment or impede or delay developing those services and support systems in the community.

The community commitment disposition alternative places limits on the amount of time that a juvenile can spend in secure county detention and sets out other placement alternatives, such as home detention, electronic home monitoring, county group care, and day or evening reporting.

The pilot program expires July 1, 2005.

Summary: The community commitment disposition alternative is expanded to allow any county or group of counties to establish a program to implement the community commitment disposition alternative. The program in a particular county or group of cooperating counties is limited to 10 beds.

The period of time that a juvenile offender may be confined in secure county detention between the date of disposition and the initial release date is reduced to 30 days or less. No more than 30 days may be spent in secure county detention, unless the juvenile violates the terms of the program. The community commitment disposition alternative must include delivery of programs which meet the Washington Institute for Public Policy's effectiveness standards for juvenile accountability pro-

grams.

If a youth violates the terms of the program, the court may impose a range of sanctions including up to an additional 30 days in secure county detention. If, in the opinion of the court, the juvenile's cumulative violations would require more than 30 days of secure detention, the court must revoke the community commitment disposition alternative and order the disposition's execution at a Juvenile Rehabilitation Administration (JRA) facility. Time not served in either secure county detention or at JRA may be served in alternative placements set out in the act. The court retains jurisdiction for purposes of community supervision upon release from JRA.

Requirements are set out for the data that must be collected by the counties establishing a program under the act and reported to the Washington Association of Juvenile Court Administrators. The Washington Association of Juvenile Court Administrators is charged with analyzing the data and reporting to the Legislature.

The sunset clause is eliminated.

An emergency clause is added.

Votes on Final Passage:

Senate	46	0	
House	96	0	(House amended)
Senate			(Senate refused to concur)
House	98	0	(House receded)

VETO MESSAGE ON SB 5719-S

May 17, 2005

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning without my approval, Engrossed Substitute Senate Bill No. 5719 entitled:

“AN ACT Relating to the community commitment disposition alternative pilot program.”

This bill would have provided juvenile courts with a 'community commitment' alternative to committing delinquent youth to the Department of Social and Health Services (DSHS). The state would have paid all costs, including detention and administration. Current law already provides courts with five alternatives to DSHS commitment, but none of them include state funding of county detention costs. This bill, based on a pilot program that was used in only one case, would have encouraged the use of a new alternative instead of the existing ones, and would have unjustifiably shifted costs to the state. The existing alternatives to DSHS commitment have been effective.

For these reasons, I have vetoed Engrossed Substitute Senate Bill No. 5719 in its entirety.

Respectfully submitted,

Christine O. Gregoire
Governor

ESSB 5720

C 176 L 05

Placing limitations on employee noncompetition agreements in the broadcasting industry.

By Senate Committee on Labor, Commerce, Research & Development (originally sponsored by Senators Keiser, Franklin and McAuliffe).

Senate Committee on Labor, Commerce, Research & Development

House Committee on Commerce & Labor

Background: Generally, a noncompetition agreement restricts a former employee from competing against his or her former employer. To be enforceable, the agreement must not impose unreasonable restrictions on the employee and must be necessary for the protection of the employer's business.

Under current law, an employee who has not signed a noncompetition agreement is free to compete against his or her former employer. A former employee may use general knowledge, skills, and experience acquired during the prior employment in competing with a former employer. A former employee may not, however, use or disclose trade secrets belonging to a former employer.

Summary: If a broadcasting industry employee, subject to an employee noncompetition agreement, is terminated without just cause or is laid off, the noncompetition agreement is null and void. This prohibition does not restrict the right of an employer to protect trade secrets or other proprietary information.

Votes on Final Passage:

Senate	26	22
House	56	40

Effective: July 24, 2005

SSB 5729

C 270 L 05

Expanding considerations in setting ferry fares.

By Senate Committee on Transportation (originally sponsored by Senators Rockefeller, Oke, Regala, Spanel, Sheldon, Shin, Poulsen, Jacobsen and Kohl-Welles).

Senate Committee on Transportation

House Committee on Transportation

Background: The Washington State Department of Transportation (WSDOT) must annually conduct a full review of the ferry fares schedule. In odd-numbered years the WSDOT must submit a report of this review along with their recommendations for fare schedule revisions to the Transportation Commission (Commission). In odd-numbered years, the Commission must adopt, by rule, a fare schedule for the ensuing biennium. There are several factors WSDOT may consider in formulating

fare schedule revisions and the Commission may consider in adopting a fare schedule.

Summary: The following two factors that WSDOT and the Commission may consider in formulating and adopting fare schedules are added: (1) the pre-purchase of multiple fares, whether for a single rider or multiple riders; and (2) frequent ferry users who live in ferry dependent communities.

Votes on Final Passage:

Senate	49	0
House	98	0

Effective: July 24, 2005

ESSB 5732

C 497 L 05

Revising the powers, duties, and membership of the state board of education and the Washington professional educator standards board and eliminating the academic achievement and accountability commission.

By Senate Committee on Early Learning, K-12 & Higher Education (originally sponsored by Senators McAuliffe, Weinstein, Schmidt, Berkey, Rockefeller, Shin, Prentice, Thibaudeau, Pridemore, Carrell, Kohl-Welles, Regala, Panel, Fairley, Delvin and Rasmussen).

Senate Committee on Early Learning, K-12 & Higher Education

House Committee on Education

House Committee on Appropriations

Background: The State Board of Education (SBE) is comprised of one member of each Congressional district elected by local school boards of directors, the Superintendent of Public Instruction, and one at-large member elected by school boards of directors of all private schools in the state. Each member, except the Superintendent of Public Instruction, serves for four years. The Superintendent of Public Instruction is the Chief Executive Officer and is an ex officio, non-voting member, except in instances of a tie vote. The SBE is responsible for, among other policy areas, the preparation and certification of teachers, administrators, and educational staff associates; the funding distribution for state matching funds for school construction; the establishment of state minimum high school graduation requirements; school accreditation; private school approval; school district boundaries; and monitoring school district compliance with the Basic Education Act.

The Professional Educator Standards Board (PESB) is comprised of the Superintendent of Public Instruction and twenty members appointed by the Governor for four-year terms, with four public school teachers, one private school teacher, three who represent higher education educator preparation programs, four school administrators, two educational staff associates, one public

school instructional paraprofessional, one parent, and one citizen. The Superintendent of Public Instruction is an ex officio, non-voting member. The PESB serves as the sole advisory body to the SBE on issues related but limited to the recruitment, hiring, preparation and certification of teachers, administrators, and educational staff associates. The PESB is responsible for overseeing alternative routes to certification and teacher basic skills and subject matter assessments.

The Academic Achievement and Accountability Commission (A+ Commission) is comprised of the Superintendent of Public Instruction and eight members appointed by the Governor, four of who are recommended by each major caucus of the Senate and the House of Representatives. The chair of the commission is appointed by the Governor from among the commission members. The A+ Commission oversees the state's K-12 accountability system and is responsible for adopting and revising performance improvement goals in reading, writing, mathematics, and science as well as setting school and school district improvement goals for high school graduation rates and dropout reduction; setting academic achievement standards students must achieve on the Washington Assessment of Student Learning (WASL) and, for high school students, to acquire a Certificate of Academic Achievement; adopting criteria to identify successful schools and school districts as well as to identify schools and school districts in need of assistance and those in which significant numbers of students persistently fail to meet state academic standards; and identifying performance incentives that have improved or have the potential to improve student achievement.

Summary: The membership of the State Board of Education (SBE) is reconstituted, effective January 1, 2005. The new membership of the SBE is to include sixteen members. Seven members will represent the educational system and seven will be gubernatorial appointees. The seven educational members include: five members elected by school board members, two from eastern Washington and three from western Washington; the Superintendent of Public Instruction; and one member elected by private schools. The final two members will be students. The SBE will elect its own chair to two year terms, with a limit of two terms. All members of the SBE, except for the students, will be voting members on all issues.

With the exception of duties for educator preparation and certification, the SBE will retain its present duties. In addition, it will adopt: performance standards (i.e., cut scores), in consultation with the Superintendent of Public Instruction; performance improvement goals for schools, school districts, and groups of students; and performance standards for the Certificate of Academic Achievement. The improvement goals will focus on improving student learning in reading, writing, mathematics, science, aca-

demic, and technical skills in secondary career and technical education programs, student attendance and high school graduation. The performance standards must be adopted by rule by the board. The SBE must present to the education committees of the Legislature the standards for review, allowing the Legislature time to take any action deemed necessary for each goal implemented. The performance improvement goals must not conflict with the goals included in Title I of the Elementary and Secondary Education Act of 1965, as amended. Any improvement goals adopted relative to career and technical education must not conflict with the federal Carl D. Perkins Vocational and Technical Education Act of 1998, as amended. The board must provide the Legislature an opportunity to review and to take any statutory action on the performance standards to attain a Certificate of Academic Achievement before the standards are implemented.

All statutory authority previously held by the SBE pertaining to educator preparation and certification transfers to the Professional Educator Standards Board (PESB), effective January 1, 2005. The PESB retains all previous statutory authority for alternative routes to certification and educator assessments. The PESB will adopt policies and practices for teacher, administrator, and educational staff associates preparation and certification. The certification responsibilities include approval of traditional and nontraditional preparation programs, preparation of a list of approved preparation programs, and a review at least every five years of program approval standards. The PESB will specify the types and kinds of educator certificates, hear certification appeals, adopt rules, apply for federal funds, and submit annual reports to agencies and legislative committees. The PESB will also maintain data on educator certification, the quality of preparation programs, and employer needs. The PESB will continue to advise the Superintendent of Public Instruction on the revocation or suspension of educator and administrator certificates. All members, including the Superintendent of Public Instruction, are voting members.

Purpose statements are adopted for the SBE and PESB to clearly align their work and ground it in RCW 28A.150.210, which includes the student achievement goals from the state basic education law.

An interim joint subcommittee of the House and Senate Education Committees is created to review, in collaboration with the SBE, school directors, administrators, educators, parents, and others, the remaining duties of the SBE and to report back to the two full committees with any recommendations by December 15, 2005.

The SBE and PESB are required to jointly produce a biennial report to the Legislature on the progress made and obstacles encountered in the work of achieving the student achievement goals in the basic education law. Previous annual reports of these two agencies are

repealed.

The PESB is directed to analyze strengths and weaknesses of educator preparation programs and submit a report and recommendations to the legislative education committees by December 1, 2005. This report will also serve as the basis for a PESB planning document to guide its assumption of policy and rule-making authority.

The Academic Achievement and Accountability Commission is abolished effective July 1, 2005 and its powers, duties, and functions are transferred to the State Board of Education.

Votes on Final Passage:

Senate	30	19	
House	86	11	(House amended)
Senate			(Senate refused to concur)
House	77	19	(House amended)
Senate	33	13	(Senate concurred)

Effective: May 16, 2005 (Section 102)
July 1, 2005 (Sections 104, 302, 402 and 406-408)
July 24, 2005
January 1, 2006 (Sections 101, 103, 105, 106, 201-220, 301, 401 and 403-405)

SB 5733
C 472 L 05

Concerning mandatory arbitration.

By Senators Kline, McCaslin, Rockefeller, Esser, Thibaudeau, Weinstein, Rasmussen and Eide.

Senate Committee on Judiciary
House Committee on Judiciary

Background: Arbitration is mandatory in counties that have a population of over 150,000 in civil actions where the sole relief sought is a money judgment of up to \$35,000. Courts or the legislative authority in smaller counties may also authorize mandatory arbitration of civil actions. These rules apply to superior court actions, except for appeals from municipal or district courts. Mandatory arbitration is subject to appeal by a trial *de novo*.

Eleven counties (Benton, Clark, King, Kitsap, Pierce, Skagit, Snohomish, Spokane, Thurston, Whatcom, and Yakima) have a current population of over 100,000. The remaining 28 counties have current populations of less than 100,000.

Summary: The minimum population a county may have before mandatory arbitration is required is lowered from 150,000 to 100,000. The monetary threshold for mandatory arbitration is raised from \$35,000 to \$50,000. The monetary threshold changes apply only to cases in which the notice of arbitrability is filed on or after the date of the act.

Votes on Final Passage:

Senate 32 16
 House 86 10 (House amended)
 Senate 28 13 (Senate concurred)

Effective: July 24, 2005

ESSB 5736
 C 81 L 05

Conducting an evaluation of the feasibility of subscription air ambulance service.

By Senate Committee on Financial Institutions, Housing & Consumer Protection (originally sponsored by Senator Spanel).

Senate Committee on Financial Institutions, Housing & Consumer Protection

House Committee on Financial Institutions & Insurance

Background: The insurance code protects consumers and ensures financial solvency by requiring insurers and service providers to register annually with the Office of the Insurance Commissioner (OIC). As part of this registration process, providers must inform the Insurance Commissioner of insurance rates and loss ratios. The code also requires providers to have reserves on hand from which claims can be paid.

In recent years, concerns have been raised that medical emergency airlift services have become unaffordable for the state's island citizens. It has been suggested that organizations may be more likely to offer subscription air ambulance services if they were not held to all of the guidelines of the insurance code.

Summary: The OIC is to fund and perform a feasibility evaluation on the availability of subscription air ambulance service. The evaluation is to be geared toward allowing a person or an entity to provide subscription air ambulance service. A report on the OIC's evaluation findings and recommendations is due to the Legislature by December 31, 2005.

Votes on Final Passage:

Senate 48 0
 House 94 0

Effective: July 24, 2005

ESSB 5743
 C 246 L 05

Enhancing voter registration recordkeeping.

By Senate Committee on Government Operations & Elections (originally sponsored by Senators Kastama, Roach, Fairley, Benson, Berkey, Haugen, McAuliffe, Shin, Parlette, Keiser, Mulliken and Rockefeller; by request of Secretary of State).

Senate Committee on Government Operations & Elections

House Committee on Appropriations

House Committee on State Government Operations & Accountability

Background: Only registered voters may vote. Of the information asked on a voter registration form, only the following is required for voter registration: name; complete residence address; date of birth; Washington driver's license number; identification card or the last four digits of the applicant's social security number; a signature attesting to the truth of the information provided on the application; and a check in the box confirming United States citizenship.

The other information requested by the voter registration form, such as the address of the last former registration, the mailing address if different from the residence address, and the sex of the applicant, is ancillary information. It is not to be used to deny registration.

Effective January 1, 2006, the Secretary of State (SOS) must review each voter registration application to determine whether the applicant's driver's license number or last four digits of the social security number match the information maintained by the Department of Licensing (DOL) and the Social Security Administration. If there is not a match, the SOS must correspond with the applicant to resolve the discrepancy. The applicant has 30 days to respond to the SOS, after which time the SOS must forward the application to the county auditor for document storage.

Specificity is lacking in some instances for the purpose of determining the date on which an applicant for voter registration is considered to be registered. For instance, in response to the SOS inquiry to resolve a discrepancy, if the discrepancy is resolved, the date of registration is the date the original voter registration application was mailed. When a person or organization collects voter registrations, the registrations must be submitted to the SOS or a designee at least once weekly. The date on which the individual voter's registration is effective, however, is not indicated.

If a voter becomes a convicted felon, his or her eligibility as a registered voter terminates. The SOS and the Department of Corrections periodically compare lists to correctly identify felons. Felons are removed from the official state voter registration list and, effective January 1, 2006, from the statewide voter registration data base.

Effective January 1, 2006, counties with fewer than 10,000 registered voters are to be compensated from funds provided by the Help America Vote Act for maintaining the electronic voter registration data base.

Summary: Courts must require persons convicted of a felony to sign a statement acknowledging that the defendant has lost his or her right to vote, that his or her voter registration will be canceled, procedures for restoring the right to vote, and that voting before his or her right is restored is a class C felony. The county clerk must inform the Secretary of State when a felon has completed his or her sentence requirements.

The information required for voter registration is clarified. Voter registration applications must include check boxes to indicate whether the applicant has a license, identification card, or social security number; whether the individual is at least 18; and whether the applicant is a member of the armed forces or an overseas voter. The oath on the application must also include a statement whereby the applicant declares that he or she is eligible to vote and acknowledges that his or her name will be forwarded to the proper authorities if he or she is found to have voted illegally.

If a registrant applicant indicates that he or she does not have a driver's licence or state identification card, the applicant must provide the last four digits of his or her social security number. If the license, state identification card, or social security number does not match the information maintained by the DOL or the Social Security Administration, the applicant must correspondence with either the SOS or the county auditor to resolve the discrepancy. If the applicant fails to respond to correspondence within 45 days, the applicant will not be registered.

If the applicant is registering by mail and indicates on the registration form that he or she does not have a driver's license, state identification card, or social security number, the individual will be registered to vote but must provide identification prior to voting. Acceptable forms of identification include a current photo identification, utility bill, bank statement, paycheck, government check, or another government document that shows the applicant's name and address. These requirements do not apply to an out-of-state, overseas, or service voter who registers to vote by signing the return envelope.

The confirmation and verification notices sent to voters so that they may update their current residence address must include a postage prepaid and a preaddressed return form.

As long as an applicant meets all requirements to register to vote, having a nontraditional address is not a basis for disqualification. These voters are registered at the county courthouse, city hall, or other public building near the area the voter considers his or her residence.

The date on which the applicant is considered a registered voter is the date of the original registration appli-

cation, when correspondence resolves the question raised by nonmatching driver's license or social security number information. It is clarified that voter registration forms collected by persons or organizations may be transmitted to the SOS or the county auditor. The registration date of those forms is the date they are received.

The Secretary of State is required to review and update records of all registered voters on a quarterly basis. Other appropriate state agencies including the Washington State Patrol and the Office of the Administrator for the Courts, must be included in the periodic comparison of lists so as to identify felons and delete them from the statewide voter registration list and database. The SOS must screen the statewide database for persons who declined to serve on juries because of non-citizenship, and for persons determined to be legally incompetent to vote. The SOS may screen against databases maintained by other states, and against federal databases, including databases maintained by the Federal Bureau of Investigation, the federal court system, the bureau of prisons, and the Bureau of Citizenship and Immigration Services.

Prior to handing out voter registration forms, licensing agents at the DOL and other agencies must affirmatively ask whether the applicant is a citizen and whether the applicant will be 18 on or before the next election. The DOL must make the department negative file, which contains digital images of drivers' licenses and identification cards, available to the Secretary of State.

The date of birth is added to information on voter registration records that is subject to public disclosure. The SOS or county auditor must provide information regarding the restricted use of registered voter data and violations of such uses to any person requesting the voter data.

The notification sent to felons cancelling their voter registration must include an explanation of the requirements for restoring the right to vote. A certificate of discharge or an order restoring civil rights may be used as proof that the sentencing requirements of the felony conviction have been satisfied.

The provision for compensation to counties of less than 10,000 registered voters for maintenance of the electronic voter registration data base is repealed.

Absentee return envelopes must contain a declaration informing the voter that it is illegal to vote if not a citizen, if voting rights have been taken away and not restored, and that it is illegal to cast a ballot or sign an envelope on behalf of another. Return envelopes must also have secrecy flaps and a space where a voter may include a telephone number.

The penalty for the crime of unqualified voter registration is changed from a misdemeanor to a class C felony.

Votes on Final Passage:

Senate 49 0
 House 54 42 (House amended)
 Senate (Senate refused to concur)

Conference Committee

House 97 1
 Senate 30 18

Effective: January 1, 2006

SSB 5752

C 365 L 05

Concerning funeral services.

By Senate Committee on Labor, Commerce, Research & Development (originally sponsored by Senators Prentice, Honeyford and Kohl-Welles).

Senate Committee on Labor, Commerce, Research & Development

House Committee on Commerce & Labor

Background: Funeral and cemetery laws have not been thoroughly revised for many decades. For example, the licensing of funeral directors and embalmers was enacted in 1937, funeral establishments in 1977, and crematories in 1985. The cemetery law was enacted in 1943, the Cemetery Board was created in 1953, and crematories licensed in 1985.

Although the profession has changed dramatically, from terminology to cemetery practices, the statutes have not been updated accordingly.

Both the funeral and cemetery prearrangement trust fund laws require the firms to hold investment instruments in a public depository.

Applications to take the examination to become a licensed funeral director or embalmer must be filed with the director of the Department of Licensing (DOL) at least forty-five days before the exam.

The right to control the disposition of human remains refers to a situation where the decedent has not made prearrangements regarding the disposition of his or her remains and who has the authority to control the disposition. Right to control statutes can be found under both the funeral and cemetery statutes.

The disposition of human remains in any place, other than a cemetery, is guilty of a misdemeanor.

Certificates of removal registration permit Washington funeral directors or embalmers to remove human remains from the district where the death occurred to another registration district.

Summary: Technical, clarifying, and substantive changes are made to the funeral, cemetery, and vital records statutes. Outdated acts are repealed.

RCW 18.39, Funeral Statutes. An academic internship is created. An academic intern is an enrolled student in an accredited college funeral service education pro-

gram who is serving his or her three-month internship at a Washington State funeral establishment, as is required for graduation.

Funeral directing or embalming apprenticeships are terminated.

A Certificate of Removal Registration is created and permits funeral establishments licensed in Oregon or Idaho to remove human remains from Washington prior to submitting a completed certificate of death and permits Washington firms to remove remains from Oregon.

Applications to take the examination to become a licensed funeral director or embalmer must be filed with the director of the DOL at least fifteen days before the exam.

The Board of Funeral Directors and Embalmers (Board) may recognize funeral director or embalmer licenses issued by other states which have substantially equivalent licensure requirements.

Title 68, Cemetery Laws. A definition for "scattering garden" is created and means a designated area in a cemetery for the scattering of cremated human remains.

The cemetery board consists of five members, and no longer are two of the members required to have legal or accounting experience.

The requirement that firms hold investments in a public depository is removed.

The ownership or right to unoccupied cemetery space is considered abandoned if it is neglected and in a state of disrepair for a period of five years. After this five-year period of alleged abandonment, the cemetery management may reclaim the unoccupied space after proper notice over a three-year period by filing a petition for an order of abandonment with the superior court. Notice cannot be placed on the unoccupied space until twenty years have elapsed since the last interment in that lot.

The right to control the disposition of human remains is consolidated under the cemetery laws.

A cemetery account is created in the custody of the State Treasurer. All monies received under this chapter must be deposited into the account. Only the cemetery board may authorize expenditures, and an appropriation is not required for expenditures.

RCW 70.58, Vital Records. Certificates of removal registration permits funeral establishments licensed in Oregon or Idaho, with a current certificate of removal registration issued by the director of the DOL, to remove human remains from the district where the death occurred to Oregon or Idaho.

Votes on Final Passage:

Senate 47 0
 House 94 0 (House amended)
 Senate 41 0 (Senate concurred)

Effective: July 24, 2005

E2SSB 5763
PARTIAL VETO

C 504 L 05

Creating the omnibus treatment of mental and substance abuse disorders act of 2005.

By Senate Committee on Ways & Means (originally sponsored by Senators Hargrove, Stevens, Regala, Brandland, Thibaudeau, Carrell, Brown, Keiser, Fairley, McAuliffe, Rasmussen, Kline, Kohl-Welles and Franklin).

Senate Committee on Human Services & Corrections
Senate Committee on Ways & Means
House Committee on Health Care
House Committee on Appropriations

Background: Under current law, Washington State has separate Involuntary Treatment Acts (ITAs) for persons who are gravely disabled or a danger to self or others as a result of chemical dependency or mental illness. The ITA for mental health is an entitlement; courts and prosecutors must act to civilly commit persons who meet ITA criteria. The ITA for chemical dependency is permissive.

The Joint Legislative and Executive Task Force on Mental Health Services and Funding (Task Force) convened in 2004 to review, among other things, residential and inpatient mental health treatment capacity and the impacts of federal changes in Medicaid Funding. The Task Force considered these issues for both children and adults and both the civil mental health system and the interaction with the criminal justice system with regards to mentally ill persons held in jails and delays in the competency examination and restoration process.

In addition to receiving staff reports and public testimony over six months, the Task Force reviewed reports and recommendations by: the Cross-System Crisis Response Initiative (CSCR Initiative); the Department of Social & Health Services (DSHS); and the Public Consulting Group inpatient and residential capacity report, prepared in compliance with SB 6358. The Task Force also engaged in a "priorities of government" process with stakeholders for evaluating current practice, system improvement initiatives, and potential cost savings initiatives.

The Task Force recommended that: (1) funds lost due to the changes in interpretation of Medicaid law be replaced by state funds, to the maximum extent possible, with conditions to be imposed by the Legislature; and (2) additional funds, to the extent available, be directed to: (a) the shortage of inpatient and residential capacity; (b) retaining existing community beds; and (c) meeting forensic evaluation and bed needs.

The Task Force made the following policy recommendations:

- 1) DSHS should not close state hospital beds until additional residential capacity is added in the community;
- 2) DSHS should suspend, rather than terminate Medicaid eligibility for confined persons and expedite Medicaid eligibility determinations for persons being released from jails, prisons, and the hospitals;
- 3) the Legislature should give greater direction in the use of non-Medicaid funds;
- 4) the Legislature should authorize the statewide use of mental health courts;
- 5) DSHS and the Regional Support Networks should develop contingency plans for the potential loss of some or all of the state-only funds in the 2005-07 biennium;
- 6) the Legislature should require the use of evidence-based practice and promote recovery from mental illnesses; and
- 7) the Legislature should extend the Task Force into the 2005-07 biennium.

The CSCR Initiative resulted from work that began in 2003 with a broad task force co-convened by DSHS and the counties with the purpose of making meaningful changes to the way that service systems respond to adults in mental health and chemical dependency crisis. The CSCR Initiative made the following findings:

- 1) there is no single, effective crisis response system;
- 2) every field responding to crisis is experiencing difficulty;
- 3) the Involuntary Treatment Act (ITA) has become an over-burdened default response which affects jails and hospitals;
- 4) people in crisis are not adequately being served; and
- 5) crisis response services are, themselves, in crisis.

Based on these findings, the CSCR Initiative made the following recommendations which were adopted by the DSHS and the counties in the CSCR Initiative:

- 1) revise the ITA to create a combined crisis response for all identified populations that is available 24 hours per day, 7 days per week;
- 2) establish safe, secure detoxification capacity;
- 3) implement intensive case management for persons with chemical dependency;
- 4) create hospital diversion beds for adults with medical and behavioral issues, persons with developmental disabilities, and provide in-home stabilization;
- 5) develop cross-system crisis plans for persons under court ordered treatment and DOC supervision and other persons at risk; and
- 6) provide training and consultations related to managing behavior, assessment, and regulations, including consultation at the state hospitals for long-term care providers.

Summary: The legislation is divided into eight parts that cover six major areas.

Part 1: General provisions and amendments to current mental health statutes. These amendments include merging many existing sections granting rights to involuntarily committed persons into one section which can be provided to the committed person and merging duplicative and scattered confidentiality provisions to clarify the exceptions to the confidentiality of mental health records.

Part 2: Crisis and Commitment. The first two steps of a three step process to create a single, unified involuntary treatment act (ITA) for mental health and chemical dependency are pilot projects and evaluation. The intent section includes the intent for future legislative action to create a unified ITA to provide a single standard and process for mental health and chemical dependency involuntary commitment following the results of the pilot projects.

Step one - Pilot programs. Part 2 includes two pilot programs, each to be implemented in a rural and an urban community. The first pilot program combines the initial detention process of adults with chemical dependency and mental disorders through the use of a designated crisis responder with authority to initiate civil commitment proceedings. It also creates secure detoxification facilities for detention. The second pilot provides for intensive case management of chemically dependent persons who are high utilizers of emergency, crisis, and correctional facilities, to reduce treatment through use of appropriate services. The requirement for services under the pilots expires March 1, 2008.

Step two - Evaluation. The Washington State Institute for Public Policy (WSIPP) is required to evaluate the two pilots above to determine whether the pilots: have increased efficiency; are cost effective; result in better outcomes; increase the effectiveness of the crisis response systems in the two locations; and whether a unified involuntary treatment act would be effective for the systems and the individuals. The WSIPP must report to the Legislature by December 1, 2008.

Parts 3 and 4: Service expansion and addressing treatment gaps. DSHS must expand chemical dependency treatment for Medicaid eligible persons with incomes under 200 percent of poverty to 40 percent of the identified need by 2006, and to 60 percent of the identified need by 2007. The identified need was calculated in 2003 by Washington State University. DSHS must also contract for chemical dependency services at every office of the division of Children and Family Services.

DSHS must develop and expand comprehensive treatment programs for pregnant and parenting mothers, within funds appropriated for this purpose.

A new type of licensure is created for a residential treatment facility called an Enhanced Services Facility

(ESF). The ESF is designed to respond to gaps in residential mental health treatment capacity for persons who qualify for this level of treatment but are ineligible for placement because of their individual history, behavior generated by disease, or treatment needs. DSHS may contract for ESF services only to the extent that funds are specifically provided for that purpose.

Part 5: Interaction with the justice system. The interaction of the treatment systems with the criminal and civil justice system is addressed in five ways:

- 1) Counties that enact the one-tenth of one percent sales tax authorized by the bill must establish family therapeutic courts for families involved in dependency and termination proceedings.
- 2) The authority of counties to establish mental health courts and drug courts is clarified.
- 3) DSHS must enter into interlocal agreements with jails, the department of corrections, and institutions for mental diseases to facilitate eligibility determinations for medical assistance upon release from confinement. DSHS is authorized to use medical records that jails have prepared if those are available.
- 4) DSHS must reduce waiting times for competency evaluation and restoration to the maximum extent possible using funds appropriated for this purpose, and report to the Legislature by January 1, 2006, on alternatives to reduce waiting times and address increases in the forensic population.
- 5) The Joint Legislative Audit and Review Committee must study whether facilities exist that would be appropriate and cost-effective to convert and use as regional jails for confined persons with mental disorders.
- 6) The collaboration provisions of SB 6358, enacted in 2004, are amended to clarify the information sharing and collaborative processes.

Part 6: Best practices and collaboration. Requirements are established in three broad areas and requires some new services for children.

Area one. DSHS must adopt a comprehensive, integrated screening and assessment process for mental illness and chemical dependency by January 1, 2006 with implementation to be completed systemwide not later than January 1, 2007. DSHS must establish penalties for failure to implement this process beginning July 2007.

Area two. DSHS must develop a matrix or set of matrices of services for adults and children based on maximizing:

- 1) evidence based, research based, and consensus based practices;
- 2) principles of recovery, independence, and employment;
- 3) collaboration with consumer based programs; and
- 4) individual participation in treatment decisions to the maximum extent possible, including providing

information and technical assistance for the preparation of mental health advance directives.

DSHS must work with the University of Washington and consult with stakeholders in developing the matrix, which should build on existing work done by the department. DSHS must require use of the matrix or set of matrices by contract and provide penalties for failure to comply.

Area three. DSHS must try to arrange services for children who need mental health treatment but who are not eligible for Medicaid or regional support network (RSN) services.

The WSIPP must conduct a study of the net present cost of treatment versus non-treatment for mentally ill and chemically dependent persons.

Part 7: Technical. This section includes contingent repealers and those sections that correct cross-references to repealed sections.

Part 8: Fiscal and miscellaneous provisions. County legislative authorities are authorized to levy a 1/10 of 1 percent sales tax dedicated to new and expanded therapeutic courts for dependency proceedings, and new and expanded mental health and chemical dependency treatment services.

The mental health ombudsman must be independent of the RSN.

The individual sections of the bill that require pilot projects, new state chemical dependency treatment, chemical dependency services for child welfare offices, studies by JLARC and the WSIPP, and integrated mental health/chemical dependency assessments are null and void if specific funding is not provided for them individually, referencing them by section number, by June 20, 2005.

Votes on Final Passage:

Senate 37 12
House 73 22 (House amended)
Senate (Senate refused to concur)

Conference Committee

House 67 31
Senate 32 16

Effective: July 1, 2005

July 1, 2006(Section 503)
Section 301 of this act is null and void because funding in the budget was at a lower level than required in the bill.

Partial Veto Summary: An intent section and repealer were vetoed. In addition, vetoes removed the requirements for DSHS to develop a matrix of best practices and to assess and arrange for services for children in out-of-home care who are in need of mental health treatment but do not meet the threshold for treatment through the mental health division.

VETO MESSAGE ON SB 5763-S2

May 17, 2005

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning, without my approval as to Sections 402, 603, 604, and 806, Engrossed Substitute Senate Bill No. 5763 entitled:

“AN ACT Relating to the omnibus treatment of mental and substance abuse disorders act of 2005.”

Section 402 describes the Legislature’s intent to authorize the Department of Social and Health Services (DSHS) to license a new type of facility called Enhanced Services Facilities. This section states that some clients have been repeatedly served in inappropriate settings or discharged without an appropriate placement. Although the development of a new facility type may well afford service providers an opportunity to deliver more effective services to persons with mental disorders, it is not reasonable to assume that such services were or are being provided inappropriately.

Although the Legislature appropriated funds in the 2005-2007 operating budget to fund many of the activities included in this bill, no funds were appropriated to implement Sections 603 and 604. Section 603 directs the DSHS to undertake a project, in collaboration with a broad array of stakeholders, to develop a set of matrices of service best practices. Section 604 directs the DSHS to undertake two collaboration projects with different groups of stakeholders to identify ways to provide mental health services to children who are not eligible for the state’s Medicaid funded mental health services. With the passage of both this bill and Engrossed Second Substitute House Bill 1290, the DSHS’ Mental Health Division will have many large projects to implement over the next biennium. I do not believe it is reasonable to include several additional unfunded smaller projects to DSHS’ already large project list.

Section 806 repeals Section 5 in Engrossed Second Substitute House Bill No. 1290. Section 806 is unnecessary as I vetoed Section 5 in Engrossed Second Substitute House Bill No. 1290 today.

For these reasons, I have vetoed Sections 402, 603, 604 and 806 of Engrossed Second Substitute Senate Bill No. 5763.

With the exception of Sections 402, 603, 604 and 806, Engrossed Second Substitute Senate Bill No. 5763 is approved.

Respectfully submitted,

Christine O. Gregoire
Governor

SSB 5765
C 82 L 05

Concerning Dungeness crab Puget Sound fishery licenses.

By Senate Committee on Natural Resources, Ocean & Recreation (originally sponsored by Senators Spanel and Brandland).

Senate Committee on Natural Resources, Ocean & Recreation

House Committee on Natural Resources, Ecology & Parks

Background: The Legislature directs the policy for the regulation of both commercial and recreational fishing and specific authority to set these regulations is given to the Department of Fish and Wildlife. There is a Dungeness crab fishery in Puget Sound. Crab pots are regulated and the season is set by the department. In order to use less fuel and provide for a more efficient fishery, more than one fish license holder could fish from the same vessel. This would not effect either the harvest level or the season dates.

Summary: Two persons holding a Puget Sound crab commercial licence may fish from a single vessel.

Votes on Final Passage:

Senate	47	0
House	94	0

Effective: July 24, 2005

SSB 5767

C 485 L 05

Creating a homeless housing task force in each county.

By Senate Committee on Financial Institutions, Housing & Consumer Protection (originally sponsored by Senators McAuliffe, Haugen, Keiser, Kline, Kohl-Welles, Fairley, Franklin, Shin, Berkey and Hargrove).

Senate Committee on Financial Institutions, Housing & Consumer Protection

Senate Committee on Ways & Means

House Committee on Housing

Background: It is believed that there is a need for solutions to homelessness at a local level. Current law does not require local governments to develop a plan for ending homelessness within their own boundaries. Further, there are concerns that lack of, or insufficient, notice relating to the siting of homeless facilities and temporary encampments places an unfair burden on the homeless persons planning to relocate to that area and the current members of that community.

Summary: Counties that opt to participate in the Homeless Housing Program must create a task force to develop a ten-year plan, addressing short and long term housing solutions for the homeless. Each task force must be comprised, among others, of representatives of the local government, community businesses and residents, social and health care services, law enforcement, schools, civic and faith organizations, and housing authorities, as well as a homeless or former homeless individual.

As needed, each task force must establish guidelines, in addition to the plan to end homelessness, for emergency shelters, temporary encampments, and supportive housing. The guidelines must include provisions for public notice of proposed homeless facilities, as well as health and safety standards for such facilities. Counties that already have an existing group focused on homeless-

ness are not required to create a new task force.

Counties may decline to participate in the program by forwarding a resolution to the Department of Community, Trade and Economic Development (CTED), in which case the department will contract with another non-profit entity to develop the county's plan. Local governments that choose to participate may develop their ten-year plans individually, create a joint plan with other local governments, or contract with another entity to develop the plan.

Each county must submit a report to CTED with information regarding their activities to comply with the Homeless Housing Program.

Votes on Final Passage:

Senate	34	14	
House	58	38	(House amended)
Senate	30	17	(Senate concurred)

Effective: July 24, 2005

SSB 5775

C 83 L 05

Authorizing the creation of a small city or town street and sidewalk improvement program.

By Senate Committee on Transportation (originally sponsored by Senator Mulliken).

Senate Committee on Transportation

House Committee on Transportation

Background: The 1999-2001 biennial transportation budget provided five million dollars to fund a grant program for small city pavement preservation through the Department of Transportation's Local Program. Competitive grants were made available to cities or towns with a population of two thousand five hundred or less who agreed to adopt a pavement management system. Grants made under the program averaged fifty to seventy thousand dollars per project and were exhausted by 2003.

Summary: The Small City Preservation and Sidewalk Account is created in the state treasury. State funds appropriated from the account must be used for small city pavement or sidewalk projects selected by the Transportation Improvement Board. Eligibility for funds is restricted to cities and towns with both a population of less than five thousand and, depending on the project, a pavement management system or proposed sidewalk improvement that meets certain criteria. The account will retain its own interest income.

Votes on Final Passage:

Senate	48	0
House	94	0

Effective: July 1, 2005

July 1, 2006 (Section 5)

2SSB 5782

C 302 L 05

Modifying provisions of the linked deposit program.

By Senate Committee on Ways & Means (originally sponsored by Senators Shin, Prentice, Franklin, Kline, Kohl-Welles and Berkey; by request of Governor Gregoire).

Senate Committee on International Trade & Economic Development

Senate Committee on Ways & Means

House Committee on Financial Institutions & Insurance

House Committee on Finance

Background: Surplus treasury funds. The Treasurer limits the amount of funds that must be kept in demand deposits to the amount necessary for current operating expenses and to efficiently manage the treasury. Surplus funds not in demand deposits generally are held in certificates of deposit.

Linked Deposit Program. The Linked Deposit Program was established in 1993 by the Legislature using surplus funds not required to be in demand deposits. Under that program, the Treasurer deposits surplus state funds in public depositories as a certificate of deposit on the condition that the public depository make qualifying loans under the program. Current law defines "qualifying loans" as those that are made to certain minority or women's business enterprises for a period not to exceed 10 years and at an interest rate that is at least 2 percentage points below the market rate that normally would be charged for a loan of that type. Points or origination fees are limited to 1 percent of the loan principal. In turn, the bank or other public depository pays an interest rate on the certificate of deposit equal to 2 percent below the market rate for such certificates.

Recipients of loans under the linked deposit program must be certified as a minority or women's business enterprise by the Office of Minority and Women's Business Enterprises (OMWBE). The Department of Community, Trade, and Economic Development is responsible for monitoring the performance of the loans.

The Treasurer may use up to \$50 million per year of surplus funds for deposit in the Linked Deposit Program. The program is scheduled to terminate in 2008.

Summary: The amount the Treasurer may deposit in the Linked Deposit Program is increased to \$100 million per year. The definition of "qualifying loan" is amended to limit the amount of a loan to \$1 million or less.

The preference given banks is to be lowered to ensure that the effective interest rate on a CD is not less than two percent, and banks may make an equivalent reduction in the preference given on a loan. The responsibility for monitoring the performance of the loans under the program is transferred to OMWBE.

The provisions for termination of the program are repealed.

Votes on Final Passage:

Senate	39	7	
House	89	7	(House amended)
Senate	37	9	(Senate concurred)

Effective: July 24, 2005

ESSB 5788

C 394 L 05

Improving recycling.

By Senate Committee on Water, Energy & Environment (originally sponsored by Senators Doumit, Kastama, Mulliken, Haugen, Morton, Poulsen, Pridemore and Berkey).

Senate Committee on Water, Energy & Environment
House Committee on Natural Resources, Ecology & Parks

Background: With certain exceptions, solid waste collection and hauling companies, including those that collect and haul recyclable materials, must have an operating permit issued by the Washington Utilities and Transportation Commission (WUTC).

With certain exceptions, facilities handling solid waste must have a solid waste handling permit issued by a local health department in consultation with the Department of Ecology (DOE). Some recycling facilities are exempt from this requirement.

Concern has been raised that persons falsely claiming to be legitimate recyclers have collected and illegally dumped recyclable materials. It is suggested that more stringent regulation is necessary to prevent this practice and to ensure that recyclable materials diverted from the waste stream for recycling are taken to facilities that genuinely recycle them.

Summary: Generally. Transporters of recyclable materials ("recyclables") from commercial or industrial generators over public highways for compensation who are required to have a WUTC operating permit must register with the DOE prior to transporting recyclables. A transporter may not deliver recyclables for disposal to a solid waste transfer station or landfill.

Recycling facilities that do not hold a solid waste handling permit must notify DOE of their intent to conduct recycling and file annual reports with the agency describing their operations. Facilities handling mixed solid wastes from which recyclables have not been separated may not be exempted from solid waste handling permitting requirements.

Exemptions. Exemptions to the transporter registration requirement are specified for:

- carriers of commercial recyclables owned, bought or sold by carriers, in their own vehicles, in activity incidental to their primary business;
- persons hauling their own or purchased recyclables and transported in their own vehicles;
- city solid waste departments and solid waste contractors;
- WUTC-regulated common carriers whose primary business is not transportation of recyclables; and
- nonprofit or charitable organizations.

Facilities with current solid waste handling permits are exempted from the recycling facility notice and reporting requirement.

Penalties. Civil penalties of up to \$1,000 per violation are provided for:

- transporters that do not register or fail to keep required records, or that deliver recyclables for disposal to a solid waste transfer station or landfill; and
- facilities recycling solid waste that have not obtained a solid waste handling permit, or that fail to notify DOE and local health departments of their intent to conduct recycling (product take-back centers are exempted).

Civil Action. Any person damaged by violations may bring a civil action seeking injunctive relief or damages. The prevailing party is entitled to reasonable costs and attorneys' fees.

Financial Assurance. DOE may adopt regulations establishing financial assurance requirements for recycling facilities, except scrap metal recycling facilities, that are not already subject to financial assurance requirements.

Votes on Final Passage:

Senate	43	6	
House	95	1	(House amended)
Senate	40	6	(Senate concurred)

Effective: July 24, 2005

SB 5794

C 11 L 05

Authorizing the governor to enter into a cigarette tax agreement with the Puyallup Tribe of Indians.

By Senators Prentice, Swecker, Regala, Franklin, Kohl-Welles, McAuliffe and Rasmussen; by request of Department of Revenue.

Senate Committee on Ways & Means
House Committee on Finance

Background: The state imposes a tax on the sale, use, consumption, handling, possession, or distribution of cigarettes. Cigarette taxes are added directly to the price of these goods before the sales tax is applied. The rate for the cigarette tax is 142.5 cents per pack of twenty cigarettes which is equal to \$14.25 per carton. Retail

sales and use taxes are also imposed on sales of cigarettes. The state sales tax rate is 6.5 percent of the selling price. Local governments may levy additional sales taxes. The total state and local rate varies from 7 percent to 8.9 percent, depending on the location. State and local sales and use taxes on an average carton of cigarettes are about \$3.00.

Under federal law, the state cigarette and state and local sales and use taxes do not apply to cigarettes sold on an Indian reservation to an enrolled tribal member for personal consumption. However, sales made by tribal cigarette retailers to non-tribal members are subject to the taxes.

In 2001, the Legislature authorized the Governor to enter into contracts regarding the taxation of the sale of cigarettes sold on Indian lands. Under a cigarette tax contract, the sales must be subject to a tribal cigarette tax equal to 100 percent of the state cigarette and state and local sales and use taxes and are exempt from these state and local taxes. The rate may be phased in over three years but can be no lower than 80 percent of the state cigarette and sales tax rate. Revenues from the tribal tax must be used for essential government services. The contracts must be for renewable periods of no more than eight years.

The Governor has the authority to contract with twenty-one tribes and has contracted with eighteen tribes to date.

In June 1996, the State of Washington brought suit against the major tobacco companies, seeking reimbursement for costs incurred in treating tobacco-related illnesses as well as damages for violations of consumer protection and anti-trust laws. On November 23, 1998, the Attorneys General and other representatives of forty-six states announced a national settlement with the five largest tobacco manufacturers. The settlement of Washington's case was approved by the King County Superior Court and the decision became final on December 24, 1998. The national master settlement agreement requires annual payments by the companies to the participating states.

Summary: The Governor is authorized to enter into an agreement with the Puyallup Tribe of Indians regarding the taxation of cigarettes. The agreement must require a tribal tax of \$11.75 per carton, in lieu of state cigarette and state and local sales and use taxes. The purchase price to the consumer must be at least as much as the wholesale cost to the retailer, plus the tribal tax amount. If the state cigarette tax rate changes, the tribal tax must increase or decrease by the same dollar amount. The state must receive 30 percent of the tribal tax revenue on a quarterly basis, to be deposited in the general fund. The remaining tribal revenue must be used for essential government services.

The agreement must require purchases be from state licensed wholesalers and include provisions regarding

enforcement and compliance, purchases by minors, tax administration and compliance, information sharing, cigarette stamping, and dispute resolution. The contracts must be for renewable periods of no more than eight years. The agreement must not impact the state share of the master settlement agreement.

Votes on Final Passage:

Senate 47 2
House 86 0

Effective: April 5, 2005

ESSB 5806
C 473 L 05

Requiring child care agencies to provide additional information to parents.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Kohl-Welles, Hargrove, Rasmussen and Jacobsen).

Senate Committee on Human Services & Corrections
House Committee on Children & Family Services

Background: Under current law, the Department of Social and Health Services (DSHS) administers the licensing of child day-care providers. These can be child care centers, or family day-care providers. DSHS sets minimum standards for licensing and does not currently require providers to show proof of insurance coverage. DSHS can take a variety of actions against a provider in the event that they do not meet the appropriate statutory or regulatory standards set by the department. Sanctions for non-compliance can include denial, suspension or revocation of a license, civil monetary penalties and in some cases criminal penalties. Current law does not require child care providers to make timely disclosure of licensing status or insurance coverage to users of their services.

Summary: DSHS is to make child care licensing status and related information about providers, available to parents by establishing a toll-free number and a web based system. Providers are to post the toll-free number and note the availability of licensing status information. Providers are to post information about their license, the DSHS toll-free number, any pending enforcement actions, and the fact that inspection reports are available from the provider.

Providers and DSHS are to make inspection reports and information about any enforcement actions available. This bill clarifies and adds some penalties. DSHS has the ability to place a provider on non-referral status if the provider fails to comply with the law or agency enforcement action. Enforcement action is defined. Alternatives to enforcement actions are provided; the conditions under which notification to child care resource and referral agencies are to be provided are

described. Written notification, is required in providing notice of nonreferral status to providers. Child day-care centers must show proof of insurance at the time of licensing or renewal. If a provider's coverage lapses or is terminated, parents must be informed in writing. Family day-care providers must either show proof of insurance at the time of licensing or renewal or if they choose not to carry insurance they must inform parents of their insurance status in writing.

Votes on Final Passage:

Senate 43 3
House 96 0 (House amended)
Senate 45 1 (Senate concurred)

Effective: July 24, 2005

SB 5809
C 73 L 05

Revising jurisdiction of youth courts.

By Senators Fairley and Kohl-Welles.

Senate Committee on Human Services & Corrections
House Committee on Juvenile Justice & Family Law

Background: In 2002, the Legislature passed a law that allows youth courts to hear and resolve cases involving juveniles alleged to have committed traffic infractions. The law also created a mechanism for youth courts, under the supervision of the juvenile court, to be used as diversion units. Finally, the 2002 law provided for "student courts" in schools to hear matters arising out of violations of school rules and policies.

The 2002 law amended three different titles of the Revised Code of Washington to establish youth courts, or student courts, in the state. First, because district courts generally have jurisdiction over traffic matters, the title on district courts was amended to create the possibility of setting up youth courts, under the auspices of the district courts, to hear certain traffic violations. Second, because juvenile matters are handled in juvenile court, the title on juvenile courts was amended to allow juvenile courts to refer to youth courts matters that are either required or allowed to be diverted. Finally, the title on schools was amended to allow for student courts to hear matters arising from violations of school rules.

The 2002 law contained a provision that could be interpreted as limiting the jurisdiction of youth courts in the state to hearing matters involving traffic infractions.

Summary: The section of the law that permits youth courts to hear matters involving certain traffic infractions under the supervision of the district courts is amended to include cross-references to the other sections of Washington law that allow youth courts to serve as diversion units in certain juvenile cases and to hear matters arising out of violations of school rules. The provision that states "Youth courts have no jurisdiction except as pro-

vided for in this chapter" is amended to refer to other sections of the Revised Code of Washington that establish a mechanism for youth courts and student courts to hear and resolve certain matters under the supervision of the juvenile courts and the schools.

Votes on Final Passage:

Senate	47	0
House	94	0

Effective: July 24, 2005

SSB 5828

C 356 L 05

Regarding digital or online learning.

By Senate Committee on Early Learning, K-12 & Higher Education (originally sponsored by Senators Eide, McAuliffe and Kohl-Welles).

Senate Committee on Early Learning, K-12 & Higher Education

House Committee on Education

Background: Under current Washington rules, an alternative learning experience (ALE) is an individualized course of study that is primarily distinguished by off-campus instruction, that can be claimed by school districts as a course of study for full basic funding. The intent of this type of program is to give school district flexibility to serve a diverse student population, including students considered to be "at risk," non-traditional or self-directed learners, distant learners, and students who receive some of their instruction at home. Currently, there is no requirement for school districts to separately report to the Office of Superintendent of Public Instruction (OSPI) on the number or type of ALE programs they operate, or the number of students enrolled.

ALE programs are a creation of administrative rule rather than statute. The rules are considered fiscal rules and were promulgated by the OSPI as part of a series of rules on how to apportion state Basic Education funding. Statute requires that any revision to the current definition cannot take effect until approved by the House and the Senate fiscal committees. OSPI sought approval for its proposed rule changes in 2002, but the request was not acted upon.

A particular type of ALE is a program that focuses on online or digital curriculum. Digital or online learning programs can encompass a broad range of educational activities. Digital learning includes instruction and content delivered via various digital technologies, such as online or CD-ROM, or general learning experiences that involve the use of computers. The term online learning is more specific in that it generally refers to instruction and content that is delivered primarily via the internet. Schools that focus on this type of education

may be referred to by such terms as internet, online, virtual, or cyber schools.

Summary: The OSPI will revise the definition of full-time equivalent student to include students taking classes through digital programs and adopt rules for the new definition. Under the rules, full-time and part-time students will be allowed to enroll in digital programs that are delivered and supervised by certificated staff. The students will have learning plans and weekly contact with certificated staff until the students complete requirements of the digital courses they are taking. Course syllabi may be used to meet the learning plan requirement. The weekly contact may be in person or through e-mail and other electronic means. The students will be evaluated monthly and assessed at least annually. Students enrolled in digital programs may not be counted as more than one full-time equivalent student.

School districts offering digital programs will adopt and annually review policies for the programs and accredit any school or program that is primarily digital. They will report annually to SPI on the types of digital programs, the courses offered, and the number of participating students. The districts will complete program self-evaluations, document the district where each student lives, and identify the student to staff ratio in the programs. The districts will also adopt methods to verify that each student is doing his or her own work and notify parents of any difference between the educational program selected by the student and home-schooling.

Votes on Final Passage:

Senate	48	0	
House	97	0	(House amended)
Senate	41	0	(Senate concurred)

Effective: July 24, 2005

SB 5831

C 84 L 05

Concerning well construction.

By Senators Morton and Poulsen.

Senate Committee on Water, Energy & Environment
House Committee on Economic Development, Agriculture & Trade

House Committee on Appropriations

Background: The Department of Ecology (DOE) regulates water well design, construction, and maintenance. Regulation is partly funded by well construction fees. DOE may delegate some regulatory authority to local health districts or counties and transfer well construction fee revenue to those entities to fund delegated authority.

With certain exceptions, only DOE-licensed well operators may design, construct, or maintain a well. If a licensee fails to timely and properly renew their license at the end of the two-year term, the license expires. DOE

may waive testing requirements when a person with an expired license applies for a new license. A 12-member technical advisory group advises DOE on certain aspects of the well regulatory program.

Summary: The DOE water well regulatory program is revised to include regulation of additional types of wells, raise well construction fees, modify DOE delegation of authority to local jurisdictions, and change elements of the well operator licensing program.

Well Regulation. Ground source heat pump borings and grounding wells are added to the list of wells subject to regulation and construction fees. An "abandoned well" subject to regulation includes wells that are usable but constitute risks to public health and welfare because of lack of maintenance. A "well owner" includes persons or business entities that have well rights under easements, covenants, or other instruments.

Well Sealing and Decommissioning. DOE must annually review a memorandum of agreement delegating its well sealing and decommissioning authority to a local health district or county. In consultation with the technical advisory group, DOE must adopt regulations outlining the review and reporting process, make a detailed summary of reviews available to well contractors and operators, and publish the reviews on the DOE website.

A licensee who decommissions a well must furnish a report to DOE within 30 days of doing so.

Fees. Well construction fees are revised July 1, 2005, as follows:

- For a water well with a top casing diameter of less than 12 inches, the fee is raised from \$100 to \$200. Ground source heat pump borings, grounding wells, and dewatering wells are not subject to this fee.
- For a water well with a top casing diameter of 12 inches or greater, the fee is raised from \$200 to \$300. Dewatering wells are not subject to this fee.
- For a ground source heat pump boring or a grounding well, the fee is \$40. If a project includes more than four such wells, the fifth and additional wells are each subject to a \$10 fee.
- For decommissioning of: (1) a water well, the fee is \$50; (2) a resource protection well, including a ground source heat pump boring or grounding well, the fee is \$20. There is no fee for decommissioning environmental investigation wells or geotechnical soil boring wells.

License Suspension and Expiration. A licensee's failure to properly file for license renewal triggers a 30-day suspension period at the end of the license term; during this period, a licensee may not perform work requiring a license. If a licensee does not meet renewal requirements by the end of the suspension period, the license expires.

Continuing education obtained during the suspension period may be applied only to the next license renewal period. In consultation with the technical advisory

group, DOE must adopt regulations allowing for an extension of the suspension period for certain situations beyond a licensee's control, and must also allow for a retirement or inactive license.

Continuing Education. A person seeking a new license or a license renewal must complete continuing education programs (CEP) as required by DOE regulation. DOE cannot approve a CEP unless it is offered by an approved provider, is open to all licensees and those seeking a license, and fees are reasonable.

In consultation with the technical advisory group, DOE will adopt criteria for approving CEP providers, evaluating CEP offerings, assigning credits, and reporting and verifying completion of credits. DOE must support approved CEP providers by providing, upon request and at DOE discretion, technical assistance and presenters. DOE must maintain a current list of approved CEP offerings, ensure that the list is available to all licensees, and post the list on the agency's web site.

Complaints. Only persons materially harmed by or knowing of illegal activities of a well contractor, operator, or trainee may file a complaint with DOE. DOE has discretion to investigate the validity of a complaint, and may issue appropriate orders.

Technical Advisory Group. Members representing the Department of Health and local health departments must be persons who regularly work on drinking water well issues. The member representing engineers must be knowledgeable about well design and construction, and the scientist member must be a licensed hydrogeologist.

Votes on Final Passage:

Senate	37	8
House	57	39

Effective: July 24, 2005

SSB 5832
C 177 L 05

Authorizing the "Washington's National Park Fund" special license plate.

By Senate Committee on Transportation (originally sponsored by Senators Jacobsen, Kohl-Welles and Rasmussen).

Senate Committee on Transportation
House Committee on Transportation

Background: The Special License Plate Review Board was created in the 2003 session and charged with reviewing special license plate applications from groups requesting the creation of a special license plate series. Upon approval, the board forwards the application to the Legislature.

On December 10, 2004, the board formally approved the "Washington's National Park Fund" license plate application.

Summary: The Department of Licensing (DOL) must issue a special license plate for vehicles displaying a symbol or artwork recognizing the efforts of Washington's national parks for future generations in Washington State.

An applicant for a "Washington's National Park Fund" license plate must pay an initial fee of \$40 and a renewal fee each year thereafter of \$30. The initial revenue generated from the plate sales must be deposited into the motor vehicle account until the state has been reimbursed for the implementation costs. Upon reimbursement, the revenue must be deposited into the Washington National Park Fund established under this bill.

The DOL must enter into a contract with a qualified nonprofit organization requiring that the organization use the revenue generated by the license plate sales to build awareness of Washington's national parks and to support priority park programs and projects in Washington's national parks.

Votes on Final Passage:

Senate	48	0
House	85	9

Effective: July 24, 2005

SB 5833
C 85 L 05

Authorizing special license plates to recognize the Gonzaga University alumni association.

By Senator Brown.

Senate Committee on Transportation
House Committee on Transportation

Background: The Special License Plate Review Board was created in the 2003 session and charged with reviewing special license plate applications from groups requesting the creation of a special license plate series. Upon approval, the board forwards the application to the Legislature.

On September 10, 2004, the board formally approved the Corporation of Gonzaga University application to create the Gonzaga University alumni association license plate.

Summary: The Department of Licensing (DOL) must issue a special license plate for vehicles displaying a symbol or artwork approved by the Special License Plate Review Board and the Legislature recognizing the efforts of Gonzaga University alumni association in Washington State.

An applicant for a "Gonzaga University alumni association" license plate must pay an initial fee of \$40 and a renewal fee each year thereafter of \$30. The initial revenue generated from the plate sales must be deposited into the motor vehicle account until the state has been reimbursed for the implementation costs. Upon reimburse-

ment, the revenue must be deposited into the Gonzaga University alumni association account established under this bill.

The DOL must enter into a contract with a qualified nonprofit organization requiring that the organization use the revenue generated by the license plate sales to provide scholarship funds to needy and qualified students attending or planning to attend Gonzaga University.

Votes on Final Passage:

Senate	47	1
House	85	9

Effective: July 24, 2005

SSB 5841
C 462 L 05

Providing for the prevention, diagnosis, and treatment of asthma.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Keiser, Thibaudeau, Kline, Kohl-Welles and Shin).

Senate Committee on Health & Long-Term Care
House Committee on Health Care

Background: Asthma is a chronic respiratory disease characterized by episodes or attacks of inflammation and narrowing of small airways in response to asthma "triggers." Asthma attacks can vary from mild to life-threatening and involve shortness of breath, cough, wheezing, chest pain or tightness, or a combination of these symptoms. A systematic allergic reaction known as anaphylaxis also occurs in some asthma patients. Many factors can trigger an asthma attack, including allergens, infections, exercise, abrupt change in the weather, or exposure to airway irritants. Although asthma cannot be cured, it can be controlled.

According to the Centers for Disease Control, asthma is the most common long-term disease of children. The Washington asthma prevalence rate is one of the highest in the nation, with an estimated 450,000 adults and 150,000 children with the disease.

In October 2004, Congress enacted the "Asthmatic Schoolchildren's Treatment and Health Management Act of 2004." The Act directs the Secretary of Health and Human Services, in making certain Public Health Service Act grants or any other asthma-related grant to a state, to give preference to states that require public elementary and secondary schools to allow students to self-administer medication to treat that student's asthma or anaphylaxis. Washington law does not currently meet the requirements of this federal act.

The State Health Care Authority (HCA) is the state agency which administers state employee insurance benefits and the Basic Health Plan, the state subsidized health insurance program for low income persons. The

HCA is also generally responsible for coordinating efforts among state health care agencies regarding health care cost containment.

Summary: The Superintendent of Public Instruction and the Department of Health are to develop a uniform policy for all school districts regarding the training of school staff about children with asthma. School districts must adopt policies regarding asthma rescue procedures.

All elementary and secondary schools must authorize any student to self-administer medication to treat his or her asthma or anaphylaxis where: (1) a health care practitioner has prescribed the medication and formulated a written treatment plan; (2) the student has demonstrated the skill level necessary to use the medication; and (3) the student's parents have completed any written documentation required by the school. The authorization must be renewed each school year.

On January 1, 2007 and 2009, the Health Care Authority is to issue a status report to the Legislature summarizing any results it attains in exploring and coordinating among state agencies disease and demand management strategies for asthma and other chronic diseases.

The Department of Health is to design a state asthma plan by December 1, 2005, and implement the plan to the extent funds are available.

Votes on Final Passage:

Senate	40	7	
House	94	0	(House amended)
Senate	45	0	(Senate concurred)

Effective: July 24, 2005

SSB 5850

C 499 L 05

Clarifying the definition of "sick leave" for family leave.

By Senate Committee on Labor, Commerce, Research & Development (originally sponsored by Senators Spanel, Keiser, Kohl-Welles and Shin).

Senate Committee on Labor, Commerce, Research & Development

House Committee on Commerce & Labor

Background: If, under the terms of either a collective bargaining agreement or an employer policy, the employee is entitled to sick leave or other paid time off, the employer must allow the employee to use any sick leave or other paid time off, to care for a sick child or a spouse, parent, parent-in-law, or grandparent of the employee who has a serious health or emergency condition.

Summary: If an employee does not have paid time off for illness, the term "sick leave or other paid time off" in the Family Care Act includes time allowed to the employee under a state law collective bargaining agreement, or employer policy for disability under plans,

funds, programs, or practices that are not covered by The Employee Retirement Income Security Act (ERISA) or maintained through purchase of insurance.

The definition of "parent" is amended to include adoptive parents.

Votes on Final Passage:

Senate	48	0	
House	58	38	(House amended)
Senate			(Senate refused to concur)
House	71	27	(House refused to recede)
Senate	38	4	(Senate concurred)

Effective: July 24, 2005

SB 5857

C 86 L 05

Authorizing a business and occupation tax deduction for certain nonprofit community health centers.

By Senators Prentice and Kohl-Welles.

Senate Committee on Ways & Means
House Committee on Finance

Background: Washington's major business tax is the business and occupation (B&O) tax. This tax is imposed on the gross receipts of business activities conducted within the state. Nonprofit organizations pay B&O tax unless specifically exempted by statute. Exemption from federal income tax does not automatically provide exemption from state taxes.

Nonprofit health and social welfare organizations are allowed a deduction under the B&O tax for payments directly from governmental entities for health or social services. Examples include: health care; family and drug counseling; services for the sick, elderly, and disabled; day care; vocational training and employment services; legal services for the indigent; and services for low-income homeowners and renters. This exemption has been construed to apply to Medicaid and Medicare payments. In addition, nonprofit hospitals and public hospitals are allowed a deduction under the B&O tax for amounts received as compensation for health care services covered under medicare, medical assistance, children's health, or the basic health plan. This deduction does not apply to patient copayments or deductibles.

Summary: The tax deduction available to nonprofit hospitals and public hospitals for amounts received as compensation for health care services covered under medicare, medical assistance, children's health, or the basic health plan is extended to nonprofit community health centers and networks of nonprofit community health centers.

"Community health center" is defined as a federally qualified health center as defined in 42 U.S.C. 1396d as existing on the effective date of this act.

Votes on Final Passage:

Senate 46 0
House 94 0

Effective: August 1, 2005

SSB 5862

C 69 L 05

Creating the association of Washington generals.

By Senate Committee on International Trade & Economic Development (originally sponsored by Senators Pflug, Eide, Shin and Rasmussen; by request of Lieutenant Governor and Secretary of State).

Senate Committee on International Trade & Economic Development

House Committee on Economic Development, Agriculture & Trade

Background: The Association of Washington Generals was formed in 1970 by Lt. Governor John Cherberg. It is a service organization which honors worthy citizens who make significant contributions to Washington. The association awards honorees a commission as a Washington General. Commissions are signed by the Governor, the Lieutenant Governor, and the Secretary of State. The association does not have authority to use the state flag or the state seal.

Summary: The Association of Washington Generals is organized as a private, nonprofit, nonpartisan corporation with the purpose of recognizing outstanding service to the state and bringing those individuals so recognized together to serve as ambassadors of trade, tourism, and international goodwill. The Governor, Lieutenant Governor, and the Secretary of State are to serve on the association's board of directors as ex officio non-voting members.

The Lieutenant Governor's office may provide technical and financial assistance for the association. The association may use the image of the Washington State flag and retain any revenue generated by such use.

Votes on Final Passage:

Senate 49 0
House 91 3

Effective: July 24, 2005

SB 5869

C 87 L 05

Concerning planting of certain trout.

By Senators Swecker, Jacobsen, Oke, Spanel, Hargrove, Morton, Doumit, Stevens and Rasmussen.

Senate Committee on Natural Resources, Ocean & Recreation

House Committee on Natural Resources, Ecology & Parks

Background: The 1999 Legislature declared that it would be beneficial to improve opportunities for trout fishing to satisfy public demand for recreational fishing opportunities. Fish farmers can produce triploid trout that will not interbreed with wild trout. The triploid trout can be planted into public lakes and ponds to increase recreational fishing opportunities, thus boosting tourism and the economy.

The Department of Fish and Wildlife (Department) has the authority to purchase privately produced fish to supplement existing trout hatchery production. The planting of the fish purchased must not have an adverse impact on the wild trout population. The Fish and Wildlife Commission (Commission) was given the authority to determine which water bodies were appropriate for this use during 1999 and 2000. In making this determination, the Commission was to seek to provide opportunities to fishers statewide. The Commission was also to determine the maximum number of fish that may be planted in state waters to avoid competition between triploid trout and wild populations.

The Department was only authorized to purchase privately produced fish where the cost of the program would be recovered by estimated increases in revenues for license sales and from federal funds directly attributable to the planting of these privately produced fish.

Summary: The Commission's authority to determine which waters are appropriate for the planting of triploid trout is no longer limited to the years 1999 and 2000. Additionally, the provision allowing the Department to purchase privately produced fish only where the cost of the program would be recovered by estimated increases in revenues for license sales and from federal funds is repealed.

Votes on Final Passage:

Senate 48 0
House 95 1

Effective: July 24, 2005

ESSB 5872

C 474 L 05

Creating a task force on the administrative organization, structure, and delivery of services to children and families.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Stevens, Carrell, Mulliken, Deccio, Finkbeiner, Delvin, Benson, Johnson, Oke, Hewitt and Schmidt).

Senate Committee on Human Services & Corrections
House Committee on Children & Family Services
House Committee on Appropriations

Background: The Children's Administration (CA) and the Juvenile Rehabilitation Administration (JRA) are currently two separate administrations within a larger agency, the Department of Social and Health Services (DSHS). CA and JRA are each lead by an assistant secretary who reports to the Secretary of DSHS. CA provides and oversees services to families with children regarding their safety and placement. JRA operates the state's juvenile rehabilitation facilities and related functions.

DSHS provides services to other needy populations through the Aging and Disability Services Administration (providing residential, home, and community services for these populations), the Economic Services Administration (providing financial assistance through public assistance and employment programs, child support, and child care), the Health and Rehabilitative Services Administration (providing mental health, alcohol and substance abuse, deaf and hard of hearing, vocational rehabilitation, and civil commitment services) and the Medical Assistance Administration (providing Medicaid, Medicare, and related services).

DSHS was created in 1970 to combine the powers, duties, and functions vested in the existing departments of public assistance, institutions, veterans rehabilitation council, and vocational rehabilitation. Legislative intent at the time, expressed a desire for the department to concern itself with changing social needs. Over the years since its formation, the types of services DSHS has provided to the ever growing and diverse population of Washington have expanded. The Legislature has seen fit at different times to create separate and distinct agencies which were once part of the larger DSHS. Some examples are the creation of the Department of Corrections in 1981 and the Department of Health in 1989.

Summary: A task force is created to determine the most appropriate and effective administrative structure for delivery of social and health services to children and families. This task force will compare the effectiveness of service delivery as part of an umbrella agency as well as service delivery as a separate entity. The task force will examine administrative structures used to deliver the

same services in other states. Findings and recommendations on which administrative and service delivery structures can best accomplish positive outcomes for families and children will be published in a final report and will include costs and benefits of the various administrative and service delivery structures. Some members of the task force will be appointed jointly by the chairs of the House Children and Family Services Committee and the Senate Human Services and Corrections Committee. The task force will include representatives from the Legislature, the University of Washington, DSHS, judiciary, service providers, and the Office of Family and Children's Ombudsman. The task force must report findings and recommendations to the Governor and appropriate committees of the Legislature by December 1, 2005.

Votes on Final Passage:

Senate	43	0	
House	96	0	(House amended)
Senate	45	0	(Senate concurred)

Effective: July 24, 2005

SB 5898

C 347 L 05

Ordering a public information campaign on postpartum depression.

By Senators Regala, Brandland, Pridemore, Hargrove, Thibaudeau, Oke, Kohl-Welles and Rasmussen.

Senate Committee on Health & Long-Term Care
House Committee on Health Care
House Committee on Appropriations

Background: Postpartum depression is a serious condition that affects women of all ages, economic status, and racial and ethnic backgrounds. It includes a range of physical and emotional changes that many mothers can have after the birth of a child, which can be treated with medication and counseling. If untreated, however, postpartum depression can lead to, among other things, further depression, self-destructive behavior, neglect of the infant or other siblings, or even suicide.

The American College of Obstetricians and Gynecologists estimates that about ten percent of new mothers experience postpartum depression.

Summary: The Council for the Prevention of Child Abuse and Neglect must conduct a public information and outreach campaign about the significance, signs, and treatment of postpartum depression. The campaign may, within available funds, include production and distribution of a brochure and communication by electronic media, telephone hotlines, and existing parenting education events that are funded by the Council.

Votes on Final Passage:

Senate	46	0	
House	95	1	(House amended)
Senate	43	0	(Senate concurred)

Effective: July 24, 2005**SSB 5899**

C 421 L 05

Changing provisions relating to background checks.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Kohl-Welles, Brandland and Rasmussen).

Senate Committee on Human Services & Corrections
House Committee on Criminal Justice & Corrections

Background: The Joint Task Force on Criminal Background Check Processes (Task Force) was created by the passage of Engrossed Substitute House Bill 2556 during the 2004 legislative session. The legislation required the Task Force to review and make recommendations regarding how to improve the state's criminal background check processes. The legislation also required the Task Force to report its findings and recommendations to the Legislature.

The Task Force held six public meetings in 2004, and made five recommendations. One of the Task Force's recommendations was to simplify statutes concerning the dissemination of background checks and to repeal portions of RCW 43.43, accordingly. The Task Force found that repealing certain portions of RCW 43.43 would simplify the Washington State Patrol's (WSP) administration of background check requests for non-criminal justice purposes. In addition, the Task Force determined that organizations requesting background checks would receive more complete information about applicants for employment or for volunteer service.

Under RCW 10.97, conviction records may be disseminated without restriction. Criminal history record information that pertains to a matter that is pending in the criminal justice system may also be disseminated without restriction under this law.

Under RCW 43.43, the WSP is authorized to disclose criminal history information of applicants and employees to businesses or organizations in Washington that provide services to persons with a developmental disability, vulnerable adults, persons with a mental illness, or children under 16 years of age. The WSP may also release criminal background information to persons with a developmental disability and vulnerable adults who desire to hire their own employees directly. However, under this statute, the information provided is limited to an applicant's record for convictions of offenses against children or other persons, convictions for crimes

relating to financial exploitation if the victim is a vulnerable adult, adjudications of child abuse in a civil action, and any issuance of a vulnerable adult protection order. If the portions of RCW 43.43 were repealed so the references to specific crimes were eliminated, an organization would still be able to request background check information under RCW 10.97 and would receive information on a particular person's convictions and any charges pending for the last year.

Another problem that was brought to the Task Force's attention is that the WSP often does not receive the administrative decisions and civil findings required by statute. In addition, the Task Force learned that, in order to be compatible with the WSP databases that are used as a basis for performing background checks, records concerning civil verdicts and adverse results of administrative proceedings must include fingerprints. In practice, most civil and administrative decisions reported to the WSP do not include fingerprints and, therefore, cannot be indexed in the WSP's records that serve as a basis for performing background checks.

Summary: If a background check is requested for non-criminal justice purposes, the WSP is required to disseminate all conviction data. The bill eliminates the requirement that, before forwarding the information to the requester in certain cases, the WSP redact all information that is not related to convictions relating to crimes against children, crimes relating to drugs, and crimes relating to financial exploitation.

Criminal history information that is disseminated by the Washington State Patrol may contain information on pending charges relating to crimes against a person, as defined in RCW 9.94A.411.

When the WSP disseminates conviction record information in response to a request under RCW 43.43.832, it must notify the recipient that the information does not include information on civil adjudications, administrative findings, or disciplinary board final decisions and that all such information must be obtained from the courts and licensing agencies. In addition, the notice must state that the conviction record that is being disseminated includes information on pending charges relating to only crimes against a person as defined in RCW 9.94A.411. Finally, the notice must state that an arrest is not a conviction or a finding of guilt.

The requirement that disciplinary board final decisions and information regarding dependency matters and domestic relations cases be sent to the WSP is eliminated.

Rather than asking applicants if they have been convicted of certain crimes, businesses requesting background checks must require disclosure of whether the applicant has been convicted of any crime or if there have been findings against them in civil adjudications involving domestic violence, abuse, sexual abuse, neglect, exploitation, or financial exploitation of a child

or a vulnerable adult.

Prosecuting attorneys must inform the WSP about guilty pleas and convictions of certain crimes. The WSP must then inform the Office of Superintendent of Public Instruction, which will then determine if such persons hold a teaching certificate or similar permit.

The Secretary of the Department of Social and Health Services is authorized to establish rules and set standards when considering conviction records and information on certain civil adjudications.

Votes on Final Passage:

Senate	46	0	
House	90	6	(House amended)
Senate	45	0	(Senate concurred)

Effective: July 24, 2005

SSB 5902

C 357 L 05

Establishing a small business innovation research program proposal review process.

By Senate Committee on International Trade & Economic Development (originally sponsored by Senators Eide, Shin, Zarelli, Doumit, Rasmussen and Pflug).

Senate Committee on International Trade & Economic Development

House Committee on Economic Development, Agriculture & Trade

House Committee on Appropriations

Background: The federal Small Business Innovation Research (SBIR) program awards grants to small technology-based businesses to explore the technical merits and commercial potential of new ideas and technologies. The program is important to financing the development of technology by small firms because it acts as a large early-stage capital pool. The awards are provided in three phases. A small firm can leverage an SBIR award into a commercial business success.

Federal funds have been available to train small businesses on how to participate in the SBIR program. Nearly half of the small businesses that received such training won SBIR awards, whereas less than 10 percent of companies that did not get the training got SBIR funding. The Washington Technology Center has been a recipient of the training funds and has been providing the SBIR application training, but Congress eliminated the funding for the training program in its budget for this fiscal year.

Summary: The Washington Technology Center is to train and assist small businesses to win phase I SBIR awards. The center is to give priority to first-time applicants, new businesses, and firms with fewer than ten employees. The center may charge a fee for the services provided to applicants. Forty-five thousand dollars is

appropriated for the biennium from the general fund to carry out the training and assistance.

Votes on Final Passage:

Senate	48	0	
House	94	0	(House amended)
Senate			(Senate refused to concur)
House	97	0	(House receded)

Effective: July 24, 2005

SSB 5914

C 271 L 05

Concerning the conditioning of grants and loans by the salmon recovery funding board.

By Senate Committee on Natural Resources, Ocean & Recreation (originally sponsored by Senators Parlette and Jacobsen).

Senate Committee on Natural Resources, Ocean & Recreation

House Committee on Natural Resources, Ecology & Parks

Background: The Salmon Recovery Board has a very narrow range of authority to condition grants to allow the entity receiving the grant to change the terms. When grants are transferred to a different governmental entity adjustments may need to be made to accommodate the different legal requirements while keeping the basic conditions of the grant.

Summary: The provisions of the grant conditions may be changed if the spirit of the grant is maintained. A memorandum of understanding may be used to facilitate the transference of a grant as long as the habitat benefits are kept. Changes in the grant conditions require consent of the city or county where the project is located.

Votes on Final Passage:

Senate	46	0	
House	95	1	(House amended)
Senate	40	0	(Senate concurred)

Effective: July 24, 2005

2SSB 5916

C 296 L 05

Exempting clean alternative fuel vehicles from sales and use tax.

By Senate Committee on Ways & Means (originally sponsored by Senators Schmidt, Esser, Finkbeiner and Benson).

Senate Committee on Water, Energy & Environment

Senate Committee on Ways & Means

House Committee on Finance

Background: Any number of alternative energy sources are used to power motor vehicles, including hydrogen, electricity, natural gas, and propane. These fuels are sometimes called "clean fuels" because they emit less hydrocarbons, and the hydrocarbons they do emit are less toxic and less likely to form ozone.

The 2005 Legislature adopted the California motor vehicle emission standards, excluding zero emission vehicle program regulations, in effect on January 1, 2005. Under ESHB 1397 (2005), the California vehicle emission standards will only be effective for those model years for which Oregon has adopted the California standards.

Sales tax is imposed on retail sales of most items of tangible personal property and some services. The use tax is imposed on the same privilege of using tangible personal property or services in instances where the sales tax does not apply. Sales and use taxes are levied by the state, counties, and cities, and total rates vary from 7 to 8.9 percent. An additional 0.3 percent applies to the sale or lease of motor vehicles.

The state also imposes a tax on the use of an item in this state when the acquisition of the item has not been subject to the sales tax. The use tax rate is equal to the retail sales tax rate multiplied by the market value of the item used.

Summary: Tax exemptions are created for new motor vehicles that use clean alternative fuels. The following activities are exempt from the sales and use tax:

- Selling or using new cars and trucks. The sale or use of new passenger cars, light duty trucks, and medium duty passenger vehicles, which are exclusively powered by a clean alternative fuel.
- Selling or using new hybrid cars and trucks. The sale or use of new passenger cars, light duty trucks, and medium duty passenger vehicles, which utilize hybrid technology and have a United States Environmental Protection Agency estimated highway gasoline mileage rating of at least forty miles per gallon.

"Clean alternative fuel" means natural gas, propane, hydrogen, or electricity, when used as fuel in a motor vehicle that meets the California motor vehicle emission standards in Title 13 of the California code of regulations, effective January 1, 2005, and the rules of the Washington State Department of Ecology. "Hybrid technology" means propulsion units powered by both electricity and gasoline.

The bill takes effect on January 1, 2009, and expires on January 1, 2011.

Votes on Final Passage:

Senate	44	2	
House	71	24	(House amended)
Senate	44	1	(Senate concurred)

Effective: January 1, 2009

ESSB 5922
PARTIAL VETO
C 512 L 05

Changing procedures for investigations of child abuse or neglect.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Stevens, Hargrove, Roach, Schmidt, Zarelli, Carrell and Finkbeiner).

Senate Committee on Human Services & Corrections
House Committee on Children & Family Services
House Committee on Appropriations

Background: Current law requires certain persons to report suspected child abuse and neglect to law enforcement officials or to the Department of Social and Health Services (DSHS).

The law also provides that all citizens, including parents, must be afforded due process when agencies are investigating allegations of child abuse and neglect. The Legislature has found that the protection of children remains the priority of the Legislature and that this protection includes protecting the family unit from unnecessary disruption. For this reason, at the earliest possible point in the investigation that will not jeopardize the safety and protection of the child or the investigation process, the alleged perpetrator of child abuse and neglect must be notified of the allegations of abuse or neglect against him or her.

Current law allows the DSHS or law enforcement to take a child into custody without a court order, based upon probable cause to believe that the child has been abused or neglected and would either be injured or could not be taken into custody if it was necessary to get a court order.

When the DSHS completes an investigation of a child abuse or neglect report, it must notify the alleged perpetrator of the report and the department's investigative findings. In cases involving founded allegations of child abuse or neglect, the notice must include additional information, such as how to appeal the DSHS's findings.

Summary: If a parent is the subject of an abuse and neglect investigation, then the personnel of the DSHS or law enforcement must notify him or her, at the initial point of contact, of complaints and allegations against him or her, unless such notice will jeopardize the safety or protection of the child or the course of the investigation.

The DSHS must train all of its personnel who investigate allegations of abuse and neglect on the legal duties of the DSHS in conducting such investigations.

An intent section is added, stating the Legislature's intent that the DSHS and the justice system intervene in cases of chronic neglect, where the well-being of a child is at risk.

"Abuse or neglect" and "negligent treatment or mal-

treatment" in the context of child abuse and neglect are redefined. The definition of "negligent treatment or maltreatment," in particular, contemplates inclusion of a parent's substance abuse as an important factor in determining whether negligent treatment or maltreatment exists. Poverty, homelessness, or witnessing domestic violence against another person do not constitute negligent treatment, in and of themselves.

If the DSHS has determined that a child has been subject to or is at risk of negligent treatment or maltreatment, then the DSHS may offer services to the parent of that child. In cases in which the DSHS has offered such services, and the parent refuses to accept or fails to obtain or to complete such treatment or services, the DSHS may initiate a dependency proceeding on the basis that the negligent treatment or maltreatment by the parent. Again, evidence of a parent's substance abuse is to be considered in determining whether initiating a dependency proceeding is appropriate. There is no entitlement to services or financial assistance in paying for services or to create judicial authority to order provision of services if the services are unavailable or unsuitable or if the child or family is not eligible for such services.

In dependency cases, a court's order to return a child home or to allow a child to remain at home is made contingent upon the compliance of the parents with court orders related to the care and supervision of the child, including compliance by the parents with the DSHS's case plan and the continued participation of the parents in remedial services, if applicable. Grounds for removal of the child may include a parent's noncompliance with the court order or agency case plan; the parent's inability, unwillingness, or failure to participate in available services or treatment for themselves or the child; or failure to successfully and substantially complete available services or treatment for themselves or the child.

The chapter on child welfare services is amended to contemplate investigations by child welfare workers of reports of child abuse and neglect, as newly defined in the chapter on child abuse.

A provision is added, stating that the Legislature recognizes that the fiscal and workload impact of this act may not be fully determined until after it is implemented and that such impact may further be affected by the funding or availability of community-based prevention and remedial services. For that reason, the DSHS must report on the implementation of this act to the appropriate legislative committees and the Governor by January 1, 2007. That report must contain certain components set out in the bill.

Votes on Final Passage:

Senate	42	6	
House	96	0	(House amended)
Senate			(Senate refused to concur)
House	96	1	(House amended)
Senate	46	0	(Senate concurred)

Effective: January 1, 2007

Partial Veto Summary: The DSHS investigators need not consider evidence of parental substance abuse as presenting an imminent risk of serious harm to a child. The requirement that the DSHS report to the Legislature by December 1, 2006 on the fiscal and workload impacts of the act is eliminated.

VETO MESSAGE ON SB 5922-S

May 17, 2005

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning, without my approval as to Sections 7 and 8, Engrossed Substitute Senate Bill No. 5922 entitled:

“AN ACT Relating to investigations of child abuse or neglect.”

The 2005-2007 state operating budget as passed by the Legislature does not include all of the funding that the Department of Social and Health Services' (DSHS) Children's Administration has initially estimated would be needed for full implementation of this bill. I am directing the Children's Administration to develop a policy for staff to provide guidance in identifying and prioritizing those cases involving allegations of chronic neglect that staff will be authorized to provide enhanced services to within the limits of new funding specifically appropriated for this purpose in the budget.

Section 7 specifies that, as regards to reports of child abuse or neglect, evidence of a parent's substance abuse as a contributing factor shall be considered to present an imminent risk of serious harm to the child. The DSHS' child protective services investigators are required to respond to all reports indicating an imminent risk of serious harm to a child within twenty-four hours. Elevating all reports in which substance abuse is alleged to imminent risk is unnecessary. Parental substance abuse is already one of the factors considered when determining the risk level of the referral. Automatically coding all cases with substance abuse as imminent risk cases will lead to focusing emergent investigative resources on non-emergent cases.

Section 8 requires the DSHS to complete a report regarding issues associated with implementation of this bill by December 1, 2006. The bill does not take effect, however, until January 1, 2007.

For these reasons, I have vetoed Sections 7 and 8 of Engrossed Substitute Senate Bill No. 5922.

With the exception of Sections 7 and 8, Engrossed Substitute Senate Bill No. 5922 is approved.

Respectfully submitted,

Christine O. Gregoire
Governor

SB 5926
C 272 L 05

Modifying provisions in the advanced college tuition payment program.

By Senators McAuliffe, Schmidt, Pridemore, Kohl-Welles, Rockefeller, Shin and Schoesler; by request of Committee on Advanced College Tuition Payment.

Senate Committee on Early Learning, K-12 & Higher Education

House Committee on Higher Education

Background: The Guaranteed Education Tuition (GET) Program was created in 1998 as Washington's prepaid college tuition program. The GET Program allows families to purchase tuition units at current prices for use at a later date. These funds are invested by the State Investment Board and the purchaser is guaranteed that one year's worth of units purchased now will be worth one year's worth of public university tuition in the future.

Customers can purchase up to 500 units and then redeem them at any accredited public or private college or university in the country. The Committee on Advanced College Tuition Payment (or GET Committee) oversees the program, including regularly setting and revising the purchase price for a tuition unit to ensure an actuarially sound program.

Anyone can purchase a GET unit, but the designated beneficiary must be a resident of Washington at the time the unit is purchased. Assets in an individual's or family's GET account are not protected from creditors in a bankruptcy proceeding.

Under the statute, the purchase price of a unit is to be based on a weighted average of tuition and fees, adjusted to ensure actuarial soundness. From the beginning of the program, the purchase price and the annual payout amount have been adjusted to equal the highest tuition and fees for a resident undergraduate student at a Washington public university. However, there are certain circumstances where refunds are required to be based on the weighted average tuition, which is a lesser amount.

Payouts for an academic year are required to be based on the state's fiscal year which runs from July 1 to June 30. A typical academic year runs from August 1 to July 31.

The tuition and fees that form the basis of a tuition unit under the GET program include service and activity fees. The Legislature has retained authority to set resident undergraduate tuition rates, which protects the state from unanticipated obligations under the GET program. Regular service and activity fees are not set by the Legislature, but under current law these fees may not increase faster than the rate of increase in tuition. However, any portion of service and activity fees that is to pay for bonded debt on capital facilities projects is exempt from legislative control on its amount or rate of increase. When student centers or recreational facilities are built

using service and activity fees, the impact can be between \$100 and \$400 per student in additional annual fees.

Summary: The requirement that the named beneficiary under the GET Program be a resident of Washington is removed. The intent of the GET Program is to help citizens in Washington, but the program's governing committee may determine residency requirements for eligible purchasers and beneficiaries to maintain the actuarial soundness of the program.

Tuition units purchased more than two years before the filing of bankruptcy proceedings or a bankruptcy judgment are excluded from consideration as personal assets.

The concept of weighted average tuition is removed from the GET Program statutes. Refunds payable if the program is terminated or if a beneficiary chooses not to attend college are based on the current value of tuition and fees, as determined by the program's governing committee.

An academic year for purposes of the GET Program is redefined as August 1 through July 31, rather than July 1 through June 30.

Under the GET Program, "tuition and fees" does not include service and activity fees charged now or in the future for the payment of bonds or other indebtedness for acquiring, constructing, or installing any lands, buildings, or facilities.

Votes on Final Passage:

Senate	46	0
House	96	0

Effective: July 24, 2005

SSB 5939
C 366 L 05

Requiring police reports to be given to victims of identity theft.

By Senate Committee on Financial Institutions, Housing & Consumer Protection (originally sponsored by Senators Fairley, Delvin, Kohl-Welles, Rockefeller, Oke, Rasmussen and Shin).

Senate Committee on Financial Institutions, Housing & Consumer Protection

House Committee on Financial Institutions & Insurance

Background: Identity theft is one of the fastest growing crimes in Washington State. Consumers who have been victimized find that they may need to obtain a police report, in order to put a "fraud alert" on their credit history, and to facilitate the process of clearing the fraud from their financial records. Some victims report reluctance on the part of some police departments to provide a police report for identity theft crimes.

Summary: Washington State's Identity Theft statute is revised to require that all police and sheriff's departments in Washington provide police reports, at the request of victims of identity theft. However, this does not require that a law enforcement agency investigate incident reports claiming identity theft.

Votes on Final Passage:

Senate 45 0
House 94 0 (House amended)
Senate 41 0 (Senate concurred)

Effective: July 24, 2005

SB 5948
C 367 L 05

Modifying unclaimed property provisions.

By Senators Pridemore and Zarelli; by request of Department of Revenue.

Senate Committee on Ways & Means
House Committee on Finance

Background: Under the state Unclaimed Property program, a business that holds unclaimed intangible property must transfer it to the Department of Revenue (DOR) after a holding period set by statute. The holding period varies by type of property, but for most unclaimed property the holding period is three years. After the holding period has passed, the business in possession of the property transfers the property to the DOR.

Under the program, the DOR's duty is to find the rightful owner of the property, if possible. One of the DOR's requirements is to place a notice by November 1 of each year in a newspaper of general circulation in each county which contains the last known address of an apparent owner of unclaimed property that is reported and turned over to the state in that year. If the DOR does not have any such address, then the notice must be published in the county in which the holder of the property has its principal place of business. The notice must contain the names and addresses of the persons whose last known address was within the county. The notice must also provide explanation of how persons possessing an interest in the property may contact the DOR for further information. The DOR is not required to publish notices when the property value is less than \$75.

The DOR is required to mail notices by September 1 of each year to apparent owners of unclaimed property that has been reported and turned over to the state in that year. The notice must contain the name and last known address of the person holding the property.

In general, abandoned property turned over to the DOR is deposited directly, or else liquidated and then deposited, to the state general fund. Stocks and other securities presumed abandoned and turned over to the state are required to be sold no more than three years

after the state has received the property. However, the DOR is prohibited from liquidating mutual funds and other plans that provide for the automatic reinvestment of dividends or other sums payable as the result of the investment.

After attempting to find the owner, the DOR is authorized to destroy any abandoned property that is deemed to have no or little commercial value. However, documents to be destroyed must be copied on film and held for ten years.

In the 2004 session, the Legislature enacted modifications to statutory requirements concerning county treasurers. One of the modifications provides that, after three years, any claim to excess proceeds from foreclosures pursuant to property tax delinquency enforcement is extinguished.

In 1992, the Legislature enacted a law that authorized the state to receive unclaimed intangible property held by out-of-state brokers when the issuer of the intangible property is located in Washington. However, a court ruled that the right to unclaimed intangible property is that of the state of the broker's incorporation and not that of the state of the principle place of business. The ruling made the Washington law moot.

Summary: The requirement that the DOR publish the names and addresses of apparent owners of unclaimed property in newspapers is replaced with a requirement to publish a summary explanation of how owners may obtain information about unclaimed property reported to the DOR.

The DOR is relieved of the requirement to publish in a newspaper of general circulation in each county for which the DOR has addresses of apparent owners or holders of unclaimed property, and must instead utilize the newspaper most likely to give notice to the apparent owner. The requirement that the DOR include the address of the property holder in its mailed notice to apparent owners is deleted and replaced with a requirement to include a description of the type of property.

Excess proceeds held by local governments from foreclosures pursuant to property tax delinquencies are exempt from the provisions of the Unclaimed Property program.

The prohibition against selling mutual funds and other reinvestment plans is removed. The requirement to copy on film any documents to be destroyed is also deleted.

The provision authorizing the state to receive unclaimed property held by out-of-state brokers but issued from within the state is repealed.

Votes on Final Passage:

Senate 44 0
House 66 31

Effective: July 24, 2005

SSB 5951

C 349 L 05

Affording certain information held by the horse racing commission the same protection from public inspection as other regulated entities.

By Senate Committee on Labor, Commerce, Research & Development (originally sponsored by Senators Rasmussen, Hewitt and Kohl-Welles).

Senate Committee on Labor, Commerce, Research & Development

House Committee on State Government Operations & Accountability

Background: Advanced deposit wagering allows participants to pay for parimutuel wagers by telephone or other electronic means. Under an advanced deposit wagering system an entity contracts with the racing association to provide communication services, and operates as a third party intermediary between the person placing the parimutuel wager and the organization conducting the horse racing meet.

Chapter 274, Laws of 2004 (ESSB 6481) authorized the Horse Racing Commission to adopt rules relating to advance deposit wagering, including the licensing of one or more third party intermediaries. The licensing process requires applicants to be licensed in this capacity to provide certain information, which can include information relating to terms and conditions negotiated between the applicant and organization conducting horse racing meets.

The Public Disclosure Act, Chapter 42.17 RCW, requires that most information held by a public agency be open to public inspection. There are 58 narrowly construed types of records that are exempt from this requirement.

Summary: Financial information relating to an application to be licensed by the Horse Racing Commission as a third-party advanced deposit wager service provider is exempt from public inspection, in the same manner as is information submitted with an application for a liquor license, gambling license, or lottery retail license.

Votes on Final Passage:

Senate	46	0	
House	90	1	(House amended)
Senate	40	1	(Senate concurred)

Effective: May 9, 2005

ESSB 5952

C 350 L 05

Exempting transport of persons at horse races from licensing.

By Senate Committee on Labor, Commerce, Research & Development (originally sponsored by Senators Jacobsen, Hewitt, Rasmussen and Kohl-Welles).

Senate Committee on Labor, Commerce, Research & Development

House Committee on Transportation

Background: It is unlawful for any person to operate any vehicle along public roads unless the vehicle is properly licensed. Exceptions to this law include the following vehicles: motorized foot scooters, electric-assisted bicycles, certain farm vehicles, spray or fertilizer rigs, fork lifts, and "special highway construction equipment."

When the Emerald Downs racetrack was built, there was a private access road on the property that has since become a public right-of-way, under agreement with the City of Auburn. At Emerald Downs, trams transport visitors from the parking lot to the race track using the public right-of-way.

Summary: Trams used for transporting persons to and from horse racing industry facilities related to the horse racing industry are not required to be licensed so long as the public right-of-way over which the tram operates is not more than one mile long, and has an average daily traffic of not more than 15,000 vehicles, and the activity conforms with federal law. The operator of the tram must be a licensed driver and at least 18 years old.

Votes on Final Passage:

Senate	48	0	
House	94	0	(House amended)
Senate			(Senate refused to concur)
House	98	0	(House amended)
Senate	44	0	(Senate concurred)

Effective: May 9, 2005

SSB 5953

C 351 L 05

Authorizing class 1 racing associations to conduct handicapping contests.

By Senate Committee on Labor, Commerce, Research & Development (originally sponsored by Senators Jacobsen, Deccio, Keiser, Rasmussen and Kohl-Welles).

Senate Committee on Labor, Commerce, Research & Development

House Committee on Commerce & Labor

Background: All forms of gambling, except those specifically authorized by, or excluded from the Gambling Act, are illegal. Parimutuel betting on horse racing, as

authorized under chapter 67.16, and regulated by the Horse Racing Commission, is excluded from the Gambling Act.

In a "handicapping contest," participants pay a fee, and predict one or more pre-established combinations of outcomes of more than one horse race. The participant whose predictions are determined to be closest to the actual results wins the aggregated total of fees paid, less the cost of administering the contest.

Fees paid to enter a handicapping contest are kept separate from and do not affect the parimutuel wagering pool.

Emerald Downs is currently the only class 1 racing association in Washington.

Summary: The Horse Racing Commission is authorized to establish rules for the conduct of handicapping contests by class 1 racing associations. Handicapping contests conducted in accord with the rules established by the Horse Racing Commission are not subject to regulation under the Gambling Act.

Votes on Final Passage:

Senate 35 11
House 91 5

Effective: July 24, 2005

SB 5957
C 7 L 05

Changing the terms for the escrow accounts required of self-funded multiple employer welfare arrangements.

By Senators Fairley, Benton and Brown.

Senate Committee on Financial Institutions, Housing & Consumer Protection

Background: A "Multiple Employer Welfare Arrangement" (MEWA) is a group insurance purchasing arrangement defined by the federal Employee Retirement Income Security Act of 1974 (ERISA). MEWAs generally allow employers to offer employee benefits at lower cost. Although ERISA usually preempts state attempts to regulate these types of benefits, in the case of MEWAs, states can set standards.

In 2004, Washington State joined approximately 40 other states, by enacting a MEWA law. The law created a regulatory scheme, giving the Office of the Insurance Commissioner (OIC) oversight of MEWAs. Currently, one MEWA has been certified in Washington State, one more has submitted an application, and two are in the process of preparation.

An issue, which was foreseen in last year's law, is that the U.S. Department of Labor or a federal court must decide the legality of imposing state premium taxes on MEWAs. The MEWA Act required MEWAs to pay into an escrow account, in anticipation of the outcome of the tax ruling. If the taxes are determined to be owed, the

state will get the escrow funds, if not, they will be returned to the MEWA. Currently, the one existing MEWA must begin paying into the escrow account on March 1, 2005.

Summary: Beginning either upon the certification of the fourth MEWA by the OIC, or April 1, 2006, whichever is earlier, MEWAs must deposit state premium taxes and assessments into an interest bearing escrow account. Upon final determination that the taxes are not preempted by ERISA, the funds would be transferred to the State Treasurer.

Votes on Final Passage:

Senate 47 1
House 97 0

Effective: March 15, 2005

ESB 5962
C 511 L 05

Concerning customary agricultural practices.

By Senators Haugen, Schoesler, Rasmussen, Morton, Shin and Delvin.

Senate Committee on Agriculture & Rural Economic Development

House Committee on Economic Development, Agriculture & Trade

Background: In a nuisance lawsuit, a plaintiff may sue a property owner based on the claim that the defendant makes unreasonable use of their property to the detriment of the plaintiff's property. These lawsuits may, for example, seek to prevent noise or odors.

The Washington Right to Farm Act provides that agricultural activities conducted on farmland, if consistent with good agricultural practice and established prior to surrounding non-agricultural activities, are presumed to be reasonable and therefore do not constitute "nuisances" that may be prevented in a lawsuit. An exception is specified for activities that have a substantial adverse effect on public health and safety. However, if agricultural activities are undertaken in conformity with applicable laws and regulations, they are presumed to be good agricultural practices not affecting public health and safety.

It is suggested that farmers in urbanizing areas are subjected to unfounded nuisance lawsuits, and that these unfounded lawsuits should be discouraged. It is also suggested that certain farming practices should be exempt from air pollution standards under the state Clean Air Act (violation of which may potentially subject a farm to liability).

Summary: Nuisance Claims. A farmer who prevails in a claim alleging that agricultural activity on a farm constitutes a nuisance may recover full, reasonably incurred costs and expenses, as determined by a court.

Violation of Specified Laws. A farmer who prevails in a claim: (1) based on an allegation that agricultural activity on a farm violates specified laws; (2) where the activity is not found to violate the laws; and (3) actual damages are realized by the farm, may recover full, reasonably incurred costs and expenses, as determined by a court. A farmer may not recover costs and expenses from a state or local agency investigating or pursuing an enforcement action.

Recoverable costs and expenses include actual damages — including lost revenue and the replacement value of crops or livestock damaged or unable to be harvested or sold — and reasonable attorneys' fees and costs. A farmer may, in addition, recover exemplary (punitive) damages if a court finds that the claim was initiated maliciously and without probable cause.

Agency Investigative Costs. Where a state or local agency is required to investigate a complaint alleging that agricultural activity on a farm violates specified laws, and the activity is not found to violate the laws, the agency may recover its investigative costs and expenses if a court determines that the complaint was initiated maliciously and without probable cause.

Notice to Buyers. A seller of land located within one mile of a farm must make the following statement available to a buyer: "This notice is to inform prospective residents that the real property they are about to acquire lies within one mile of the property boundary of a farm. The farm may generate usual and ordinary noise, dust, odors, and other associated conditions, and these practices are protected by the Washington Right to Farm Act."

Air Pollution Exemptions. Fugitive dust caused by agricultural activity on agricultural land that is consistent with good agricultural practices is expressly exempted from Washington Clean Air Act standards. "Fugitive dust" is defined as particulate emission made airborne by human activity, forces of wind, or both, which does not pass through a stack, chimney, vent, or similar opening. The exemption generally applies to soil preparation, planting, fertilizing, weed and pest control, and harvesting; it also applies to dust generation from feedlots with fewer than 1,000 head of cattle.

The newly-established dust exemption, and an existing exemption for odors, applies to dust and odor caused by shellfish production.

Votes on Final Passage:

Senate	47	2	
House	94	0	(House amended)
Senate	38	6	(Senate concurred)

Effective: July 24, 2005

ESB 5966

C 88 L 05

Prohibiting vehicle immobilization.

By Senators McCaslin, Haugen and Honeyford.

Senate Committee on Transportation
House Committee on Transportation

Background: Under current law, tow truck operators are required to be registered and licensed by the Department of Licensing (DOL). Under the tow truck operator statutes, "registered tow truck operator" means any person who engages in the impounding, transporting, or storage of unauthorized vehicles or the disposal of abandoned vehicles; "impound" means to take and hold a vehicle in legal custody. Unlicensed persons may not impound unauthorized vehicles.

Summary: "Immobilize" is defined as the use of a locking wheel boot that, when attached to the wheel of a vehicle, prevents the vehicle from moving without damage to the tire to which the locking wheel boot is attached. Property owners are prohibited from immobilizing any vehicle not owned by them; however, the state or any unit of local government is exempt from this prohibition. A violation of this act is a gross misdemeanor.

Votes on Final Passage:

Senate	46	0
House	94	0

Effective: July 24, 2005

SSB 5969

C 89 L 05

Modifying city and town use of state fuel tax distributions.

By Senate Committee on Transportation (originally sponsored by Senators Swecker, Haugen, Esser and Spanel).

Senate Committee on Transportation
House Committee on Transportation

Background: RCW 46.68.110 governs the allocation of the 10.9691 percent of statewide fuel tax revenues distributed to cities and towns.

The statute mandates that 31.86 percent of the funds distributed to cities and towns be used for certain purposes depending on the size of the city or town. For cities and towns with a population of fifteen thousand or more, these funds can only be used for the construction, improvement, chip sealing, seal coating and repair of arterial highways and city streets. For cities and towns with a population of less than fifteen thousand, the funds can only be used for the maintenance of arterial highways and city streets.

Summary: The bill removes the restrictions on the uses of funds for cities and towns regardless of size as measured by population. However, as fuel tax revenue, the funds remain restricted to highway purposes as set forth in the 18th amendment to the Washington State Constitution.

Votes on Final Passage:

Senate 48 1
House 94 0

Effective: July 24, 2005

SB 5974
C 70 L 05

Providing information to pregnant women about opiate treatment programs.

By Senators Prentice, Hargrove and Haugen; by request of Lieutenant Governor.

Senate Committee on Human Services & Corrections
House Committee on Children & Family Services

Background: The Department of Social and Health Services regulates the certification of programs for alcoholism and other drug addiction treatment. Drug treatment programs which treat opiate addiction, typically utilize methadone to treat those addicted to opiates. Methadone is the most widely known pharmacologic treatment for opioid dependence. Methadone is a controlled substance. It is a long-acting opiate, itself addictive, having a potential for abuse both by opiate addicts and by non-addicts. Under certain circumstances, methadone, like any other opiate, can be dangerous and life-threatening.

Summary: The Department of Social and Health Services is directed to adopt rules requiring opiate treatment programs to educate pregnant women participating in their treatment program regarding the risks and benefits of methadone treatment to their fetus. This information is to be provided as part of their treatment.

Opiate substitution treatment programs treating pregnant women are required to provide current information concerning the possible addiction and health risks this treatment may have on their baby. They must also be informed of the risks associated with not remaining on this treatment program. Information must be provided verbally and in writing.

The Department of Social and Health Services will develop and disseminate these educational materials to all certified opiate treatment programs.

Votes on Final Passage:

Senate 46 0
House 91 0

Effective: July 24, 2005

SB 5977
C 71 L 05

Authorizing the "we love our pets" license plate.

By Senators Oke and Regala.

Senate Committee on Transportation
House Committee on Transportation

Background: The Special License Plate Review Board was created in the 2003 legislative session and charged with reviewing special license plate applications from groups requesting the creation of a special license plate series. Upon approval, the board forwards the application to the Legislature.

On February 15, 2005, the board formally approved the Washington State federation of animal care and control agencies "we love our pets" license plate application.

Summary: The Department of Licensing (DOL) must issue a special license plate for vehicles displaying a symbol or artwork approved by the Special License Plate Review Board and the Legislature recognizing the efforts of the Washington State federation of animal care and control agencies in Washington State that assist local member agencies of the federation to promote and perform spay/neuter surgery of Washington State pets, in order to reduce pet overpopulation.

An applicant for a "we love our pets" license plate must pay an initial fee of \$40 and a renewal fee each year thereafter of \$30. The initial revenue generated from the plate sales must be deposited into the motor vehicle account until the state has been reimbursed for the implementation costs. Upon reimbursement, the revenue must be deposited into the we love our pet account established under this bill.

The DOL must enter into a contract with a qualified nonprofit organization requiring that the organization use the revenue generated by the license plate sales to support and enable Washington federation of animal welfare and control agencies to promote and perform spay/neuter surgery of Washington State pets, in order to reduce pet overpopulation.

Votes on Final Passage:

Senate 47 0
House 83 11

Effective: July 24, 2005

SB 5979
C 212 L 05

Prohibiting interference with search and rescue dogs.

By Senators Benson, Carrell, Mulliken, Kastama, Poulsen, Parlette, Hewitt, Esser, Schmidt, Delvin, Berkey, Franklin, Sheldon, Brandland, Swecker, Schoesler, Zarelli, Honeyford, Rasmussen and Oke.

Senate Committee on Judiciary
House Committee on Criminal Justice & Corrections

Background: Under the miscellaneous crimes statute, dog guides, dogs trained for the purpose of guiding blind persons or assisting hearing impaired persons, and service animals, animals trained for the purpose of assisting or accommodating a disabled person's sensory, mental, or physical disability, are protected by law from harmful behavior directed at them by a person or their dog. A person found guilty of interfering with, injuring, or causing the death of a dog guide or service animal can be subject to both criminal penalties and restitution to the victim.

Summary: Under the miscellaneous crimes statute, on-duty search and rescue dogs are protected by law from harmful interference directed at them by a person or their dog. A person found guilty of interfering with, injuring, or causing the death of an on-duty search and rescue dog can be subject to both criminal penalties and restitution to the victim.

Criminal penalties include misdemeanor, gross misdemeanor, and felony offenses. Restitution includes damages, incidental and consequential expenses, the value of the replacement of an incapacitated or deceased dog, and the training of a replacement dog, among other things.

Votes on Final Passage:

Senate	48	0	
House	95	0	(House amended)
Senate	44	0	(Senate concurred)

Effective: July 24, 2005

ESSB 5983
C 498 L 05

Regarding professional certification of teachers.

By Senate Committee on Early Learning, K-12 & Higher Education (originally sponsored by Senators Pflug, Schmidt, Esser, Delvin and Benson).

Senate Committee on Early Learning, K-12 & Higher Education
House Committee on Education
House Committee on Appropriations

Background: Under current law, the State Board of Education (SBE) has the authority to approve or dis-

prove the program of courses leading to teacher, school administrator, and school specialized personnel certification offered by all accredited institutions of higher education in the state. The board must conduct a review every five years of the program approval standards, including the minimum standards for teacher, administrators, and educational staff associates, to reflect research findings and to assure continued improvement in the programs.

The SBE in 1997 adopted rules for the professional certification programs. The rules became effective in 2000. When rules for professional certification were adopted, only institutions of higher education that are approved to offer residency preparation programs for teachers and principals/program administrators were eligible to offer programs leading to professional certification for teachers and principals/program administrators.

The SBE adopted rules consisting of the establishment of a professional education advisory board for each professional certification preparation program and standards for program approval, program accountability, program resources, program design, and candidate knowledge and skills.

Summary: The agency responsible for educator certification must adopt rules to provide for the approval and disapproval of programs leading to the professional certification of teachers. The rules must be written to allow the maximum program choice for applicants and must promote maximum efficiency for applicants in attaining professional certification. All current and future programs must comply with these rules and must receive initial approval based on these rules.

Under the rules to be written by the agency, professional certification would be required no earlier than the fifth year after the year a teacher completes provisional status, with an automatic two-year extension upon enrollment, and not require any teacher with national board certification to earn a professional certificate. The rules must also allow any teacher currently enrolled in or participating in a program leading to professional certification to continue the program under administrative rules in place when the teacher began the program.

The rules must provide criteria for the approval and disapproval of educational service districts to offer programs leading to professional certification no later than August 31, 2007. The rules must be written to encourage institutions of higher education to partner with local school districts or consortia of school districts, as appropriate, to provide instruction for teachers seeking professional certification. The institutions would also be encouraged to offer professional certificate coursework as continuing education credit hours. This must not prevent an institution of higher education from providing the option of including the professional certification requirements as part of a master's degree program. Criteria must be created to provide for a liaison relationship

between approved programs and school districts in which applicants are employed.

The agency must identify an expedited process for out-of-state certificated teachers not yet certificated in Washington to earn professional certification that requires such teachers to demonstrate skills commensurate with Washington's education reform.

An evaluation process of approved programs must be identified that includes a review of the program coursework and applicant coursework load requirements, linkages of programs to individual teacher professional growth plans, linkages to school district and school improvement plans, and, to the extent possible, linkages to school district professional enrichment and growth programs for teachers, where such programs are in place in school districts. The board must identify:

- 1) a process for awarding conditional approval of a program that must include annual evaluations of the program until the program is awarded full approval;
- 2) a three-year less intensive evaluation once a program receives full approval;
- 3) a method for investigating programs that have received numerous complaints from students enrolled in the program and from those recently completing the program; and
- 4) a method for using program completer satisfaction responses in making the evaluation, and includes data on the effect of professional certification on student achievement.

Votes on Final Passage:

Senate	49	0	
House	95	1	(House amended)
Senate	39	0	(Senate concurred)

Effective: July 24, 2005

SSB 5992
C 475 L 05

Modifying self-insurer assessments under the second injury fund.

By Senate Committee on Labor, Commerce, Research & Development (originally sponsored by Senators Kohl-Welles and Parlette).

Senate Committee on Labor, Commerce, Research & Development
House Committee on Commerce & Labor

Background: Second injury funds were created in most states' workers' compensation laws to encourage employers to hire workers who had suffered a previous injury.

In Washington, the Second Injury Fund (Fund) is used for three purposes:

- 1) Benefit Costs for Previously Disabled Workers. A worker with a previous disability may suffer a fur-

ther disability from a covered on-the-job injury. If the combined effect of the previous disability and the further disability results in total and permanent disability, the employer's account is charged only for the accident cost attributable exclusively to the second injury. The Fund covers the remainder.

- 2) Preferred Worker Benefit Costs. The Fund covers all benefits paid to "preferred workers" for new claims for injuries that occur within three years of employment of such workers. A "preferred worker" is a person who: (1) has sustained injuries that prevent the worker from returning to work with his or her former employer and that substantially impair the likelihood of his or her reemployment with other employers; or (2) has received time-loss for at least 14 consecutive days and has a developmental disability.
- 3) Job Modification Costs. The Fund covers the cost of assisting employers in modifying an injured workers' previous job or a new job in order to return the injured worker to gainful employment. Under the statute, the Department of Labor and Industries (L&I) may pay costs from the Fund of up to \$5,000 per worker per job modification.

Payments for these costs are not charged to the accounts of the employer whose worker was injured, but instead are paid through premiums or assessments. The Fund, along with other workers' compensation funds, is administered by L&I.

The Fund contains two accounts: the State Fund Account and the Self-Insured Account. The State Fund Account pays all second injury fund costs attributable to state fund claims. All employers insured by the state fund share these costs through a flat percentage assessment built into accident fund premium rates. The monies needed to pay state fund second injury costs are transferred from the Accident Fund to the Second Injury Fund.

The Self-Insured Account pays all second injury costs attributable to self-insured claims. The assessments that self-insurers pay to cover these costs are required, by statute, to be imposed under rules adopted by L&I and be in the proportion that the payments made from the Fund on account of self-insured claims bear to the total sum of payment from the Fund.

Summary: The basis for assessing self-insurers for their share of Fund payments is revised.

The experience rating factor must give equal weight to:

- 1) the ratio between expenditures made by the second injury fund for claims of the self insurer to the total expenditures made by the Fund for claims of the all self insurers for the prior three fiscal years; and
- 2) the ratio of the self-insurer's total workers' compensation claim payments to the total workers' com-

pensation payments made by all self-insurers for the prior three fiscal years.

The weighted average of these two ratios is divided by the second ratio to obtain the experience factor.

"Expenditures by the second injury fund" does not include any subsequent payments, assessment or pension adjustments, where the applicable second injury fund entitlement was established outside of the three fiscal years.

L&I must conduct an outcome study of the experience rating system established under this bill. In conducting the study, L&I must compare outcomes for workers whose workers' compensation claims are closed between July 1, 2002, and June 30, 2004, with similar claims of workers of self-insured employers closed between July 1, 2009, and June 30, 2011.

If the study shows a negative impact of 15 percent or more to workers following claim closure among nonpension self-insured claimants, the section of the bill pertaining to the experience rating of self-insured employers will expire on June 13, 2013.

L&I must provide two comparisons of workers in the study. The first comparison is between the aggregate preinjury wages for all nonpension injured workers and their aggregate wages at claim closure and the second comparison includes the proportion of all nonpension injured workers who are found able to work but have not returned to work compared with the proportion of such workers who are found able to work but have not returned to work. L&I must consult with representatives of the impacted workers and the self-insured community to develop a study methodology that must be provided to the Workers' Compensation Advisory Committee for review and comment. L&I must report to the Legislature by December 1, 2012.

Votes on Final Passage:

Senate 44 0
 House 96 0 (House amended)
 Senate 38 0 (Senate concurred)

Effective: July 24, 2005

SB 5993
 C 10 L 05

Providing additional funding for crime victims' compensation.

By Senators Prentice, Doumit, Zarelli, Rasmussen and Kohl-Welles; by request of Office of Financial Management.

Senate Committee on Ways & Means

Background: The Crime Victims' Compensation (CVC) program is administered by the Department of Labor and Industries (L&I). Victims of violent crime are provided with financial assistance under specific eligibility

requirements. The program, as the payer of last resort, covers medical and mental health treatment costs, funeral expenses, limited time loss compensation, permanent partial disability awards, and limited pensions. Additionally, it covers the complete cost of sexual assault forensic exams performed by hospitals and emergency medical facilities within Washington State. The program is funded through the Public Safety and Education Account (PSEA) and a federal grant from the Department of Justice. It received an appropriation of \$30.8 million dollars in the 03-05 biennium.

Medical claims for the program have exceeded the forecasted amounts. Prior to September 2004, medical claims were reimbursed at workers' compensation rates. In September 2004, the CVC program reduced reimbursement rates to DSHS/Medicaid rates for medical treatment and sexual assault forensic exams. In-patient hospitalization reimbursement rates were reduced to General Assistance Unemployable. However, despite the reductions, the CVC program forecasts exceeding its 03-05 biennial appropriation by the end of March 2005.

Summary: \$3,627,000 is appropriated from the state General Fund to the PSEA. This amount is appropriated from the PSEA to the L&I for purposes of the CVC program.

Votes on Final Passage:

Senate 47 0
 House 86 0

Effective: March 28, 2005

ESSB 5997
 C 348 L 05

Regulating out-of-state banks, savings banks, and mutual savings banks branches.

By Senate Committee on Financial Institutions, Housing & Consumer Protection (originally sponsored by Senators Spanel and Benton).

Senate Committee on Financial Institutions, Housing & Consumer Protection

House Committee on Financial Institutions & Insurance

Background: In 1994, Congress passed an interstate bank branching act (Riegle-Neal Act), giving states five choices on how to handle interstate bank branching. Washington State chose to permit interstate branching by allowing acquisition of an entire domestic (Washington) bank, provided that the domestic bank has been in business for at least five years.

Another federally-allowable choice, taken by approximately 16 states, is called "reciprocal de novo branching." Under that approach, an out-of-state financial institution would be permitted to form branches in Washington State without having to first acquire a bank, provided that the other state has laws permitting branch-

ing by a Washington State bank or savings bank on equally favorable terms and conditions as Washington offers.

Summary: Both commercial banks (under Title 30) and savings banks (under Title 32) are allowed to engage in reciprocal de novo bank branching. Out-of-state banks can open branches in Washington State, if they allow Washington State commercial and savings banks to open branches in their states, with equally favorable terms and conditions. The requirement that a financial institution acquire a mature domestic bank before engaging in branching is removed. Mergers are allowed between domestic stock savings banks and certain out-of-state national banks, if the application is submitted on or before the effective date of the act.

Votes on Final Passage:

Senate	47	0	
House	95	0	(House amended)
Senate	41	0	(Senate concurred)

Effective: May 9, 2005

SSB 5999
C 476 L 05

Exempting service contracts to administer parking and business improvement areas from excise taxation.

By Senate Committee on Ways & Means (originally sponsored by Senators Prentice and Brown).

Senate Committee on Ways & Means
House Committee on Finance

Background: The sales tax is paid on each retail sale of most articles of tangible personal property and some services. The use tax is imposed on the use of articles of tangible personal property when the sale or acquisition has not been subject to the sales tax. The use tax commonly applies to purchases made from out-of-state firms. The state imposes a general tax of 6.5 percent of the selling price in the case of the sales tax and of the value of the article used in the case of the use tax. Cities, counties, and other taxing districts may impose sales and use taxes at various rates. The total state and local sales and use tax rates imposed are between 7 percent and 8.9 percent, depending on the location.

The business & occupation (B&O) tax is levied for the privilege of doing business in Washington. The tax is levied on the gross receipts of all business activities conducted within the state. There are no deductions for the costs of doing business. Persons engaged in retailing collect the sales tax from consumers and pay the retailing B&O tax at the rate of 0.471 percent. Persons performing services do not collect the sales tax and pay the service B&O tax at the rate of 1.5 percent.

Cities may also impose B&O taxes. With some exceptions, cities may adopt their own tax exemptions,

credits, deductions, and other preferences, as well as tax classifications and tax rates.

Counties, cities, and towns may create parking and business improvement areas for the: (1) construction, acquisition or maintenance of parking facilities; (2) decoration of public areas; (3) promotion of public events in public places in the area; (4) furnishing of music in any public place in the area; (5) maintenance and security of common public areas; and (6) management, planning and promotion of the area, including the promotion of retail trade activities in the area. The activities are financed through a special assessment that is imposed on businesses and multifamily residential and mixed use projects in the area. The local government may contract with a chamber of commerce or other similar business association to administer the operation of a parking and business improvement area.

Summary: State and city B&O taxes do not apply to amounts received by a chamber of commerce or similar business association for administering the operation of a parking and business improvement area.

Votes on Final Passage:

Senate	45	0
House	95	2

Effective: July 24, 2005

ESB 6003
C 297 L 05

Modifying the commute trip reduction tax credit.

By Senator Jacobsen.

Senate Committee on Transportation
House Committee on Transportation

Background: Major employers who employ 100 or more employees in the state's 10 largest counties are required to implement commute trip reduction programs to reduce the number of their employees traveling by single-occupant vehicles to their work sites.

Under the commute trip reduction program, employers are allowed a business and occupation or public utility tax credit if they provide financial incentives to their employees for ride sharing in car pools, using public transportation, using car sharing, and non-motorized commuting (CTR incentives). Employers may apply for a tax credit of up to \$60 per employee per fiscal year or up to 50 percent of the financial CTR incentives, whichever is less. Property managers and other employers may claim a credit for incentives granted employees at their work sites.

No tax credit claimed can be greater than the amount of taxes due, or greater than \$200,000 each fiscal year. Tax credits may not be carried back but may be deferred for up to three years. The tax credits claimed in a fiscal year may not exceed the amount of credit available,

which under current law is \$2.25 million dollars per fiscal year. Under current law, a credit that is deferred, and then claimed in a fiscal year, applies against the amount of credit available.

The State General Fund is reimbursed for the amount of tax credits from the Multimodal Transportation Account. The tax credits and grants expire June 30, 2013.

Summary: Tax credit deferrals are not allowed past the effective date of this act, therefore no credit deferred may be used after June 30, 2008.

A tax credit may be carried forward, if the amount of the credit the applicant is eligible for exceeds the applicant's tax liability in the fiscal year. The amount of tax credit carried forward does not apply towards the current year's statutory cap. However, credits used in subsequent years are subject to the total state limitation for the fiscal year for which the credit was originally approved. The statutory cap is raised by \$500,000 annually to \$2.75 million dollars.

If the total amount of credit applied for by all applicants in any year exceeds the statutory limit then the Department of Revenue will proportionately reduce the amount of credit allowed for all applicants to meet the statutory limit.

Votes on Final Passage:

Senate	30	19	
House	90	8	(House amended)
Senate	30	16	(Senate concurred)

Effective: July 1, 2005

SB 6012
C 178 L 05

Making transportation services an authorized purpose for parking and business improvement areas.

By Senators Spanel, Oke, Weinstein, Esser and Rasmussen.

Senate Committee on Transportation
House Committee on Transportation

Background: The legislative authorities of all counties and incorporated cities and towns are authorized to establish by ordinance parking and business improvement areas (PBIA). A PBIA is an area within the county, city, or town that has the authority to levy special assessments on the businesses and multifamily residential or mixed-use projects within the area that are specially benefitted by the activities of the parking and business improvement area.

The six activities in which the PBIA may engage are as follows: (1) the provision of parking lots; (2) decoration of a public place; (3) furnishing music in public places; (4) promotion of public events in the area; (5) promotion and management of retail trade activities; and

(6) provision of security and maintenance of the common public areas.

Summary: The purposes for which a PBIA may be established are expanded to include the provision of transportation services for the benefit of the area.

Votes on Final Passage:

Senate	45	3
House	64	32

Effective: July 24, 2005

SSB 6014
C 422 L 05

Concerning industrial insurance claims made due to disaster response.

By Senate Committee on Labor, Commerce, Research & Development (originally sponsored by Senators Kline, Parlette, Kohl-Welles and Keiser).

Senate Committee on Labor, Commerce, Research & Development
House Committee on Commerce & Labor

Background: Recent tragic events such as the Oklahoma City bombing and the terrorist attacks of September 11th, 2001 have caused communities around the country to devote more resources to planning for both natural and man-made disasters.

The U.S. Department of Homeland Security held a First Response and Skilled Trades Stakeholder Summit in Seattle in November, 2003. This summit provided an impetus for moving forward on a local, state, and national level to build on the existing emergency response infrastructure to create a system that improves the country's ability to prevent loss of life and property following man-made disasters.

In the event of such a disaster, there are special provisions for volunteers, citizens who are commandeered, and for emergency relief workers, yet there are little to no provisions for non-governmental employers or their workers who want to assist with relief efforts in the aftermath of a natural or man-made disaster.

Summary: When the worker of a non-governmental employer is injured or develops an occupational disease due to an exposure while employed in response to a request for assistance in the "life and rescue phase" of an emergency, the cost of workers compensation benefits is reimbursed from the disaster response account to the appropriate workers' compensation fund, or to the self-insured employer. The cost of such injuries or occupational diseases is not charged to the experience rating of a state fund employer.

"Life and rescue phase" is defined as the first 72 hours after a natural or man-made disaster in which a state or local entity, including fire service or law enforcement, acknowledges or declares such a disaster and

SSB 6022

requests assistance from the private sector in locating and rescuing survivors.

The Department of Labor and Industries is authorized to adopt rules implementing reimbursements and noncharging of benefits paid to nongovernment workers injured while assisting in the life and rescue phase of emergencies.

Votes on Final Passage:

Senate	47	0	
House	96	0	(House amended)
Senate	40	0	(Senate concurred)

Effective: May 11, 2005

SSB 6022

C 352 L 05

Changing provisions relating to surety bonds or insurance for public building or construction contracts.

By Senate Committee on Financial Institutions, Housing & Consumer Protection (originally sponsored by Senator Prentice).

Senate Committee on Financial Institutions, Housing & Consumer Protection

House Committee on Financial Institutions & Insurance

Background: Most public works construction in Washington is performed by private firms. State and local governments contract with private architectural and construction companies for the design and construction of facilities using specific procedures designated in statute. Typically, contractors, subcontractors, consultants, architects, the owner, and others involved in major public construction projects each obtain their own insurance or risk financing to cover their role or risk in the project.

A type of risk pooling known as a "wrap-up" insurance policy is routinely used on large private construction projects. A wrap-up insurance policy generally involves one large, comprehensive policy that covers the owner and all the companies involved in a construction project. This can reduce costs and simplify project management.

In 2003, a law was passed authorizing the use of wrap-up insurance policies for certain public construction projects:

- public nonprofit corporation for the state convention and trade center;
- projects in excess of \$100 million for certain port districts;
- projects for a certain regional transit authorities; and
- public hospital projects in excess of \$100 million that are for counties with a population over one million persons.

Summary: All public construction projects may use wrap-up insurance, provided that the project has a public owner and that the actual or estimated aggregate value of

the project will exceed \$200 million, not including insurance and bond costs. For purposes of determining whether the \$200 million threshold is met, the costs of unrelated projects cannot be added together.

Surety bonds are excluded from wrap-up insurance for public construction projects.

Votes on Final Passage:

Senate	48	0	
House	95	1	(House amended)
Senate	38	0	(Senate concurred)

Effective: July 24, 2005

SB 6033

C 395 L 05

Creating a Washington coastal Dungeness crab pot buoy tag program.

By Senator Doumit.

Senate Committee on Natural Resources, Ocean & Recreation

Senate Committee on Ways & Means

House Committee on Natural Resources, Ecology & Parks

House Committee on Appropriations

Background: The commercial Dungeness crab fishery in the Puget Sound uses a crab pot buoy marking system to help regulate the fishery. The coastal fishery does not use the marking system and the complexity of the coastal fishery could be simplified if a tag program were established.

Summary: A commercial crab pot buoy program is established and an account is set up to hold the revenue from the fishers payment of a fee to cover the Department of Fish and Wildlife's cost for the tags. The department must review annually the costs of the tags and pass savings on to the license holders.

Votes on Final Passage:

Senate	38	8	
House	95	0	(House amended)
Senate	41	5	(Senate concurred)

Effective: July 24, 2005

SSB 6037

C 477 L 05

Changing provisions relating to limited development of rural areas.

By Senate Committee on Government Operations & Elections (originally sponsored by Senators Sheldon and Rockefeller).

Senate Committee on Government Operations & Elections

House Committee on Local Government

Background: In general, the state's Growth Management Act (GMA) prohibits extension into rural areas of urban governmental services at an intensity that is historically and typically found in cities, except when necessary to protect public health and the environment. The GMA, however, also provides for limited areas of more intensive rural development (LAMIRDs), including necessary public facilities to serve them. Small-scale recreational or tourist use is one type of LAMIRD allowed by the GMA. Public facilities and services must be limited to those necessary to serve the recreation or tourist use and must be provided in a manner that does not permit low-density sprawl.

Summary: Connection to an existing sewer line where the connection serves only the recreational or tourist use and is not available to adjacent parcels is added as an example of public services and public facilities that are limited to those necessary to serve a small-scale recreational or tourist LAMIRD and are provided in a manner that does not permit low-density sprawl. This provision applies until August 31, 2005.

Votes on Final Passage:

Senate	45	3	
House	96	0	(House amended)
Senate	41	0	(Senate concurred)

Effective: May 13, 2005

SSB 6043

C 368 L 05

Addressing breaches of security that compromise personal information.

By Senate Committee on Financial Institutions, Housing & Consumer Protection (originally sponsored by Senators Brandland, Fairley, Benson, Keiser, Schmidt, Spanel, Benton, Franklin, Berkey, Kohl-Welles and Rasmussen).

Senate Committee on Financial Institutions, Housing & Consumer Protection

House Committee on Financial Institutions & Insurance

Background: ChoicePoint, a large corporation dealing with 19 billion public records that include personal and

financial data on millions of consumers, recently was the victim of a security breach. Due to this problem 144,778 consumers, more than 3,000 of them Washingtonians, had personal information exposed to a criminal enterprise. In California, a state law requires notification of consumers when such a data security breach occurs. California is the only state with a notification law.

Summary: Any agency, person, or business that owns and licenses computerized data that includes personal information, is required to inform Washington consumers of any breach of their data security, following discovery or notification of the breach. The notification must be made without unreasonable delay, consistent with the needs of law enforcement. Notification may not impede a criminal investigation.

"Personal information" covered by the duty to notify includes: social security numbers, driver's license, or ID card numbers; and credit and debit card numbers in combination with access codes. Personal information does not include publically-available information from federal, state, and local government records.

Notice of the security breach may be provided by written or electronic notice, or by a "substitute notice" by e-mail, conspicuous website posting, or major statewide media.

As a matter of public policy, consumers cannot waive their right to notice.

Remedies include a civil action to recover damages, or injunctive relief against a business that violates the notice requirements.

Votes on Final Passage:

Senate	47	0
House	97	1

Effective: July 24, 2005

ESSB 6050

C 450 L 05

Providing financial assistance to cities, towns, and counties.

By Senate Committee on Ways & Means (originally sponsored by Senators Parlette, Doumit, Morton and Mulliken).

Senate Committee on Ways & Means

House Committee on Capital Budget

House Committee on Finance

Background: For the past three biennia, state appropriations have provided financial assistance to counties and cities. The appropriation for 2003-05 provides \$14 million to the cities and counties with the lowest taxing capacity.

The real estate excise tax (REET) is imposed on the sale of real property at 0.28 percent of the sale price. 7.7 percent of the proceeds are deposited in the public works

assistance account (PWAA) to assist local governments with low interest loans for roads and bridges, water and waste water systems, and solid waste and recycling facilities.

Summary: The bill reduces the portion of the REET deposited in the PWAA from 7.7 percent to 6.1 percent, and deposits 1.6 percent of the REET into the new city-county assistance account. The level of funding will be split equally between cities and counties. A separate distribution formula for cities and counties is specified. The bill also requires the Joint Legislative Audit and Review Committee to determine the extent to which the distributions to cities and counties target the funding shortfalls created by the repeal of the motor vehicle excise tax. The report is due December 31, 2008.

Votes on Final Passage:

Senate 34 14
House 61 37

Effective: August 1, 2005

SSB 6064
C 179 L 05

Limiting the powers of homeowners' associations.

By Senate Committee on Financial Institutions, Housing & Consumer Protection (originally sponsored by Senators Benton and Fairley).

Senate Committee on Financial Institutions, Housing & Consumer Protection
House Committee on Judiciary

Background: Homeowners' associations generally levy and collect assessments, manage and maintain common property for the benefit of the residents, and enforce covenants that govern developments. The authority to carry out these functions comes from governing documents, such as the declaration of covenants, conditions, and restrictions.

Restrictive covenants are recorded in property deeds and may regulate such broad issues as the architectural designs of homes, schemes of landscaping, the size of mailboxes, and the placement of satellite dishes or antennas. A person who purchases property within a subdivision governed by a homeowners' association, and subject to restrictive covenants, becomes a member of the association and generally must abide by the restrictive covenants.

Both the state and federal Constitutions provide that no state can pass a law impairing the obligation of contracts. A contract is impaired if the statute alters its terms, imposes new conditions, or lessens its value. Even if a contract is substantially impaired, it may not be unconstitutional if it was reasonable and necessary to achieve a legitimate public purpose. A court will compare the level of impairment with the public purpose

advanced by the law.

A retroactive statute is unconstitutional under the due process or contract clauses if the statute is unfair or unreasonable. The test of the constitutionality of retroactive legislation is whether a party has changed position in reliance upon the previous law or whether the retroactive law defeats the reasonable expectations of the parties.

Summary: A homeowners' associations' governing documents may not prohibit the outdoor display of political yard signs by an owner or resident on the owner's or resident's property before any primary or general election. The governing documents may include reasonable rules and regulations regarding the placement and manner of display of political yard signs. This prohibition applies retroactively to any existing governing documents.

Votes on Final Passage:

Senate 43 5
House 50 47

Effective: July 24, 2005

SSB 6078
C 72 L 05

Controlling state expenditures.

By Senate Committee on Ways & Means (originally sponsored by Senators Regala and Kohl-Welles).

Senate Committee on Ways & Means
House Committee on Appropriations

Background: Initiative 601, enacted in 1993, established a state General Fund expenditure limit and restrictions on state fee and revenue increases.

Under the initiative, a two-thirds vote of the Legislature is required for any action of the Legislature that raises state revenue. The annual growth in state General Fund expenditures is limited to the "fiscal growth factor" (the average rate of state population increase and inflation during the prior three fiscal years). The State Expenditure Limit Committee calculates the expenditure limit each November and projects an expenditure limit for the next two fiscal years. The State Expenditure Limit Committee consists of the Director of Financial Management, a designee of the Attorney General, and the chairs of the Senate Ways & Means Committee and the Appropriations Committee of the House of Representatives.

The state expenditure limit is adjusted downward to reflect the extent to which actual General Fund expenditures in prior years are less than the maximum amount allowed under the expenditure limit. Other downward adjustments to the spending limit are required when state program costs or moneys are shifted out of the General Fund to other dedicated accounts. Upward adjustments to the spending limit occur if state program costs or moneys are transferred to the state General Fund from other

accounts. Other adjustments occur if federal or local government costs are shifted to or from the state General Fund.

Summary: Effective immediately and continuing until June 30, 2007, the Legislature may enact legislation increasing state revenue by a majority vote. After June 30, 2007, legislative actions increasing state revenue will require a two-thirds vote of each house of the Legislature.

Effective for the 2007-09 biennium and thereafter, the state expenditure limit will apply to the state General Fund and five additional funds: Health Services Account; Violence Reduction & Drug Enforcement Account; Public Safety & Education Account; Water Quality Account; and Student Achievement Fund. The State Expenditure Limit Committee will include the ranking minority members of the Senate Ways & Means Committee and the Appropriations Committee of the House of Representatives. The fiscal growth factor will be based on a ten-year average of state personal income growth. Transferring money to the General Fund will not increase the state expenditure limit, and the shift of program costs to the General Fund will not raise the limit unless the necessary revenues are also transferred.

When revenue exceeds the state expenditure limit, the excess revenue is transferred from the General Fund to the Emergency Reserve Fund in proportion to the General Fund share of the excess revenue. The requirement that interest earnings of the Emergency Reserve Fund be transferred to the Multimodal Transportation Account is eliminated.

Votes on Final Passage:

Senate	25	21	
House	50	43	(House amended)
Senate	25	16	(Senate concurred)

Effective: April 18, 2005 (Sections 1 and 2)
 July 1, 2007 (Sections 3-6)

ESSB 6090
PARTIAL VETO
 C 518 L 05

Making 2003-05 and 2005-07 operating appropriations.

By Senate Committee on Ways & Means (originally sponsored by Senators Prentice and Zarelli; by request of Governor Gregoire).

Senate Committee on Ways & Means
 House Committee on Appropriations

Background: Appropriations for the operations of state government and its various agencies and institutions are made on the basis of a fiscal biennium that begins on July 1 of each odd-numbered year.

Summary: Appropriations are made for the 2005-07 fiscal biennium.

For additional information, see the *Statewide Summary & Agency Detail* published by the Senate Ways & Means Committee.

Detailed information is also available at www.leg.wa.gov/senate/scs/wm.

Votes on Final Passage:

Senate	25	23	
House	55	41	(House amended)
Senate			(Senate refused to concur)

Conference Committee

House	56	42
Senate	25	22

Effective: May 17, 2005
 June 30, 2005 (Section 931)
 July 1, 2006 (Section 923)

Partial Veto Summary: The Governor vetoed sixteen sections or subsections of the operating appropriations bill. For additional information see www.leg.wa.gov.

VETO MESSAGE ON SB 6090-S

May 17, 2005

*To the Honorable President and Members,
 The Senate of the State of Washington*

Ladies and Gentlemen:

I am returning, without my approval as to sections 101(1); 204(1)(a); 204(1)(p); 206(11); 209(21); 213(11); 307(9); 307(11); 307(14); 307(19); 717; 718; 721; 805, page 186, lines 21-23; 912; and 1106, page 294, lines 23-24, Engrossed Substitute Senate Bill No. 6090 entitled:

“AN ACT Relating to fiscal matters.”

My reasons for vetoing these sections are as follows:

Section 101(1), pages 2-3, House of Representatives, Committee on Fiscal Stability. This language creates a Committee on Fiscal Stability. Though well intended, this provision requires the Governor to appoint a non-voting chair - except for procedural issues - for a legislative committee that includes members from the House, but not from the Senate. I am reluctant to participate in this important endeavor without balanced representation from both houses of the Legislature and from the executive branch. The House of Representatives can create this committee administratively, and I am willing to work with both houses to create an appropriate structure for this effort.

Section 204(1)(a), page 46, Department of Social and Health Services (DSHS), Regional Support Network Funding Formula. Section 204(1)(a) requires DSHS to complete a six-year phase-in of a revised Medicaid allocation formula under which each Regional Support Network (RSN) will be paid a standard per capita rate. While the Department does intend to implement this phase-in, it needs flexibility to do so in a manner consistent with federal requirements. The Centers for Medicare and Medicaid Services (CMS) requires that all RSN rates be actuarially sound, and that the actuarial study examines geographic variations in costs and rates. Preliminary findings from the current study show that costs and rates may differ by region. If these findings hold and this proviso is retained, DSHS will not be able to set rates for RSNs that conform to federal requirements. I direct DSHS to follow the intent of the Legislature as much as possible while accommodating the actuary's final recommendation.

Section 204(1)(p), page 49, Department of Social and Health Services (DSHS), Integrated Chemical Dependency/Mental Health Screening. This item states that sufficient funds are

appropriated to implement the integrated chemical dependency/mental health screening and assessment provisions in SB 5763. I am vetoing this provision because specifically identified funds are available only for development, training, and quality assurance. But implementation of needed screening and assessment activities related to this program can be done from within the community services budget.

Section 206(11), page 59, Department of Social and Health Services, Aging and Adult Services Dual Occupancy Accommodations. This proviso requires the Department to establish a pilot program to allow dual occupancy in assisted living facilities where more than 50 percent of the clientele is Medicaid eligible, and where the facility is not eligible for capital add-on payments for boarding homes. While I recognize there are fiscal pressures on facilities that deliver services for aged residents, I believe this pilot is premature. I want the Long Term Care Task Force just approved by the Legislature to examine all issues of service delivery and finances instead.

Section 209(21), pages 68-69, Department of Social and Health Services, Medical Assistance Prescription Drug Benefit. I am vetoing the proviso that allows for a time-limited transitional prescription drug benefit for General Assistance-Unemployable (GAU) clients because it states that if DSHS chooses to make a transitional medical benefit part of an overall GAU cost-savings initiative, the benefit must be limited to coverage of prescription drugs and medication management. DSHS needs flexibility to devise a workable and cost-effective savings initiative that may include services other than prescription drugs.

Section 213(11), page 73, Health Care Authority Study on Health Savings Accounts and High Deductible Plans. This proviso directs the Public Employees Benefits Board to submit a report on options for the use of Health Savings Accounts within the Basic Health program - an area over which the Board has no authority. I agree that Health Savings Accounts accompanied with high-deductible health plans may provide a model for health care coverage that has the potential to involve consumers more directly in their health purchasing decisions. Health Savings Accounts need to be examined further as an option for Washington citizens. I am directing the Health Care Authority to provide an analysis of Health Savings Accounts within available funds.

Section 307(9), page 97, Department of Fish and Wildlife, Lapsed Appropriation for Senate Bill 5234 (Hunter Access to Lands). This proviso funds implementation of Senate Bill 5234 and stipulates that the appropriation will lapse if the bill is not enacted. Since that bill did not pass the Legislature, I have vetoed Section 307(9).

Section 307(11), pages 97-98, Department of Fish and Wildlife, Grizzly Bear Outreach Project. Section 307(11) grants \$75,000 to the Grizzly Bear Outreach project to disseminate information regarding grizzly bears in the North Cascade mountains. Both the Washington State Department of Fish and Wildlife and the United States Fish and Wildlife Service already offer information on the re-emergence of grizzly bears, and provide advice for residents living near bear habitat. This General Fund expenditure would duplicate the efforts of those agencies.

Section 307(14), page 98, Department of Fish and Wildlife, Livestock Damage by Cougars. This funding reimburses commercial livestock owners for damage caused by cougars. While I understand the concerns of livestock owners, there is no statutory authorization for the Department to provide this type of reimbursement.

Section 307(19), page 98, Department of Fish and Wildlife, Lapsed Appropriation for Senate Bill 5232 (Turkey Tags). This proviso funds implementation of Senate Bill 5232 and stipulates that the appropriation will lapse if the bill is not enacted. Since that bill did not pass the Legislature, I have vetoed Section 307(9).

Section 717, page 177, Double-filled Personnel Positions. Section 717 requires OFM to find \$4 million in savings by eliminating double-filled positions in state agencies. State agencies double-fill positions for a number of valid reasons including when departing staff train their replacements, if part-time staff share a single job, or when temporary replacements are needed for staff who are ill or called to military duty. The number of staff an agency can employ is controlled through FTE and dollar limitations in the budget, which are not affected by the number of staff using the same position in the personnel system. I direct the Department of Personnel to review agency practices concerning the use of double-filled exempt positions. I am vetoing this section to retain administrative flexibility for agencies to double-fill positions as appropriate.

Section 718, page 177, Critical High Demand Positions. Section 718 allows OFM to allot the savings achieved in Section 717 to meet critical staffing needs among state agencies. Because Section 717 is vetoed, this section cannot be implemented and is also vetoed.

Section 721, page 179, Middle Management Reporting Requirements. The middle management staff reduction I recommended in my budget is included in the legislative budget for most state agencies. I direct the Department of Personnel to work with agencies on implementing this initiative, and to track the positions eliminated. I am vetoing this section to preserve flexibility as to the nature and frequency of reports on this activity.

Section 805, page 186, lines 21-23, Tobacco Prevention and Control Account Transfer to General Fund. This appropriation would reduce the fund balance in the Tobacco Prevention and Control Account by transferring \$13,910,000 to the state General Fund.

Tobacco Master Settlement Agreement payments were dedicated to the Health Services Account and to anti-smoking efforts with \$100 million used to supplement current tobacco tax revenues in the Tobacco Prevention and Control Account. Programs supported with this fund helped create an unprecedented decline in smoking in this state. At the current spending rate, the original \$100 million deposit will be exhausted in fiscal year 2008. By vetoing this proposed transfer, the Tobacco Prevention and Control account can support current efforts through fiscal year 2008, which will allow time to develop a permanent source of funding for these important activities.

Section 912, pages 193-195, School Bus Bidding. These changes to the school bus bidding process for the 2005-07 Biennium are not necessary because the same policy changes were included in House Bill 1485, which I signed on May 16, 2005.

Section 1106, lines 23-24, page 294, Department of Social and Health Services, Aging and Adult Services Program Appropriation Change. This reduction to the fiscal year 2005 appropriation is vetoed in order to retain \$16,766 million to ensure that the Department of Social and Health Services has sufficient resources to cover costs in children's services and medical assistance.

In addition, the appropriation in Section 202 assumes a reduction of \$1.7 million for regional crisis residential centers. In implementing this reduction, I am asking the Department of Social and Health Services to review options for how funding can best be allocated to maintain this service where it is most needed and most effective, while also achieving the savings assumed in the budget. Such options could include taking under-utilized beds off-line, adjusting the payment structure, or making other changes in contractor business practices and client referrals.

With the exception of those portions of Sections 101(1); 204(1)(a); 204(1)(p); 206(11); 209(21); 213(11); 307(9); 307(11); 307(14); 307(19); 717; 718; 721; 805, page 186, lines 21-23; 912; and 1106, page 294, lines 23-24 as specified above, Engrossed Substitute Senate Bill No. 6090 is approved.

Respectfully submitted,



Christine O. Gregoire
Governor

ESSB 6091
PARTIAL VETO
C 313 L 05

Making 2005-07 and 2003-05 transportation appropriations.

By Senate Committee on Transportation (originally sponsored by Senators Haugen and Swecker; by request of Governor Gregoire).

Senate Committee on Transportation

Background: The operating and capital expenses of state transportation agencies and programs are funded on a biennial basis by an omnibus transportation budget adopted by the Legislature in odd-numbered years. Additionally, supplemental budgets may be adopted during the biennium making various modifications to agency appropriations.

Summary: Appropriations are made for state transportation agencies and programs for the 2005-07 fiscal biennium. Additionally, appropriations for various transportation agencies and programs are modified for the 2003-05 biennium.

Votes on Final Passage:

Senate	31	17	
House	62	36	(House amended)
Senate	32	13	(Senate concurred)

Effective: May 9, 2005

Partial Veto Summary: The Governor vetoed 10 sections or parts of sections (appropriation items) in the omnibus transportation appropriations act. In addition to removing various studies and directive language, the net effect of the 10 vetoes is to decrease state appropriations by \$5.4 million.

VETO MESSAGE ON SB 6091-S

May 9, 2005

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning, without my approval as to Sections 103(2), page 3; 205(1), page 5; 208(7), page 10; 209(7), page 11; 223(2), pages 19- 20; 305(1)(a), page 29; 305(1)(e), page 30; 305(11), page 32; 605, page 49; and 607, page 50 of Engrossed Substitute Senate Bill 6091 entitled:

“AN ACT Relating to transportation funding and appropriations.”

My reasons for vetoing the above-noted sections are as follows:

Section 103(2), page 3, State Parks and Recreation Commission - All-Terrain Vehicle Study. This proviso mandates an extensive study on the existing requirements regarding all-terrain vehicles, their operators, equipment and rules. The Parks and Recreation Commission does not have the expertise or experience to perform this study, and no funding was provided to carry out this mandate.

Section 205(1), page 5, Joint Transportation Committee - Transportation Governance. Through language in this bill section, the Legislature has tasked the newly created Joint Transportation Committee to conduct a unilateral study of the appropriate functions of the Department of Transportation (Department) and the Transportation Commission (Commission). Now that the Department is a cabinet level agency, it is critical that the executive branch exercise its responsibility for reviewing the powers, functions, roles and duties of the Department and the Commission.

The Legislature passed several bills this session that redefine the roles of the Department and the Commission, and the relationship of those agencies to the Legislature. I am directing my staff to work with the Department and the Commission to examine the statutory roles and duties of the agencies, including transportation innovative partnerships, and report back to me with any recommendations for change. I invite the chairs and ranking members of the House and Senate Transportation Committees and the Joint Transportation Committee to join the executive branch in this analysis with the hope that a joint recommendation can be submitted for consideration during the 2006 legislative session.

Section 208(7), page 10, Washington State Patrol Field Operations Bureau - Ferry Security. This proviso imposes a maximum dollar amount on Washington State Patrol expenditures for activities related to ferry security.

Since 2001, the Patrol has increased security for state ferries in response to requirements set by the U.S. Coast Guard. The federal government determines the level of security that must be provided at any point in time by increasing or decreasing national threat level indicators. Limiting ferry security expenditures could prevent the Patrol from responding to federal mandates outside its control.

Although I am vetoing this proviso, I will direct the Patrol to prepare its 2005-07 spending plan using the dollar amounts identified, with any deviation from that plan subject to approval by the Office of Financial Management. In addition, the Patrol will continue to explore options to provide security to the state ferry system in the most cost-effective manner without compromising public safety or the efficiency of this vital segment of the state's transportation system.

Section 209(7), page 11, Washington State Patrol Technical Services Bureau - Ferry Security. Section 209(7) contains the same language limiting expenditures for ferry security as appears in Section 208(7). In order to ensure the spending flexibility necessary for ferry security, I am also vetoing this section.

Section 223(2), pages 19-20, Department of Transportation - Implementation of ESSB 2157 and SB 6089. This section makes funding contingent on two bills, Engrossed Substitute House Bill 2157 and Senate Bill 6089, that did not pass during the 2005 legislative session. Therefore I am vetoing this section.

Section 305(1)(a), page 29, Department of Transportation - Acquisition Plan. Section 305(1)(a) provides funding for acquisition of right-of-way for State Route 502, and directs the Department of Transportation to develop an acquisition plan in conjunction with the city of Battleground. Because none of the project funds can be spent before the plan is agreed to, the Department will not have funding for the cooperative planning effort. Vetoing the proviso allows other funds in Section 305 to be used for initial planning with the city. I have directed the

Department to collaborate with Battleground on an acquisition plan to submit for legislative consideration in 2006.

Section 305 (1)(e), page 30, Department of Transportation - Freight Corridor Study. A six-year study of the Eastern Washington Freight Corridor (Strategic Freight Transportation Analysis) was completed jointly by the Department of Transportation and Washington State University in 1998. This information was updated in 2004. Since this data has already been collected, there is no reason to perform the study mandated in the budget bill. I am asking the Department to provide a copy of this report to the House and Senate Transportation Committees.

Section 305(11), page 32, Department of Transportation - Removal of Median Barriers. Motorist safety barriers were installed in 2004 to prevent left turns across the highway and reduce the high level of accidents on South Kent Des Moines Road. After the project was completed, the average total collisions per year on this section of State Route 516 declined by 40 percent, injury collisions declined by 45 percent, and driveway and rear-end collisions declined by 58 percent. The City of Kent is currently planning to allow U-turns at Highway 99 to provide access to 30th Avenue South. For safety reasons, I am vetoing the mandate to remove the existing median barriers. I will direct the Department of Transportation to continue working with local government, local businesses and state legislators to develop a solution that maintains safety and improves access.

Section 605, page 49, Department of Transportation - Middle Management Staff Reduction Mandates. The legislative budget includes the middle management cuts that I proposed in my budget, but adds proviso language in Section 605 that limits the Department's discretion in implementing these cuts. Although I agree with the priorities assumed by the Legislature, I believe these additional restrictions represent an unnecessary intrusion into the administrative authority of the Governor, and I am vetoing this language. The actual cut to FTEs and dollars for middle-management positions remains in the budget and is not affected by this veto.

Section 607, page 50, Department of Transportation - Government Accounting Standards Board Compliance. This proviso directs the Department of Transportation to implement the Government Accounting Standards Board (GASB) statement 34 as it relates to asset valuation of the state's highway system. The proviso also requires the department to report additional information beyond what is required by GASB accounting standards. Since the state has already complied with GASB statement 34 for highway assets, I believe this part of the proviso is unnecessary. I am vetoing this section, and directing the Department to work with the Office of Financial Management and interested state legislators to determine if additional financial information has sufficient benefit before we commit to what could be a substantial cost and workload to exceed GASB standards.

Local Freight Projects. Although I am not vetoing section 310(8) relating to funding for freight projects, I do have concerns about the budget's approach to these allocations. Traditionally, this federal funding has been distributed using a collaborative decision process that involved the executive branch, local governments, and legislators. This approach has proved successful in addressing mutual priorities for critical freight projects, and I would prefer to use this mechanism for allocation of the remaining flexible federal funds.

With the exception of those portions of Sections 103(2), page 3; 205(1), page 5; 208(7), page 10; 209(7), page 11; 223(2), pages 19- 20; 305(1)(a), page 29; 305 (1)(e), page 30; 305(11), page 32; 605, page 49; and 607, page 50 as specified above, Engrossed Substitute Senate Bill 6091 is approved.

Respectfully submitted,

Christine Gregoire

Christine O. Gregoire
Governor

ESSB 6094
PARTIAL VETO
C 488 L 05

Making appropriations and authorizing expenditures for capital improvements.

By Senate Committee on Ways & Means (originally sponsored by Senators Fraser and Hewitt; by request of Governor Gregoire).

Senate Committee on Ways & Means
House Committee on Capital Budget

Background: The programs and agencies of state government are funded on a two-year basis, with each fiscal biennium beginning on July 1 of odd-numbered years. The capital budget generally includes appropriations for the acquisition, construction, and repair of capital assets such as land, buildings, and other infrastructure improvements. Funding for the capital budget is primarily from state general obligation bonds, with other funding derived from various dedicated taxes, fees, and state trust land revenues.

Summary: The omnibus 2005-07 capital budget authorizes new capital projects for state agencies and institutions of higher education. For additional information see the *Capital Budget Summary* published by the Senate Ways & Means Committee.

Votes on Final Passage:

Senate	45	0	
House	92	5	(House amended)
Senate			(Senate refused to concur)

Conference Committee

House	93	5
Senate	45	2

Effective: May 16, 2005

June 30, 2005 (Sections 920 and 921)

Partial Veto Summary: The Governor vetoed seventeen sections or subsections of the capital appropriations bill.

VETO MESSAGE ON SB 6094-S

May 16, 2005

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning, without my approval as to Sections 143(2)(b); 143(2)(c); 160; 163; 219, lines 25-31; 425, lines 7-10; 426(1); 427(1); 438; 615(4); 643, lines 4-7; 714, lines 4-5; 909(5)(o); 909(7); 923; 931; and 932 of Engrossed Senate Bill No. 6094 entitled:

“AN ACT Relating to the capital budget.”

My reasons for vetoing these sections are as follows:

Section 143(2)(b) and (c), page 26, Department of General Administration. Section 143(2)(b) and (c) state that the construction contract award for the Cherberg Building rehabilitation shall be made to the general contractor offering written and oral materials demonstrating the greatest value for attainment of the program objectives considering a number of evaluation cri-

teria including cost, and that the project oversight is delegated to the Senate. These sections amend permanent statutes without reference by not clearly stating the intent to use alternative public works (RCW 39.10) and removing the custody and control of the building from the Department of General Administration as required by RCW 43.19.125. I am vetoing these sections, but I also direct the Department of General Administration to work with the Senate to ensure the project complies with RCW 39.10, that oversight complies with RCW 43.19.125, that the project remains observant of the historical and monumental nature of the building, and that the Senate is fully involved in decisions regarding the design, management and construction during the rehabilitation.

Section 160, page 34, Department of General Administration. This section directs that the state capitol committee consult with a legislative buildings committee in its work on the state capitol campus master plan. I am vetoing this section because it amends permanent statute without reference (RCW 43.34.010) by introducing additional participants and process steps that the state capitol committee must undertake before it can adopt the master plan.

Section 163, page 35, Department of General Administration. This section duplicates funding provided in the operating budget for Capitol Lake environmental preservation and planning. Operating funds are better suited to these activities so I am vetoing this section.

Section 219, page 45, lines 25-31, Department of Social and Health Services. The funds provided in this section are needed to make critical health and life safety improvements such as fire sprinklers in residences at the Fircrest School campus for the developmentally disabled. I am vetoing the conditions and limitations placed on this appropriation that require the Department of Social and Health Services to resolve issues with the food bank tenant at the campus so that these funds are available to make needed safety repairs. However, I direct DSHS to work with the tenant to examine the tenant's concerns.

Section 425, page 115, lines 7-10, Department of Fish and Wildlife. This section provides funding for the improvement of assorted departmental facilities, infrastructure, lands and access sites statewide. The proviso within the section stipulates that none of the funding may be used to construct a new public boat launch access on Lake Tahuyeh in Kitsap County. I am vetoing this section because, as the legal landowner, the department is prevented from lawful development of state-owned resources, which will further limit the expansion of public recreational fishing opportunities. However, I appreciate that Lake Tahuyeh residents may have concerns about the impact of the new facility and ask the department to work with local landowners as they develop and maintain the public access to the lake.

Section 426(1), page 115, Department of Fish and Wildlife. This subsection duplicates language that is identical to the subsequent proviso (2) in the same section.

Section 427(1), page 116, Department of Fish and Wildlife. This subsection duplicates language that is identical to the subsequent proviso (2) in the same section.

Section 438, Page 120, Department of Natural Resources. This section requires the Department of Natural Resources to conduct a study of deep-water geoduck and sea cucumber populations in Hood Canal, utilizing \$650,000 of funding from the Resource Management Cost Account (RMCA). This account receives revenue from two major activities - leases and sale of valuable materials from state-owned aquatic lands and leases and timber sales from state trust lands. I am vetoing this section because the projected fund balance of the aquatics portion of RMCA is insufficient to cover the cost of this study.

Section 615(4), page 137, Higher Education Coordinating Board. Section 615(4) requires the advisory committee on higher education created in E2SB 5441 (Comprehensive Education Study) to serve as a steering committee to direct the Board in the conduct of a higher education needs assessment and siting study for Snohomish, Skagit, and Island counties. Under current stat-

ute, the Board has authority to conduct these assessments. I am directing the Board to consult with the advisory committee created in E2SB 5441 so that the advisory committee may consider the Board's findings and recommendations as it considers the higher education needs of the entire state.

Section 643, page 147, lines 4-7, Washington State University. This proviso establishes a contingency for the allotment of a reappropriation. This violates provisions of RCW 43.88.110(7) that provides for the continuation of project expenditures into the succeeding biennium when an allotment was approved in the previous biennium. This proviso conditions the allotment and thus is in conflict with the statute.

Section 714, page 172, lines 4-5, Western Washington University. These lines indicate potential large future costs for this project. I am vetoing these two lines to allow for additional discussion about the project's scope.

Section 909(5)(o), page 226, Community and Technical College System. Section 909(5)(o) gives Cascadia Community College the authority to use alternative financing for partial funding of the State Route 522 Access project. I am vetoing this capital project because it is funded in the transportation budget.

Section 909(7), page 227, University of Washington. Section 909(7) gives the University of Washington authority to use alternative financing for partial funding of the State Route 522 Access project. I am vetoing this capital project because it is funded in the transportation budget.

Section 923, page 233, Department of General Administration. Section 923 requires the Department of General Administration to obtain legislative approval before selling the Tacoma Rhodes facility. I am vetoing this proviso because decisions regarding Tacoma Rhodes are within the authority and responsibilities of the Department of General Administration as an executive agency responsible for housing state government and acquiring and disposing of property. This existing authority includes managing and making appropriate decisions on the future of facilities, based on sound business principles.

The proviso also requires the Department of General Administration to submit a business plan to the Legislature concerning whether the facility is surplus to the state's needs and whether other state agency tenants might be housed in the building. General Administration already planned to take these steps as part of its ongoing business analysis of the facility and will share the results of the analysis with the Legislature as those efforts unfold.

Section 931, page 240, Office of Financial Management. This section requires the Office of Financial Management to work with the Department of Social and Health Services and legislative fiscal committee staff to determine at what point closure or consolidation of juvenile rehabilitation facilities will be necessary. I am vetoing this proviso because no funding was provided to the Office of Financial Management to prepare and submit this study.

Section 932, pages 240-241, Department of Corrections. Section 932 requires the Department of Corrections to report to the Office of Financial Management and the fiscal committees of the Legislature on the feasibility and cost of closing the McNeil Island Corrections Center. I am vetoing this proviso because no funding was provided to the Department to prepare and submit this study.

With the exception of sections 143(2)(b); 143(2)(c); 160; 163; 219, lines 25-31; 425, lines 7-10; 426(1); 427(1); 438; 615(4); 643, lines 4-7; 714, lines 4-5 (page 172); 909(5)(o); 909(7); 923; 931; and 932 as specified above, Engrossed Senate Bill No. 6094 is approved.

Respectfully submitted,

Christine O. Gregoire

Christine O. Gregoire
Governor

ESB 6096

C 516 L 05

Generating revenue to fund education.

By Senators Poulsen, Fraser and Prentice; by request of Governor Gregoire.

Senate Committee on Ways & Means
House Committee on Finance

Background: The federal government imposes a tax on the transfer of property at death. This tax is known as the federal estate tax. The federal Economic Growth and Tax Relief Reconciliation Act of 2001 phases out the federal estate tax by 2010. The act increased the threshold below which estates owed no tax, known as the applicable exclusion amount. For 2005, the applicable exclusion amount is \$1,500,000. The applicable exclusion amount gradually increases to \$3.5 million by 2009. The act also reduced the credit allowed for state taxes by 25 percent per year. There is no state credit beginning in 2005. All of these changes sunset beginning calendar year 2011.

In 1981, Initiative 402 repealed the state inheritance tax and replaced it with an estate tax equal to the amount allowed as a credit against the federal estate tax. This is commonly referred to as a "pick-up" tax. A pick-up tax is not an additional tax on the estate but merely shifts revenues from the federal government to the state.

When originally approved by the voters in 1981, Initiative 402 incorporated the federal Internal Revenue Code "as it is amended from time to time." Because the state is constitutionally prohibited from delegating its legislative authority to the federal government, the Legislature amended Initiative 402 in 1990 to refer to the Internal Revenue Code "as it existed on June 7, 1990." This change made a conforming amendment necessary to incorporate future changes in the federal Internal Revenue Code. A conforming amendment was last made in 2001. Because the state tax is specifically tied to the federal law before the 2001 act, the state Department of Revenue continued to collect the state tax under the law as it existed before the 2001 federal act. In 2002, bills were introduced in the Legislature both to fully and partially conform to the federal changes in the federal estate tax. None of these bills passed.

On February 3, 2005, the state Supreme Court held that Washington has a "pick-up" estate tax based on current federal law and that the current state statute does not impose an independently operating Washington estate tax. Until the Legislature expressly creates a stand-alone tax, the tax remains a pick-up tax that must be fully reimbursed by the federal credit. In effect, this fully conformed Washington's estate tax to the changes in the federal tax made in 2001 and invalidates the state tax to the extent it exceeds the federal tax credit.

Under the 2001 code, a taxpayer could elect to deduct the value of qualified family-owned business

interests (QFOBI) from the gross estate. The amount of the deduction cannot exceed \$675,000, and the sum of the QFOBI deduction and the applicable exclusion amount cannot exceed \$1.3 million. The QFOBI was repealed beginning in 2004 when the applicable exclusion amount increased to \$1.5 million.

Real property may be valued at current use values if the real and personal property is at least 50 percent of the value of the estate, is being used as a farm or in a trade or business, and passes to a qualified heir. Total reduction cannot exceed \$750,000, adjusted for inflation. For 2005, the amount is \$870,000. A qualified heir is an ancestor, spouse, or a lineal descendent of the individual, spouse, or parent (i.e. siblings and their descendants), and spouses of these lineal descendants. Farming includes the planting, cultivating, caring for, or cutting of trees, or the preparation (other than milling) of trees for market.

The tax on residents with property in other states is reduced by the lesser of the amount of tax paid the other state or by an amount computed by multiplying the federal credit by a fraction, the numerator of which is the value of the property located in the other state and the denominator of which is the value of the decedent's gross estate. The tax on nonresidents is equal to the federal credit multiplied by a fraction, the numerator of which is the value of the property located in Washington and the denominator of which is the value of the decedent's gross estate.

In addition to the estate tax, the federal government imposes a tax on every generation-skipping transfer (GST). The general purpose of the GST tax is to prevent individuals from avoiding estate tax by making transfers of wealth that skip a generation. There is a lifetime exemption of \$1,000,000, indexed to inflation since 1999. For 2004, the exemption under the state tax was \$1,140,000. The tax is imposed at the maximum rate imposed under the estate tax, which is 55 percent under the 2001 federal law. A credit against the federal GST tax is authorized for state GST taxes up to 5 percent of the federal GST tax. The State of Washington imposes a tax on every generation-skipping transfer equal to the federal credit, if real or tangible personal property subject to the federal tax is located in this state or if the trust has its principal place of administration in this state at the time of the generation-skipping transfer.

Summary: An intent to create a stand-alone state estate tax that is not affected by changes in federal law after 2005 is stated. A tax on the transfer of property located in Washington at the time of death of the owner is imposed. The rates range from 10 percent to 19 percent of the Washington taxable estate. The Washington taxable estate is equal to the federal taxable estate, determined without regard to the repeal of the federal estate tax and the deduction for state estate taxes, less:

- 1) \$1.5 million for persons dying in 2005 and at \$2.0 million for persons dying in 2006 and thereafter.
- 2) The value of qualified farm property, including the value of any tangible personal property used primarily for farming purposes on the farm.

To be qualified farm property, 50 percent of the estate must be property used for farming, the decedent or decedent's family must have materially participated in the operation of the farm, and the property must pass to a family member. However, no requirement of continued use for farming is placed on the heirs, and special valuation need not be elected for federal purposes.

If any property in the decedent's estate is located outside of Washington, the amount of tax is the amount tax otherwise due multiplied by a fraction. The numerator of the fraction is the value of the property located in Washington. The denominator of the fraction is the value of the decedent's gross estate. Qualified farm property is excluded from the numerator and denominator of the fraction, and intangible personal property of a resident is presumed to be located in Washington.

Administrative provisions are made to allow the Department of Revenue to administer the stand-alone estate tax.

The generation-skipping transfer tax is repealed.

The revenue generated from the tax is deposited into the education legacy trust account.

Votes on Final Passage:

Senate	25	21
House	50	48

Effective: May 17, 2005

SB 6097
C 180 L 05

Regarding other tobacco products.

By Senators Prentice, Hewitt, Eide, Delvin, Doumit and Schoesler.

Senate Committee on Ways & Means

Background: Cigarette and tobacco products taxes are added directly to the price of these goods before the sales tax is applied. The current rate for the cigarette tax is 142.5 cents per pack of 20 cigarettes. The rate for tobacco products is 129.42 percent of the wholesale price. Examples of tobacco products are cigars, pipe tobacco, and chewing tobacco.

In November 2002, the voters approved I-773 which increased the cigarette tax rate from 82.5 cents per pack to 142.5 cents per pack of 20. It also increased the tobacco products tax from 74.9 percent of wholesale price to 129.42 percent of wholesale price. Revenue from the rate increase is deposited in the Health Services Account.

The tobacco products tax of 129.42 percent is

divided as follows: 48.15 percent goes to the General Fund, 64.52 percent to the Health Services Account, and the remaining 16.75 percent is dedicated to Water Quality Improvement Programs through June 30, 2021, and to the General Fund thereafter. The revenue generated from the tax is split to about 37 percent to the General Fund, 50 percent to the Health Services Account, and 13 percent to the Water Quality Account.

The tobacco products tax is due from the distributor when the distributor brings tobacco products into the state, manufactures tobacco products in the state, or ships tobacco products to retailers in the state.

The tax is based on the wholesale price. The wholesale price is the price charged by the manufacturer to a distributor.

The Department of Revenue administers and collects the tobacco products tax. The Department of Revenue appoints enforcement officers of the Liquor Control Board as the Department's authorized agents to engage in enforcement activities.

Summary: The tobacco products tax is based on the taxable sales price of tobacco products. The taxable sales price of tobacco products is generally the price at which manufacturers or distributors sell products to unaffiliated distributors, retailers, or consumers.

The tobacco products tax rate is reduced to 75 percent of taxable sales price. The tax on cigars is the lesser of 75 percent of taxable sales price or 50 cents per cigar. The tax revenue is distributed as follows: 37 percent to the General Fund, 50 percent to the Health Services Account, and 13 percent to the Water Quality Account.

The Liquor Control Board is made the enforcement authority for tobacco products tax. Distributors (\$650 fee for one place of business plus \$115 for each additional place of business) and retailers (\$93 fee for each location) of tobacco products must be licensed. No license fee is charged if the distributor or retailer holds an equivalent license to sell cigarettes.

The Department of Revenue will publish a current list of licensed distributors and retailers on their web site. Licensed distributors may only sell tobacco products to licensed retailers. Sellers of tobacco products must keep records and make them available for inspection. Criminal penalties are established for failing to obtain a license, refusal to allow inspection of place of business, failing to produce records, presenting false records, and transporting tobacco products for sale without a license or prior notification to the Liquor Control Board.

Persons transporting tobacco products must possess records showing the seller and purchaser of the tobacco products. Property that is used in the illegal shipment and distribution of tobacco products may be seized. The Department of Revenue, after notification and hearing, may revoke the license of distributors and retailers that violate the tobacco products tax law.

Votes on Final Passage:

Senate 40 6
House 79 19

Effective: July 1, 2005

ESSB 6103

C 314 L 05

Funding transportation projects.

By Senate Committee on Transportation (originally sponsored by Senators Haugen and Swecker).

Senate Committee on Transportation

Background: The biennial transportation budget is supported by fuel tax revenues as well as various license, permit, and fee revenues. To support the current, proposed biennial spending plan, additional revenue is required.

Summary: Fuel Taxes. The state fuel tax is raised 3 cents July 1, 2005, 3 cents July 1, 2006, 2 cents July 1, 2007, and 1.5 cents July 1, 2008 for a total increase over four years of 9.5 cents.

Weight Fees. A weight fee is levied on vehicles that do not currently pay a weight fee to account for their impact on roadways. Affected vehicles include passenger vehicles, sport utility vehicles, light trucks, and motor homes. Annual vehicle weight fees for passenger vehicles are set at \$10 for vehicles up to 4,000 pounds, \$20 for vehicles between 4,000 and 6,000 pounds, and \$30 dollars for vehicles weighing between 6,000 and 8,000 pounds. Light trucks used for farm purposes are exempted from the weight fee. Motor homes are charged an annual flat fee of \$75.

Licenses and Permits. Certain Department of Licensing fees are adjusted to recover the cost of issuing various licenses and permits. Revenues that currently subsidize those costs are reallocated in the new expenditure package.

License fees on small, personal use trailers are lowered from \$30 to \$15 annually.

A new class of more flexible farm trip permit is also created.

Votes on Final Passage:

Senate 26 22
House 54 43

Effective: July 1, 2005 (Sections 101-107, 109, 303-310 and 401)
July 24, 2005
January 1, 2006 (Sections 201-206)
July 1, 2006 (Section 110)

SB 6121

C 517 L 05

Making appropriations to the department of agriculture.

By Senator Prentice.

Senate Committee on Ways & Means

Background: The Department of Agriculture provides financial and technical assistance to promote and protect the state's agricultural industry.

Summary: The bill appropriates \$1 million to the Department of Agriculture to extend and expand the asparagus automation and mechanization program and \$1 million to research and develop new hop harvesting technologies.

Votes on Final Passage:

Senate 45 0
House 97 1

Effective: July 24, 2005

SJM 8000

Supporting the establishment of the Ice Age Floods National Geologic Trail.

By Senators Parlette, Morton, Mulliken, Delvin and Sheldon.

Senate Committee on Natural Resources, Ocean & Recreation

House Committee on Natural Resources, Ecology & Parks

Background: The impact of the ice age floods which occurred 12,000 years ago can be seen today in Montana, Idaho, Washington, and Oregon. In 2001 the National Park Service (NPS) finished a study of the flood events and their effect on the region. In the report to Congress an Ice Age Floods Geologic Trail was proposed. Similar national trails regarding natural or historic events are found in other areas and they have a direct effect on tourism. Congress is currently considering H.R. 383 which would authorize the NPS to go ahead and work with all public and private parties to create the trail. Land acquisition would only amount to about 25 acres for an interpretive center to be created in the future.

Summary: The Washington State Legislature asks the President and Congress to establish the Ice Age Floods National Geologic Trail.

Votes on Final Passage:

Senate 48 0
House 97 0

ESSJM 8010

Petitioning the United States Department of Agriculture regarding Canadian beef importation and export of United States beef.

By Senate Committee on Agriculture & Rural Economic Development (originally sponsored by Senators Rasmussen, Schoesler, Sheldon, Franklin, Roach, Spanel, Deccio, McAuliffe, Shin, Haugen, Prentice, Fairley, Rockefeller, Mulliken and Morton).

Senate Committee on Agriculture & Rural Economic Development

House Committee on Economic Development, Agriculture & Trade

Background: On January 4, 2005, the United States Department of Agriculture (USDA) proposed a rule to reopen its border effective on March 7, 2005 to the importation of Canadian live cattle and processed beef products. Shortly thereafter, on January 11th, Canada announced that another cow in Canada tested positive for bovine spongiform encephalopathy (BSE). In response, the USDA announced that it would send a technical team to Canada to investigate the circumstances that resulted in this additional infection.

Many foreign markets to U.S. beef products were closed due to the discovery on December 23, 2004, of one cow with BSE in the United States. These foreign markets have yet to reopen. The origin of this animal was Canada.

Summary: The USDA is requested to: (1) reaffirm to Congress and the courts that the federal rule to lift the limited ban on importing Canadian beef be based on sound scientific proof so that consumer safety and animal health of the United States will be maintained; and (2) redouble efforts to conclude negotiations with trading partners to reestablish critical exports for U.S. produced beef be based on the same sound science.

Votes on Final Passage:

Senate	42	4	
House	94	2	(House amended)
Senate	46	0	(Senate concurred)

SJM 8014

Requesting that the privatization of social security be rejected.

By Senators Thibaudeau, Jacobsen, Fairley, Brown, Prentice, McAuliffe, Regala, Rockefeller, Fraser, Rasmussen, Weinstein, Kline, Keiser and Kohl-Welles.

Senate Committee on Ways & Means

House Committee on Children & Family Services

Background: Social Security is a social insurance system established in 1935 to provide benefits to workers

and their family members upon retirement, disability, or death. It is an earned benefit insurance program, which means that only those who work and pay taxes are eligible for Social Security benefits. According to the most recent data, Social Security provides monthly benefits to 47 million beneficiaries. In 2001, Social Security paid a total of \$471 billion to retired workers, disabled workers, and to the surviving family members of deceased workers.

Social Security offers mainly retirement benefits, but workers can receive four different types of benefits under Social Security: retirement, early retirement, disability, and survivorship benefits. Workers are entitled to retirement benefits if they have contributed to Social Security for at least 10 years, and if they have reached 65 years of age, or 67 years of age for those born after 1959. Early retirement benefits are available to workers, at a reduced benefit rate if they have contributed to Social Security for at least 10 years and have reached the earliest age at which benefits can be paid, which is currently 62 years of age. Workers are also insured in case they become disabled and can no longer work. The number of years that are required to receive disability benefits varies with the age of a worker. Social Security offers life-insurance type benefits to workers. If a worker dies, that worker's family receives benefits from Social Security. Survivorship benefits are paid if the deceased worker has, on average, worked at least one quarter for each year after the worker reached 21 years of age.

The social security program is funded by a payroll tax equal to 6.2 percent of wages. The employee tax is matched by the employer. Self-employed persons are subject to a tax equal to 12.4 percent of their income, which is both the employee and employer contribution. There is a ceiling on the amount of wages subject to the tax. The ceiling is adjusted annually for inflation. For 2005, the ceiling is \$90,000.

Because of the declining number of persons expected to be subject to the payroll tax in the future and the increasing number of persons who will be entitled to benefits under the program, funding of the social security program will be an issue at some point in the future. President Bush has proposed a modification of the social security program that would replace a portion of the current payroll tax with privately managed investment accounts.

Summary: Congress and the Administration are requested to reject the current effort to privatize Social Security and instead to engage in a dialogue with the American public to arrive at a solution that preserves the original intent of making Social Security an insurance fail-safe for the aged and disabled and a complement to an individual's private investments.

Votes on Final Passage:

Senate	25	23
House	56	41

SSJM 8018

Requesting that the proposal to transition the Bonneville Power Administration from cost-based rates to market-based rates and to increase the types of transactions that count against the Bonneville Power Administration's debt limit be rejected.

By Senate Committee on Water, Energy & Environment (originally sponsored by Senators Fraser, Parlette, Poulsen, Hewitt, Berkey, Zarelli, Prentice, Doumit, Rockefeller, Fairley, Rasmussen, Kohl-Welles, Schoesler, Brandland, Schmidt, Shin, Pridemore, Mulliken, Honeyford, Brown, Kline and Regala).

Senate Committee on Water, Energy & Environment
House Committee on Technology, Energy & Communications

Background: Created in 1937, Bonneville Power Administration (BPA) is a federal agency headquartered in Portland, Oregon. BPA serves the Pacific Northwest by operating an extensive electricity transmission system. It also markets wholesale electrical power at cost from federal dams, one non-federal nuclear plant, and other non-federal hydroelectric and wind energy generation facilities.

While BPA is part of the Department of Energy, it is not tax-supported. Rather, BPA recovers all of its costs through the sales of electricity and transmission and repays the U.S. Treasury in full with interest for any money it borrows.

The current U.S. presidential administration has issued a budget proposal to have BPA transition from cost-based rates to market-based rates. The proposal also seeks to increase the types of transactions that would count against BPA's borrowing authority debt limit. Washington State's entire congressional delegation opposes this proposal.

Summary: The President of the United States, Congress, and the Secretary of the U.S. Department of Energy are petitioned to reject the administration's proposal to: (1) transition BPA from cost-based rates to market-based rates; and (2) increase the types of transactions that would count against BPA's borrowing authority debt limit.

Among other things, the joint memorial notes the following:

- BPA supplies 70 percent of the electrical power consumed in the State of Washington;
- wholesale power rates in the Pacific Northwest have increased nearly 50 percent since 2001-2002; and
- the budget proposal would cost the Northwest region \$480 million next year and \$2.5 billion over three years.

Votes on Final Passage:

Senate	45	0
House	96	1

SJR 8207

Changing the membership of the commission on judicial conduct.

By Senators Kline, Esser, Hargrove, Carrell and Johnson.

Senate Committee on Judiciary
House Committee on Judiciary

Background: In 1980, voters approved an amendment to the Washington State Constitution creating an entity currently known as the Judicial Conduct Commission. The commission is given authority to investigate complaints against judges at all levels of the state's court system and to hold hearings to determine if a judge or justice should be disciplined for violation of a rule of judicial conduct. The commission is composed of 11 members, one of whom is a district court judge selected by all district court judges in the state. Municipal court judges have no representation on the commission but are subject to the authority of the commission. Judges of courts of limited jurisdiction include both district and municipal court judges.

Summary: A constitutional amendment is proposed which changes the description of the office held by one member of the commission on judicial conduct from "district" court judge to "limited jurisdiction" court judge. The commission member will be selected by and from judges of courts of limited jurisdiction instead of district courts.

Votes on Final Passage:

Senate	46	0
House	90	2

SCR 8407

Establishing a joint task force on state contracts performed, in whole or in part, outside the United States.

By Senators Shin, Berkey, Kastama, Doumit, Rockefeller, Keiser, Esser, Kohl-Welles, Jacobsen, Kline and Rasmussen.

Senate Committee on Labor, Commerce, Research & Development

Background: There is concern about state contracts performed, in whole or in part, outside the United States and its impacts on Washington's economy, including its agricultural, manufacturing, and technology sectors. There is also a concern about contracts entered into by state agencies which are performed, in whole or in part, outside the United States.

Business, labor, and government leaders recognize that an objective and thorough study of the impact on Washington's economy of state agency contracts that are

performed in whole or in part outside the United States is needed.

Summary: A joint legislative task force is created to study the performance of state contracts outside the United States. The eight-member joint task force consists of two legislators from each caucus of the Senate and House of Representatives.

The joint task force is to consult with and be advised and monitored by an advisory committee consisting of eight members: Three members representing labor; three members representing business, one of whom must represent small business; one member representing the office of the Washington state trade representative; and one member representing the public.

The study is to evaluate:

- the extent to which the performance of state contracts outside the United States results in the creation or loss of family-wage or other jobs;
- the degree to which the performance of contracts inside and outside the U.S. helps Washington's economy and its companies remain competitive globally;
- the extent to which the performance of state agency contracts in whole or in part outside the United States creates a need for adjustment assistance and retraining programs to ensure that Washington's business climate, its employers, and its workers remain competitive globally.
- the degree to which state contracts are being performed at locations outside the U.S.;
- the extent to which state contracts performed at locations outside the U.S. involve personal information;
- subject to available funding, the economic benefit of awarding state contracts to Washington companies;
- the applicability of international trade agreements and federal law to state procurement policies; and
- the extent to which legislative authority over state procurement is adequately protected.

The findings and recommendations of the joint task force must be reported to the Legislature by January 1, 2006.

Votes on Final Passage:

Senate	45	1
House	Adopted	

Sunset Legislation

SUNSET LEGISLATION

There was no sunset legislation in 2005.



Section II Budget Information

Operating Budget

Capital Budget

Transportation Budget

A
Map of
LEWIS AND CLARK'S TRACK,
Across the Western Portion of
(North America)
From the
MISSISSIPPI TO THE PACIFIC OCEAN;
By Order of the Executive
of the
UNITED STATES.
in 1804, 5 & 6.

*Copied by Samuel Lewis from the
Original Drawing of W. Clark*

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2005-07 Operating Budget Overview
(includes the 2005 Supplemental Budget)

REASONS FOR THE PROJECTED BUDGET SHORTFALL

Since September 11, 2001, Washington State has faced continuing budget deficits as the cost of current services has exceeded current revenues. When it built the 2003-05 budget, Washington State was faced with a \$2.7 billion gap between revenues and the demand for spending. That shortfall was solved primarily by a combination of reductions and one time savings, but also included a modest level of new revenues.

In 2005, the shortfall between available revenues and the demand for spending was \$1.8 billion. The two-year growth in revenue for 2005-07 was projected to be \$1.6 billion, a 7% increase, while the cost to maintain current services, provide cost-of-living increases, supply additional higher education capacity, and other enhancements often included in a new biennial budget was estimated to grow by \$3.4 billion, a 15% increase.

This demand for increased spending arose from five primary areas:

1. growth in entitlement programs;
2. increased pension obligations;
3. requests for employee and vendor cost-of-living increases;
4. requests to expand higher education enrollments as the state experienced historically high growth in high school graduates; and
5. proposals made by the Governor and some legislators to reverse reductions made in prior budgets and to add funding for new or expanded programs or services.

Entitlement Programs

The largest growth in entitlement programs has been in medical assistance. The general fund state cost of that program grew by more than \$650 million. Other mandatory cost increases included \$354 million for K-12 student enrollment and other cost increases in public schools; \$239 million for caseload and cost-per-case increases in long-term care, developmental disabilities, and mental health; \$152 million for debt services; and \$150 million for mandatory cost-of-living increases for staff in public schools and some community college staff.

Pensions

The cost of pensions for 2005-07 increased by \$513 million, a 300% increase over pension funding included in the 2003-05 biennial budget. Recognition of extraordinary investment returns in the late 1990s allowed the state to lower the pension contribution rates paid by both employer and employees in recent years. In the 2003-05 biennium, the legislature also suspended the scheduled payments towards the unfunded liability. Another factor that increased the pension costs for 2005-07 was a finding by the State Actuary, who identified a 1998 pension enhancement that was omitted from the valuation for calculation of the required level of pension funding.

Employee Cost-of-Living Increases

In 2002, cost-of-living adjustments (COLAs) were granted for public school and community college employees covered by Initiative 732 (I-732), but the budgeted COLA for state employees was rescinded. In 2003 and 2004 no COLAs were granted, although some teachers and classified staff did receive targeted raises.

The 2005-07 biennium marked the beginning of collective bargaining for wages and benefits by state employees. Under the new collective bargaining law, unions negotiate agreements with the Governor by October of the even year preceding the biennial budget. The Governor is then obligated to include funding for the collective bargaining agreement in the proposed budget. By statute, the legislature is required to either fully fund or completely reject the agreements.

For the 2005-07 biennial budget, \$306 million General Fund-State (GF-S) was required to fund the negotiated agreements and to provide similar increases for other state employees.

Prior Budget Reductions

Additional spending pressures resulted from restoring previous budget reductions. For example, changes made in 2003 that required co-payments for children's health premiums and more frequent eligibility reviews were reversed. In addition, a children's medical program for non-residents eliminated in the 2002 session was restored.

Finally, the federal government notified the state that almost \$82 million of federal funds used to support community based mental health programs would be eliminated on July 1, 2005. (The legislature restored \$80 million of the lost funding.)

HOW THE LEGISLATURE SOLVED THE 2005-07 BUDGET PROBLEM

The combined spending demands of increased costs for current services and priority enhancements would have resulted in a gap between expenditures and projected revenues of more than \$1.8 billion for the 2005-07 biennium.

The legislature addressed this deficit in three ways: (1) increased revenues by \$482 million; (2) instated program reductions and savings of \$557 million; and (3) used \$774 million of fund balances, transfers, and budget driven revenue. These changes resulted in a 2005-07 biennial General Fund-State appropriation of \$26 billion, an 11.6% increase, and a total funds operating budget of \$49.4 billion.

Revenue Increases

The majority of the new revenue, \$313 million, was targeted for funding education. The legislature created a new Education Legacy Account dedicated to funding education programs. Revenue for the account is derived from two sources: (1) a re-enacted estate tax projected to raise \$139 million and (2) an additional cigarette tax of \$0.60 per pack anticipated to generate \$174 million.

The Education Legacy Account is used in two ways:

1. \$138 million is used to pay for a scheduled increase in the per-student payment for the I-728 class size initiative.
2. \$175 million is used to pay for new enrollments at the state's four-year and community colleges; provide financial aid for Washington residents to attend college; allow a \$25 million enhancement to the learning assistance program in public schools; and fund other education items.

An additional \$170 million of new revenue is raised through a variety of tax increases, including an increase in the liquor tax, application of the sales tax to extended warranties, one-time revenue generated by funding accelerated revenue collections, and changes in notification requirements for unclaimed property.

Program Reductions and Savings

Program reductions, along with one-time and ongoing efficiencies, generated \$557 million towards solving the budget deficit. \$325 million is saved through three changes in pension funding policy: 1) deferring contributions to the pension funds for the unfunded liability for PERS and TERS 1; 2) deferring contributions for the gain-sharing benefit for the PERS and TERS 1 and 3 plans; and 3) delaying a portion of the rate increases.

Efficiencies and program reductions will generate another \$232 million, including:

- improving the purchasing process for goods and services;
- enhancing the general assistance program to convert clients more quickly to the federal SSI program and to help legal aliens attain citizenship;
- not funding inflation for leases and equipment;
- reducing middle managers and regional staff in DSHS;
- reducing funds for non-instructional costs at colleges and universities;
- eliminating the Promise Scholarship program; and
- reducing funding by \$25 million for levy equalization, school bus depreciation, and the Reading Corps.

Reserves, Fund Transfers, and Budget-Driven Revenue

To close the remaining gap, the Legislature used \$493 million of general fund reserves along with \$219 million of reserves from other funds, including \$102 million from the Public Employees Benefit account and \$45 million from the Health Services Account. In addition, the budget included specific activities to be conducted by the Department of Revenue and the Liquor Control Board which will result in an additional \$46.3 million for the general fund.

2005-07 Estimated Revenues and Expenditures
Operating Budget
General Fund-State
(Dollars in Millions)

<i>Beginning Balance</i>	\$867.3
<i>March Revenue Forecast</i>	\$24,885.3
Fund Transfers	219.0
Budget Driven Revenue	46.3
Suspend Property Tax Diversion	138.2
Revenue Package	169.2
<i>Resources</i>	\$26,130.4
<i>Total Appropriations</i>	\$25,952.4
<i>Ending Balance</i>	\$178.0

Fund Transfers
(Dollars in Thousands)

<u>Fund Name</u>	
PEBB Fund Balance	\$102,000
Health Services Account	\$45,000
Reduce GF-S back fill to Water Quality	\$38,900
State Treasurer's Service Account	\$10,500
State Convention & Trade Center	\$10,300
Pollution Liability Insurance Program Trust	\$7,500
Dept of Retirement Systems Expense	\$2,000
Litter Account	\$2,000
Financial Svcs Regulation Account	\$1,557
DNR Equipment Fund	\$1,000
Flood Control Account	\$1,000
Secretary of State Revolving Account	\$500
State Toxics Account	\$0
Tourism Account (Olympics)	(\$300)
VRDE	(\$3,000)
Total	\$218,957

2005-07 Washington State Operating Budget
Appropriations Contained Within Other Legislation
(Dollars in Thousands)

Bill Number and Subject	Session Law	Agency	GF-S	Total
2005 Legislative Session				
EHB 1240 - Real Estate Excise Tax Fees	C 480 L 05	Department of Revenue	3,900	3,900
SHB 1509 - Veterans' Widows Tax Asst	C 253 L 05	Department of Revenue	276	276
SHB 2085 - Tire Waste & Removal	C 354 L 05	Office of Financial Management		150
SHB 2085 - Tire Waste & Removal	C 354 L 05	Department of Revenue		40
SB 5454 - Justice Funding	C 457 L 05	Administrator for the Courts		2,400
SB 5454 - Justice Funding	C 457 L 05	Public Defense		7,300
SB 5454 - Justice Funding	C 457 L 05	Civil Legal Aid		3,000
SB 5898 - Postpartum Depression	C 347 L 05	DSHS - Admin & Support Svcs	25	25
SB 5902 - Small Business Assistance	C 357 L 05	Community Trade & Economic Dev	45	45
ESSB 6103 - Transportation - Fuel Tax	C 314 L 05	State Auditor		4,000
Total			4,246	21,136

2005 Revenue Legislation
General Fund-State
(Dollars in Millions)

Modifying Revenue and Taxation - \$262.2 Million General Fund-State and Education Legacy Trust Account Increase

	2006	2007	05-07
HB 2314 Cigarette Tax (Legacy)	88.5	86.0	174.5
Cigarette Tax GF-S	(0.1)	0.1	0.0
Liquor Liter Tax	22.2	25.0	47.2
Extended Warranty Sales Tax	17.3	20.1	37.4
Hi Tech B&O Credit	10.9	10.6	21.5
Historic Auto	-	-	-
Amphitheaters	(0.0)	(0.0)	(0.1)
Direct Mail	(0.2)	(0.2)	(0.3)
Non profit boarding homes	(0.2)	(0.2)	(0.4)
Aerospace Credit	(0.1)	(0.3)	(0.4)
Comprehensive cancer		(1.5)	(1.5)
Mainstreet		(0.8)	(0.8)
Self service laundry	(1.2)	(1.2)	(2.5)
Nursing Home Maint. Fee	(6.0)	(6.6)	(12.6)
Subtotal (HB 2314)	\$131.1	\$131.1	\$262.2

Chapter 514, Laws of 2005 (ESHB 2314) made the following revenue and tax changes:

- An additional cigarette tax of 60 cents per pack; the proceeds are deposited in the Education Legacy Trust Account for funding K-12 and higher education.
- An additional tax of \$1.33 per liter is imposed on liquor sales, excluding purchases by restaurants.
- The retail sales and use tax is imposed on sales of warranties that are not already part of the selling price of purchased tangible property.
- The business and occupation (B&O) tax credit for high-technology research and development (R&D) is modified to correct the formula used to determine the credit.
- The payment of sales and use taxes on the construction of a historic automobile museum is deferred.
- Leasehold interests in certain public amphitheaters are exempt from the leasehold excise tax.
- The B&O, sales, and use taxes are removed from separately stated delivery charges for direct mail.
- Nonprofit boarding homes operated by religious or charitable organizations, or as part of a nonprofit hospital or public hospital district, are exempt from B&O taxes.
- The B&O tax credit for property taxes paid by commercial airplane and component manufacturers is modified concerning which payments are eligible.
- B&O, sales, and use tax exemptions are provided for comprehensive cancer centers.
- The Washington Main Street Program is created to provide technical assistance to communities that undertake downtown or neighborhood commercialization district revitalization initiatives.
- Self-service laundry facilities are exempted from retail sales and use taxes and reclassified under the B&O tax as service establishments.
- The nursing home quality maintenance fee is phased-out.
- The deduction of certain farm property is modified for the purposes of the estate tax enacted in SB 6096.
- The amount of property tax deposited to the Student Achievement Fund is reduced.

2005-07 Operating Budget (ESSB 6090)

2005 Revenue Legislation - Continued

1019	Veterans Property Tax Exemption			
1031	Problem Gambling			
1048	Property Tax Estimates			
1158	County Treasurer Administration			
1189	Veterans Property Tax Levy			
1240	REET Payment Move Up	-	51.6	51.6
1241	Vehicle Licensing	0.7	1.4	2.1
1299	Outdated Tax Preferences			
1303	Metropolitan Park Districts			
1315	REET Controlling Interest	2.8	2.8	5.5
1379	LCB Retailing Plan	1.8	3.2	5.0
1394	Business and Prof acct	(3.8)	(3.9)	(7.7)
1401	Property Tax Exemption for Sprinklers			
1407	Ban on American Beef	-	-	-
1457	Military Department	-	(0.9)	(0.9)
1502	Natural disaster property	(0.0)	(0.0)	(0.0)
1509	Veterans Widows			
1554	Farm & Agricultural Land			
1631	County Conservation Futures Levy			
1690	Health Care Services Levy			
1703	Public Transportation Fare Cards			
1887	Litter Tax Exemptions			
1915	Cigarette Tax Contracts			
1958	Fisheries Buyback Programs			
2085	Tire Fee			
2163	Homeless Housing Program			
2170	REET Dedication			
2221	Fruit and Vegetable processing	(3.3)	(3.8)	(7.1)
2309	Water right fees	0.1	0.1	0.1
5039	Milk and Milk Products	(0.0)	(0.0)	(0.0)
5058	Vehicle Fuel Tax Payment Date	0.3	0.3	0.6
5101	Energy Incentives	-	(0.1)	(0.1)
5111	Solar exemptions	(0.0)	(0.0)	(0.1)
5136	Fire Protection District Levies			
5154	Hist. Property tax	(0.0)	(0.0)	(0.0)
5175	International Companies			
5177	Transportation Benefit Districts			
5396	Habitat Conservation	-	-	-
5454	Trial Court Funding Revisions			
5581	Life Sciences			
5623	RTA exemption	(0.4)	(0.7)	(1.1)
5663	Ag burning	0.7	(2.0)	(1.3)
5713	Multiunit Housing in Urban Areas			
5763	Omnibus Treatment Act			
5782	Linked Deposit prog.	(0.2)	(0.4)	(0.6)
5794	Puyallup Compact	8.0	9.3	17.3
5857	Community Health NP	(0.1)	(0.1)	(0.2)

2005-07 Operating Budget (ESSB 6090)

5916	Alternative Fuel Vehicles	-	-	-
5948	Unclaimed Property	13.2	1.1	14.3
5999	Parking and bus imp.	(0.1)	(0.1)	(0.1)
6003	Commute Trip Reduction	(1.3)	-	(1.3)
6050	Local Government Financial Assistance			
6096	Estate Tax	39.9	98.8	138.7
6097	Tobacco Products	2.8	2.8	5.7
	Subtotal	\$61.1	\$159.2	\$220.3
	Total	\$192.2	\$290.2	\$482.4

Providing a Property Tax Exemption to Veterans with Severe Disabilities - No General Fund-State Revenue Impact

Chapter 248, Laws of 2005 (HB 1019) provides that veterans of the United States armed forces with 100 percent service connected disability are eligible for the same property tax relief as senior citizens based on their income.

Providing Long-Term Funding for Problem Gambling - No General Fund-State Revenue Impact

Chapter 369, Laws of 2005 (ESHB 1031) imposes an additional business and occupation (B&O) tax on the "net win" (total wagers less prizes paid) received by licensed gambling entities and parimutuel horse racing. A transfer of funds from the state lottery at the same rate is also mandated. The additional tax goes into effect on July 1, 2005, at the rate of 0.10 percent of the net win. After June 30, 2006, the rate is 0.13 percent. The amount raised by the B&O tax, and the transfer from the state lottery, must be used to fund a prevention and treatment program, administered by the Department of Social and Health Services, for problem and pathological gamblers. The Gambling Commission is prohibited from imposing a fee for the same purpose while the tax is in effect.

Modifying the Date for Submitting Local Government Property Tax Estimates to Counties - No General Fund-State Revenue Impact

Chapter 52, Laws of 2005 (HB 1048) changes the annual deadline for local governments to certify their budgets for the following year to the county legislative authority for the purpose of levying property taxes from November 15th to November 30th.

Modifying County Treasurer Administrative Provisions - No General Fund-State Revenue Impact

Chapter 502, Laws of 2005 (SHB 1158) modifies the ways in which county treasurers handle collection of property taxes and various other duties. For property taxes, back taxes have to be paid when the certificate of delinquency is issued if there is to be any claim to excess foreclosure proceeds; no interest or penalties are charged on the back taxes of active duty military personnel serving in an armed conflict overseas; a third party's erroneous tax payment won't be refunded; and all taxes have to be paid before a boundary line adjustment. A third party's shipping date is treated the same as a postmark, the state's unclaimed property procedures no longer apply to excess foreclosure proceeds that a county is allowed to keep, and the interest rate paid on voluntary deposits will be the same as the one paid on property tax refunds.

Providing Relief for Indigent Veterans and their Families - No General Fund-State Revenue Impact

Chapter 250, Laws of 2005 (SHB 1189) creates a veteran's assistance fund for the relief of qualifying veterans and the indigent wives, husbands, widows, widowers and minor children of such indigent or deceased veterans. The funds are to be disbursed by the county legislative authority.

Funding the Development of an Automated System to Process Real Estate Excise Taxes - \$51.6 Million General Fund-State Increase

Chapter 480, Laws of 2005 (2SHB 1240) requires counties to remit collected real estate excise tax to the Department of Revenue on the last working day of the month, as opposed to the 20th day of the subsequent month. The bill increases the amount of fees that may be collected by counties on transactions where the amount of tax is less than \$5, and increases the percentage that counties may deduct from taxes collected on behalf of the state for other transactions. In addition, the bill allows county treasurers to assess an additional fee until June 30, 2010. The fee will be used to develop and implement an electronic processing and reporting system for REET affidavits, including making the system compatible with the systems and procedures used by the Department of Revenue, County Assessor, and the County Auditor.

Modifying Vehicle Licensing and Registration Penalties - \$2.1 Million General Fund-State Increase

Chapter 323, Laws of 2005 (EHB 1241) changes the penalty for failure to register a vehicle in this state from a misdemeanor to a traffic infraction and increases the amount from up to \$330 to \$529. The bill also adds a penalty of \$529 for licensing a vehicle in another state to avoid paying taxes and licenses in this state in addition to the current penalty that is based on a multiple of the delinquent taxes and fees.

Repealing Outdated and Unused Tax Preferences - No General Fund-State Revenue Impact

Chapter 443, Laws of 2005 (SHB 1299) repeals the following, outdated or unnecessary tax preferences, revealed in the Department of Revenue's 2004 Tax Exemption Report, effective July 1, 2006: (1) the property tax exemption for agricultural fair lands leased from a county; (2) the steam generated electricity plant public utility district privilege tax exemption; (3) the preferential business and occupation (B&O) tax rate for nuclear fuel assembly manufacturing and sale; (4) the sales and use tax exemptions for motor vehicle fuel used in aircraft testing; (5) the B&O tax credit for cogeneration facilities; (6) the new manufacturers' sales and use tax deferral; (7) the insurance premiums tax credit for international services job creation provided by insurance companies; (8) the health insurance pools B&O tax deduction; (9) the sales tax exemption for apparel used solely for display; (10) the sales and use tax exemptions for sale/leaseback of food processing equipment; (11) the naval aircraft training equipment use tax exemption; and (12) the waiver of delinquency penalties for failure to pay property taxes because of Y2K.

Concerning Metropolitan Park Districts - No General Fund-State Revenue Impact

Chapter 226, Laws of 2005 (HB 1303) allows a metropolitan park district to accept property interests from any municipal corporation and assume responsibility for all existing indebtedness associated with the property. The district may levy annual property taxes, in addition to the district's regular property tax levy, to pay any refunding bonds issued in relation to the assumption of the debt.

Modifying Disclosure Requirements for the Purposes of the Real Estate Excise Tax - \$5.5 Million General Fund-State Increase

Chapter 326, Laws of 2005 (HB 1315) requires entities which are required to file annual reports with the Secretary of State to disclose any transfer of controlling interest in an entity and any interest in real property. This requirement will help the Department of Revenue track transfers of controlling interest in real property to determine when the real estate excise tax is applicable. Information in the possession of the Department of Revenue regarding real estate excise tax is exempt from confidentiality requirements.

Requiring the Liquor Control Board to Implement a Retail Business Plan to Improve Efficiency and Increase Revenue - \$5.0 Million General Fund-State Increase

Chapter 231, Laws of 2005 (SHB 1379) requires the Liquor Control Board to open at least 20 stores on Sunday and monitor the outcome of these openings. Agency stores will also have the option to open on Sunday. In addition, the Liquor Control Board is required to implement a plan of in-store merchandising, including point-of-sale advertising and merchandising of brands.

Creating the Business and Professions Account – \$7.7 Million General Fund-State Decrease

Chapter 25, Laws of 2005 (SHB 1394) establishes a business and professions account. The fees from licensing and regulating thirteen business and professions that had been deposited into the General Fund will now be deposited in this account. The business and professions are: auctioneers; landscape architects; private investigators; bail bond agents; employment agencies; sellers of travel; timeshares; cosmetologists, barbers, and manicurists; court reporters; security guards; collection agencies; camping resorts; and notaries public.

Regulating Fire Safety - No General Fund-State Revenue Impact

Chapter 148, Laws of 2005 (ESHB 1401) provides a 10-year property tax exemption to owners of buildings required to install automatic sprinkler systems in nightclubs on the increased value resulting from the installation of the sprinkler system.

Providing an Expiration Date for the Tax Deduction for Certain Businesses Impacted by the Ban on American Beef Products - No General Fund-State Revenue Impact

Chapter 150, Laws of 2005 (HB 1407) ends the business and occupation tax deduction for the slaughtering, breaking, processing, and wholesaling of perishable beef products for firms that slaughter cattle on December 31, 2007, or when Japan, Mexico, and the Republic of Korea all lift their ban on beef products from the United States, whichever occurs earlier.

Creating the Military Department Capital Account and Rental and Lease Account - \$0.88 Million General Fund-State Decrease

Chapters 252, Laws of 2005 (HB 1457) establishes the Military Department Capital Account and the Military Department Rental and Lease Account. Funds in both accounts are subject to appropriation. All receipts from the sale of state-owned military department property will be deposited into the Military Department Capital Account. The costs of military department capital projects will be offset by funds in the capital account. All receipts from the rental or lease of state-owned military department property will be deposited into the Military Department Rental and Lease Account. The funds in the rental and lease account are only to be used for military property operating and maintenance costs. The Governor vetoed the companion bill, SB 5340, which was also enacted.

Modifying Tax Abatement Provisions - \$0.05 Million General Fund-State Decrease

Chapter 56, Laws of 2005 (SHB 1502) provides for a reduction in property taxes on destroyed property or property damaged by a natural disaster in the year in which the destruction or damage occurred.

Providing a Property Tax Exemption to Widows or Widowers of Members of the Military - No General Fund-State Revenue Impact

Chapter 253, Laws of 2005 (SHB 1509) establishes a grant program in the Department of Revenue to provide assistance to widows and widowers of veterans for the payment of property taxes. The person must be eligible for the senior citizen property tax exemption program other than the income limits and a widow or widower of a veteran who died from a service-connected disability; was 100 percent disabled for the 10 years prior to death; was a POW and 100 percent disabled at least 1 year prior to death; or died

while on active duty or in active military training status. The assistance is equal to property taxes imposed on the difference between the value eligible for exemption under the senior citizen program and 1) \$50,000 if the income level is \$35,001 to \$40,000; 2) \$75,000 if the income level is \$30,001 to \$35,000; and 3) \$100,000 if the income level is \$30,000 or less.

Clarifying the Definition of "Farm and Agricultural Land" for Purposes of Current Use Property Taxation - No General Fund-State Revenue Impact

Chapter 57, Laws of 2005 (HB 1554) allows farms between 5 and 20 acres to include the value of agricultural products donated to nonprofit food banks or feeding programs in meeting the gross income requirements to qualify for current use valuation for property tax purposes.

Using Revenues under the County Conservation Futures Levy - No General Fund-State Revenue Impact

Chapter 449, Laws of 2005 (ESHB 1631) allows counties to use revenues from the conservation futures levy for the maintenance and operation of any property acquired with funds from the levy. Counties may use up to 15 percent of conservation futures revenues for the maintenance and operation of parks and recreational land.

Regarding the Applicability of Certain Taxes and Assessments to State-Funded Health Care Services Levy - No General Fund-State Revenue Impact

Chapter 405, Laws of 2005 (HB 1690) exempts health plans that provide health services under the General Assistance-Unemployable program or health services under a demonstration or pilot Medicaid program for elderly or disabled persons from the 2 percent tax on prepayments and assessments for the Washington State Health Insurance Pool.

Modifying the Application of the Unclaimed Property Laws to Certain Public Transportation Fare Cards - No General Fund-State Revenue Impact

Chapter 285, Laws of 2005 (ESHB 1703) relieves a public transportation agency that holds abandoned fare card value of the requirement to report the value to the state after the end of the holding period, provided that the agency honors the card containing the value if the owner ever presents it to the agency.

Modifying Exemptions to the Litter Tax - No General Fund-State Revenue Impact

Chapter 289, Laws of 2005 (SHB 1887) modifies the exemption from the state litter tax for food and beverages served at a seller's place of business such that the items must be sold for immediate consumption either indoors or outdoors; at the place of business, or indoors at an eating area adjacent to the place of business. Food and beverages sold by a caterer, if the items are for immediate consumption, are in containers designed to be used more than one time, and are at premises occupied or controlled by the customer, are exempt from the state litter tax.

Authorizing the Governor to Enter into Cigarette Tax Contracts with Additional Tribes - No General Fund-State Revenue Impact

Chapter 208, Laws of 2005 (HB 1915) extends the authority of the Governor to enter into cigarette tax contracts with Indian tribes to the Confederated Tribes of the Colville Reservation, the Cowlitz Indian Tribe, the Lower Elwha Klallam Tribe, and the Makah Tribe, increasing the total tribes authorized to enter into contracts to 25. Under a cigarette tax contract, the sales must be subject to a tribal cigarette tax equal to 100 percent of the state cigarette tax and state and local sales and use taxes and are exempt from these state and local taxes.

Extending Certain Limited Fisheries Buyback Programs - No General Fund-State Revenue Impact

Chapter 110, Laws of 2005 (HB 1958) extends the date when the sea cucumber and sea urchin \$100 license renewal fee and the portion of the excise tax dedicated to sea cucumber and sea urchin license retirements expires from 2005 until 2010.

Regarding the Cleanup of Waste Tires - No General Fund-State Revenue Impact

Chapter 354, Laws of 2005 (HB 2085) reinstates a \$1 fee beginning July 1, 2005, on the retail sale of new vehicle replacement tires. The fees are placed in a Waste Tire Removal Account. The funds may be spent only for removal of waste tires from unauthorized sites, the cleanup and prevention of future tire accumulations, and on a detailed study to identify and collect information on existing tire cleanup sites. The Department of Ecology must immediately initiate a pilot project to clean up an existing site in Goldendale, Washington. Individuals who transport or store tires must be licensed and bonded.

Establishing a Homeless Housing Program – No General Fund-State Revenue Impact

Chapter 484, Laws of 2005 (E2SHB 2163) creates the Homeless Housing Program to be administered by the DCTED, including a local government funding component, a state competitive grant program, and the coordination of a statewide Homeless Census program. Funding for the program is created by requiring a new \$10 surcharge for each document recorded by the county auditor, excluding documents of a birth, marriage, divorce, or death. After administrative expenses, 60 percent of funds will be distributed to local governments and the remainder to the DCTED for a competitive grant program.

Concerning Proceeds from the Real Estate Excise Tax - No General Fund-State Revenue Impact

Chapter 486, Laws of 2005 (HB 2170) removes the dedication of the real estate excise tax going to the State General Fund for common schools. This increases the amount of general state revenues used to calculate the 9 percent constitutional debt limit, which in turn increases bond capacity under the constitutional limit.

Modifying the Excise Taxation of Fruit and Vegetable Processing and Storage - \$7.1 Million General Fund-State Decrease

Chapter 513, Laws of 2005 (ESHB 2221) exempts fresh fruit and vegetable processing from business and occupation tax starting July 1, 2005. In addition, beginning July 1, 2007 and lasting through June 30, 2012, exemptions are provided for the sales and use tax on the construction of and machinery and equipment used in fresh fruit and vegetable processing facilities and cold storage warehouses. A permanent exemption from the state portion of the sales and use tax is provided for the construction of cold storage warehouses larger than 25,000 square feet and the acquisition of material-handling and racking equipment for these warehouses. Persons claiming exemptions under the bill must file an annual report with the DOR and the amount of exemption may be publicly disclosed.

Modifying Water Right Fees - \$0.14 Million General Fund-State Increase

Chapter 412, Laws of 2005 (ESHB 2309) amends fees associated with acquiring or changing a water right. Certain actions are exempted from imposition of fees. Relief is provided from dam safety inspection fees for newly constructed dams. Twenty percent of the fee revenue must be used for a water rights tracking system.

Regulating the Processing of Milk and Milk Products - \$0.002 Million General Fund-State Decrease

Chapter 414, Laws of 2005 (SB 5039) increases the annual license fee for a milk and milk products processing plant from \$25.00 to \$55.00. A facility that processes food products in addition to milk and milk products is required to pay only the milk processor fee and not the food processor fee.

Modifying Fuel Tax Payment Requirements - \$0.56 Million General Fund-State Increase

Chapter 260, Laws of 2005 (SSB 5058) moves the payment date for motor vehicle fuel taxes and special fuel taxes from the 10th of the second month following the reporting period to the 26th of the month following the reporting period when remitting payment by electronic funds transfer. Also, a distributor is allowed to remit fuel tax payments to a supplier seven business days before the 26th day of the month following the reporting period instead of two days before the last business day of the month following the reporting period.

Providing Incentives to Support Renewable Energy - \$0.13 Million General Fund-State Decrease

Chapter 300, Laws of 2005 (SSB 5101) allows individuals, businesses, and local governments to receive incentive payments from their light and power business for electricity they generate on their own property from wind, solar, or anaerobic digesters if such private energy systems are not interconnected to the public electric distribution system. Each light and power business is allowed a credit against their public utility tax for incentives payments made limited to one quarter of one percent of its taxable power sales, or \$25,000, whichever is greater.

Providing Tax Incentives for Solar Energy Businesses - \$0.07 Million General Fund-State Decrease

Chapter 301, Laws of 2005 (E2SSB 5111) reduces the business and occupation (B&O) tax rate for businesses manufacturing solar energy systems or the silicon components of these systems from 0.484 percent to 0.2904 percent until June 30, 2014. Taxes paid to other states in manufacturing these systems are allowed as a B&O tax credit.

Modifying Fire Protection District Property Tax Levies - No General Fund-State Revenue Impact

Chapter 122, Laws of 2005 (SB 5136) protects twenty-five cents of the property tax levy for fire protection districts from the prorationing process applied to junior taxing districts.

Providing a Leasehold Excise Tax Exemption for Certain Historical Property - \$0.03 Million General Fund-State Decrease

Chapter 170, Laws of 2005 (2SSB 5154) exempts from the leasehold excise tax leases of city property that is listed on a federal or state register of historical sites and is within a national historic reserve.

Declaring that International Companies Investing in Washington are Eligible for Tax Incentives - No General Fund-State Revenue Impact

Chapter 135, Laws of 2005 (SB 5175) includes international companies investing in Washington within the definition of person for purposes of tax incentives.

Modifying Transportation Benefit District Provisions - No General Fund-State Revenue Impact

Chapter 336, Laws of 2005 (SSB 5177) expands the authority of transportation benefit districts, which are special taxing districts established to finance certain transportation improvement projects. A local option sales and use tax of up to 0.2 percent is authorized for up to 10 years with voter approval. An additional 10 years is authorized with subsequent voter approval.

Expanding the Criteria for Habitat Conservation Programs - No General Fund-State Revenue Impact

Chapter 303, Laws of 2005 (ESSB 5396) adds two new categories to the Washington Wildlife and Recreation Program (WWRP) for farmlands preservation and riparian protection and establishes a formula for allocating moneys to the new accounts. The WWRP funding allocations for categories under the Habitat Conservation Account and the Outdoor Recreation Account are changed. The Department of Natural Resources and the Department of Fish and Wildlife must make a payment in lieu of property

taxes and an additional amount for weed control for lands acquired using funds from the Habitat Conservation Account. All state agencies acquiring land under the Riparian Protection Account must make these payments.

Revising Trial Court Funding Provisions - No General Fund-State Revenue Impact

Chapter 457, Laws of 2005 (E2SSB 5454) increases superior and district court filing fees and other court fees. Revenue to the state from the increased fees must be deposited into a newly-created equal justice account of the Public Safety and Education Account and appropriated for: (a) trial-level criminal indigent defense, including a pilot project; (b) parent representation in dependency and termination cases; (c) civil legal services; and (d) district and elected municipal court judge salary contributions. Of the revenue generated in the 2005-07 fiscal biennium, 25 percent less \$1 million must go towards judges' salaries, and 50 percent to judges' salaries in subsequent bienniums. The following appropriations are made: (a) \$2.3 million for criminal indigent defense, with \$1 million going towards a pilot program; (b) \$5 million for parent representation in dependency and termination cases; (c) \$3 million to civil legal services; and (d) \$2.4 million for judges' salaries. Cities and counties receiving state contribution for judges' salaries are required to establish local trial court improvement accounts and deposit into their accounts an amount equal to 100 percent of the state's contribution to the judges' salaries.

Establishing the Life Sciences Discovery Fund Authority - No General Fund-State Revenue Impact

Chapter 424, Laws of 2005 (E2SSB 5581) creates the Life Sciences Discovery Fund Authority as an agency of the state to promote life sciences research and exempts income of the authority from the state business and occupation tax.

Sales Tax Exemption for Regional Transit Authorities - \$1.1 Million General Fund-State Decrease

Chapter 515, Laws of 2005 (SSB 5623) removes maintenance services for bus, rail, or rail fixed guideway equipment performed for a regional transit authority by another transit agency from the definition of a retail sale, thus exempting the services from the sales tax. The B&O rate on such services will increase from 0.471 percent to 1.5 percent.

Changing the Tax Exemptions for Machinery and Equipment Used to Reduce Agricultural Burning - \$1.3 Million General Fund-State Decrease

Chapter 420, Laws of 2005 (2SSB 5663) provides a sales and use tax exemption for machinery and equipment used to reduce the practice of field stubble burning for cereal grains and turf grass grown for seed production. The exemption also applies to the construction of hay sheds. The exempt machinery and equipment are specifically identified. The exemption expires January 1, 2011. The property tax exemption for machinery and equipment and the B&O tax credit for field burning costs set to expire January 1, 2006, are each repealed.

Assisting Tenants in Multiple-Unit Housing Proposed for Rehabilitation - No General Fund-State Revenue Impact

Chapter 80, Laws of 2005 (SB 5713) removes the requirement that property be vacant for one year before submitting an application to qualify for a property tax exemption for the rehabilitation of multi-family housing in urban centers.

Creating the Omnibus Treatment of Mental and Substance Abuse Disorders Act of 2005 - No General Fund-State Revenue Impact

Chapter 504, Laws of 2005 (E2SSB 5763), an omnibus bill relating to the treatment of mental disorders, chemical dependency disorders, and co-occurring mental and chemical dependency disorders, authorizes county legislative authorities to levy a 0.1 percent sales tax dedicated to new and expanded therapeutic

court programs for dependency proceedings, and new and expanded mental health and chemical dependency treatment services.

Modifying Provisions of the Linked Deposit Program - \$0.58 Million General Fund-State Decrease

The linked deposit program provides state certified minority-owned and women-owned businesses reduced interest rate loans for the purpose of increasing their access to capital. Chapter 302, Laws of 2005 (2SSB 5782) increases the amount of state invested funds available for the program from \$50 million to \$100 million. The bill also eliminates the sunset date of the linked deposit program and transfers the responsibility for monitoring the performance of the program loans from the Department of Community, Trade and Economic Development to the Office of the Minority and Women's Business Enterprises.

Authorizing the Governor to Enter into a Cigarette Tax Agreement with the Puyallup Tribe of Indians - \$17.3 Million General Fund-State Increase

Chapter 11, Laws of 2005 (SB 5794) authorizes the Governor to enter into an agreement with the Puyallup Tribe of Indians regarding the taxation of cigarettes under which the tribe must impose a tax of \$11.75 per carton, in lieu of state cigarette and state and local sales and use taxes. The state receives 30 percent of the tribal tax revenue.

Authorizing a Business and Occupation Tax Deduction for certain Nonprofit Community Health Centers - \$0.24 Million General Fund-State Decrease

Chapter 86, Laws of 2005 (SB 5857) extends the deduction under the business and occupation tax for amounts received as compensation for health care services covered under Medicare, medical assistance, children's health, and the basic health plan to nonprofit community health centers and networks of nonprofit community health centers.

Exempting Clean Alternative Fuel Vehicles From Sales and Use Tax - No General Fund-State Revenue Impact

Chapter 296, Laws of 2005 (2SSB 5916) provides a sales and use tax exemption for new passenger cars, light duty trucks, and medium duty passenger vehicles, which are exclusively powered by a clean alternative fuel or which use hybrid technology. The exemption takes effect from January 1, 2009, through January 1, 2011.

Modifying Unclaimed Property Provisions - \$14.3 Million General Fund-State Increase

Chapter 367, Laws of 2005 (SB 5948) allows the Department of Revenue to redeem mutual funds and other dividend reinvestment plans that have been deemed unclaimed property. The bill also removes the requirement that the department print in the newspaper each name of persons with claims to unclaimed property. Instead, the Department must publish summary information of how owners may obtain this information.

Exempting Service Contracts to Administer Parking and Business Improvement Areas from Excise Taxation - \$0.15 Million General Fund-State Decrease

Chapter 476, Laws of 2005 (SSB 5999) exempts from state and city business and occupation taxes amounts received by a chamber of commerce or similar business association from cities or counties to administer a parking and business improvement area.

Modifying the Commute Trip Reduction Tax Credit - \$1.3 Million General Fund-State Decrease

Chapter 297, Laws of 2005 (ESB 6003) requires applications for the Commute Trip Reduction (CTR) tax credit to be filed in January following the calendar year in which the expenditures for CTR incentives

2005-07 Operating Budget (ESSB 6090)

were made. The total amount of state credit available is increased by \$1,000,000 per biennium. If the total amount of approved credits exceeds the total state limit, credits for all applicants are proportionally reduced. After July 1, 2005, a tax credit may be carried over until it is used.

Providing Financial Assistance to Cities, Towns, and Counties - No General Fund-State Revenue Impact

Chapter 450, Laws of 2005 (ESSB 6050) reduces the portion of the real estate excise tax (REET) deposited in the Public Works Assistance Account from 7.7 percent to 6.1 percent, and deposits 1.6 percent of the REET into the new city-county assistance account. The level of funding will be split equally between cities and counties and will be distributed to jurisdictions with poor sales or property tax bases.

Generating New Tax Revenues to Provide Education Funding - \$138.7 Million Education Legacy Trust Account-State

Chapter 516, Laws of 2005 (ESB 6096) reinstates and modifies the recently invalidated state estate tax for persons who die after the effective date of the act. Estates below \$1.5 million for calendar year 2005 and \$2.0 million thereafter are exempt. Additionally, a deduction is allowed for qualified farm property. Revenues are deposited into the Education Legacy Trust Account to fund Initiative 728 and higher education.

Regarding Other Tobacco Products - \$5.7 Million General Fund-State Increase

Chapter 180, Laws of 2005 (SB 6097) creates several enforcement provisions for the tobacco products tax, similar to the cigarette tax provisions, to help limit the amount of illegal or untaxed tobacco products in the state. In addition, the tax on tobacco products is reduced from 129% to 75%. Cigars have a maximum tax rate of 50 cents per cigar.

Budget Driven Revenue

	(\$ in millions)		
	2006	2007	2005-07
Continue Liquor Surcharge	\$9.60	\$9.80	\$19.4
Dept. of Revenue Enhancement	\$6.10	\$9.10	\$15.2
LCB Shipping Capacity	\$2.90	\$6.10	\$9.0
LCB Budget Revision	\$1.33	\$1.33	\$2.7
Total			\$46.3

Continuation of Liquor Surcharge - \$19.4 Million General Fund-State Increase

The \$.42 surcharge on a liter of spirits imposed in the 03-05 operating budget is continued for the 05-07 biennium.

Department of Revenue Encancement-\$15.2 Million General Fund-State Increase

Additional resources are provided to the Department of Revenue to increase real estate excise tax audits, out-of-state audits, and desk audits as well as increased out-of-state compliance enforcement.

Liquor Control Board Shipping Capacity - \$9.0 Million General Fund-State Increase

The Liquor Control Board has reached its maximum shipping and storage capacity at its distribution center in Seattle. Increasing the shipping capacity will allow the Liquor Control Board to meet the demand for liquor sales.

Liquor Control Board Budget Revision - \$2.7 Million General Fund-State Increase

This revenue is derived from cuts in the Liquor Control Board's agency request budget.

2005-07 Omnibus Operating Budget
(Dollars in Thousands)

	GF-S	Total
Legislative	140,970	148,103
Judicial	95,869	205,183
Governmental Operations	460,076	3,188,651
Other Human Services	1,574,840	4,153,090
DSHS	7,883,928	17,217,073
Natural Resources	366,902	1,296,763
Transportation	70,464	145,790
Public Schools	10,914,763	13,147,661
Higher Education	2,900,607	8,105,412
Other Education	43,974	105,940
Special Appropriations	1,500,021	1,736,187
Statewide Total	25,952,414	49,449,853

2005-07 Omnibus Operating Budget

(Dollars in Thousands)

	GF-S	Total
Legislative		
House of Representatives	61,161	61,161
Senate	48,621	48,621
Jt Leg Audit & Review Committee	4,484	4,484
LEAP Committee	3,658	3,658
Office of the State Actuary	0	3,013
Joint Legislative Systems Comm	14,536	16,380
Statute Law Committee	8,510	10,786
Total Legislative	140,970	148,103
Judicial		
Supreme Court	12,431	12,431
State Law Library	4,031	4,031
Court of Appeals	28,224	28,224
Commission on Judicial Conduct	2,162	2,162
Office of Administrator for Courts	39,738	117,885
Office of Public Defense	3,568	24,043
Office of Civil Legal Aid	5,715	16,407
Total Judicial	95,869	205,183
Total Legislative/Judicial	236,839	353,286

2005-07 Omnibus Operating Budget

(Dollars in Thousands)

	GF-S	Total
Governmental Operations		
Office of the Governor	10,879	16,935
Office of the Lieutenant Governor	1,518	1,519
Public Disclosure Commission	3,998	3,998
Office of the Secretary of State	36,425	117,285
Governor's Office of Indian Affairs	566	566
Asian-Pacific-American Affrs	473	473
Office of the State Treasurer	0	14,124
Office of the State Auditor	4,325	50,242
Comm Salaries for Elected Officials	343	343
Office of the Attorney General	10,379	205,976
Caseload Forecast Council	1,433	1,433
Dept of Financial Institutions	0	37,490
Dept Community, Trade, Econ Dev	133,319	455,910
Economic & Revenue Forecast Council	1,090	1,090
Office of Financial Management	33,043	105,616
Office of Administrative Hearings	0	29,540
Department of Personnel	0	54,332
State Lottery Commission	0	735,244
Washington State Gambling Comm	0	29,954
WA State Comm on Hispanic Affairs	485	485
African-American Affairs Comm	477	477
Personnel Appeals Board	0	1,043
Department of Retirement Systems	0	49,396
State Investment Board	0	16,020
Public Printer	0	65,767
Department of Revenue	185,448	197,487
Board of Tax Appeals	2,573	2,573
Municipal Research Council	0	4,921
Minority & Women's Business Enterp	0	3,186
Dept of General Administration	554	132,990
Department of Information Services	0	210,065
Office of Insurance Commissioner	0	40,926
State Board of Accountancy	0	1,962
Forensic Investigations Council	0	282
Washington Horse Racing Commission	0	8,609
WA State Liquor Control Board	3,445	193,548
Utilities and Transportation Comm	0	32,848
Board for Volunteer Firefighters	0	843
Military Department	19,446	270,001
Public Employment Relations Comm	5,600	8,545
LEOFF 2 Retirement Board	0	1,908
Growth Management Hearings Board	3,158	3,158
State Convention and Trade Center	0	76,982
Archaeology & Historic Preservation	1,099	2,559
Total Governmental Operations	460,076	3,188,651

2005-07 Omnibus Operating Budget

(Dollars in Thousands)

	GF-S	Total
Other Human Services		
WA State Health Care Authority	0	622,448
Human Rights Commission	5,230	6,971
Bd of Industrial Insurance Appeals	0	32,817
Criminal Justice Training Comm	0	19,611
Department of Labor and Industries	15,202	525,846
Indeterminate Sentence Review Board	2,188	2,188
Home Care Quality Authority	2,012	3,046
Department of Health	128,441	878,304
Department of Veterans' Affairs	25,915	86,058
Department of Corrections	1,390,181	1,422,637
Dept of Services for the Blind	3,826	21,023
Sentencing Guidelines Commission	1,725	1,725
Department of Employment Security	120	530,416
Total Other Human Services	1,574,840	4,153,090

2005-07 Omnibus Operating Budget

(Dollars in Thousands)

	GF-S	Total
DSHS		
Children and Family Services	517,355	951,420
Juvenile Rehabilitation	159,568	210,670
Mental Health	844,678	1,373,046
Developmental Disabilities	770,056	1,460,555
Long-Term Care	1,228,339	2,517,105
Economic Services Administration	984,247	2,262,160
Alcohol & Substance Abuse	124,191	303,922
Medical Assistance Payments	3,077,313	7,767,870
Vocational Rehabilitation	22,552	111,691
Administration/Support Svcs	62,868	120,770
Payments to Other Agencies	92,761	137,864
Total DSHS	7,883,928	17,217,073
Total Human Services	9,458,768	21,370,163

2005-07 Omnibus Operating Budget

(Dollars in Thousands)

	GF-S	Total
Natural Resources		
Columbia River Gorge Commission	949	1,808
Department of Ecology	80,692	388,758
WA Pollution Liab Insurance Program	0	2,001
State Parks and Recreation Comm	69,196	117,480
Interagency Comm for Outdoor Rec	2,815	25,983
Environmental Hearings Office	2,121	2,121
State Conservation Commission	4,488	8,663
Dept of Fish and Wildlife	90,221	302,511
Department of Natural Resources	92,977	341,863
Department of Agriculture	23,443	105,575
Total Natural Resources	366,902	1,296,763

2005-07 Omnibus Operating Budget
(Dollars in Thousands)

	GF-S	Total
Transportation		
Washington State Patrol	66,791	105,040
Department of Licensing	3,673	40,750
Total Transportation	70,464	145,790

2005-07 Omnibus Operating Budget

(Dollars in Thousands)

	GF-S	Total
Public Schools		
OSPI & Statewide Programs	46,163	126,128
General Apportionment	8,423,967	8,423,967
Pupil Transportation	490,745	490,745
School Food Services	6,306	403,566
Special Education	931,993	1,367,457
Educational Service Districts	7,418	7,418
Levy Equalization	357,167	357,167
Elementary/Secondary School Improv	0	22,084
Institutional Education	38,757	38,757
Ed of Highly Capable Students	13,786	13,786
Student Achievement Program	0	629,356
Education Reform	83,503	207,808
Transitional Bilingual Instruction	123,208	168,769
Learning Assistance Program (LAP)	130,801	498,633
Compensation Adjustments	260,949	262,283
Common School Construction	0	129,737
Total Public Schools	10,914,763	13,147,661

2005-07 Omnibus Operating Budget

(Dollars in Thousands)

	GF-S	Total
Higher Education		
Higher Education Coordinating Board	329,346	422,262
University of Washington	680,762	3,774,690
Washington State University	418,364	993,508
Eastern Washington University	93,206	181,700
Central Washington University	92,118	214,410
The Evergreen State College	51,760	102,083
Spokane Intercollegiate & Tech Inst	2,922	4,317
Western Washington University	119,410	292,378
Community/Technical College System	1,112,719	2,120,064
Total Higher Education	2,900,607	8,105,412
Other Education		
State School for the Blind	10,384	11,719
State School for the Deaf	17,032	17,264
Work Force Training & Education Coord Board	2,456	56,843
Washington State Arts Commission	4,671	5,972
Washington State Historical Society	6,165	8,063
East Washington State Historical Society	3,266	6,079
Total Other Education	43,974	105,940
Total Education	13,859,344	21,359,013

2005-07 Omnibus Operating Budget
(Dollars in Thousands)

	GF-S	Total
Special Appropriations		
Bond Retirement and Interest	1,416,608	1,601,604
Special Approps to the Governor	-4,587	50,483
State Employee Compensation Adjust	4,400	500
Contributions to Retirement Systems	83,600	83,600
Total Special Appropriations	1,500,021	1,736,187

Functional Areas of Government

Judicial

Expansion of Parents' Representation Program in Dependency and Termination Cases - \$1.8 Million General Fund-State

The budget adds \$6.8 million to expand the current parents' representation program, including \$1.8 million and another \$5 million per Chapter 457, Laws of 2005 (E2SSB 5454) mentioned below under "Justice Funding." The total funding anticipates that the current program in Pierce and Benton-Franklin courts will be expanded to about half of the rest of the state by the end of the biennium. The program's goal is to make representation available for indigent parents who are in danger of losing permanent custody of their children and connect parents with services they need. The new funding also helps relieve the burden on the counties, as counties currently pay 100 percent of defense costs.

Justice Funding - \$12.7 Million Near General Fund-State

Chapter 457, Laws of 2005 (E2SSB 5454) funds a variety of items to assist local government, to improve the quality of trial courts, to increase access to civil justice, and to improve indigent defense services. For the 2005-07 biennium, increased court fees are expected to raise over \$19 million in funds for counties and cities, and \$12.7 million in state funds, for deposit into the new Equal Justice Subaccount of the Public Safety and Education Account. The legislation appropriates the \$12.7 million in Equal Justice Subaccount funds as follows:

- \$2.4 million to the Office of the Administrator for the Courts for distribution to local governments for salaries for district and certain elected municipal court judges. In subsequent biennia, this amount is estimated to increase to \$6.3 million, or 50 percent of the projected revenue from the fee increases. Local governments must match the full amount in local trial court improvement accounts, to be appropriated by the local legislative authority.
- \$5 million to the Office of Public Defense to assist with a partial statewide expansion of the parents' representation program for dependencies and terminations. (This funding is in addition to \$1.8 million in new funds added separately in the budget, see above.)
- \$1.3 million to the Office of Public Defense to provide training and technical assistance to counties to improve trial level criminal indigent defense.
- \$1 million to the Office of Public Defense to perform a pilot project to improve criminal indigent defense in one or more counties.
- \$3 million to the Office of Civil Legal Aid to expand the level of contracted civil legal services provided to indigent persons.

Maintain and Improve Judicial Information System - \$ 3.9 Million Public Safety and Education Account-State, \$9.7 Million Dedicated Funds

The budget provides funding to replace outdated and obsolete computer equipment for local courts used to operate the judicial information system (JIS). Dedicated JIS funds paid by special assessments on traffic fines are used to continue to expand the JIS system.

Improve Access to and Quality of the Justice System - \$1.2 Million Near General Fund-State

The budget expands programs in a number of areas to improve the quality of the justice system, including:

- \$530,000 to provide adequate compensation for contracted appellate public defenders and other judicial vendors and to add appellate court staff to reduce case backlogs.

- \$300,000 to train and support additional court-appointed special advocates/guardians ad litem (CASA/GAL), volunteers who support children involved in dependency proceedings.
- \$200,000 to provide funding to the Supreme Court's Access to Justice Board to improve coordination of indigent civil legal services.
- \$143,000 to provide additional training for court interpreters.

Governmental Operations

Attorney General's Office

Consumer Protection Enhancement - \$1.6 Million General Fund-State

The budget provides additional funding to expand the delivery of consumer protection services in the Attorney General's Office, including the establishment of an Office of Privacy Protection. These funds will be used for consumer education and outreach, complaint resolution, and efforts to reduce identity theft and internet fraud.

Community, Trade and Economic Development

Homeless Housing Program - \$10.4 Million Homeless Housing Account

The budget provides funding to implement Chapter 484, Laws of 2005 (ESHB 2163). Utilizing the \$10 surcharge to document filing, the Department of Community Trade and Economic Development and counties are to prepare 10-year plans to reduce homelessness by 50 percent.

Early Childhood Education and Assistance (ECEAP) - \$6.2 Million General Fund-State

The Early Childhood Education and Assistance Program (ECEAP) is a preschool program designed to help low-income and at-risk children and their families. The budget increases ECEAP funding to provide for 282 additional placements and for an inflationary vendor rate increase of 4.0 percent on July 1, 2005 and 4.0 percent on July 1, 2006.

Community Services Block Grant (CSBG) - \$1.0 Million General Fund-State

Enhancement funding is provided to compliment federal funding to assist community action agencies.

Homeless Data Management - \$1.3 Million General Fund-Private/Local

The budget provides funding to allow the Department of Community, Trade and Economic Development to administer a statewide homeless management information system (HMIS). The HMIS will satisfy the federal HUD McKinney-Vento requirement that recipients of federal funds must create and maintain a HMIS system.

Housing Assistance - \$1.3 Million Washington Housing Trust Account

Chapter 219, Laws of 2005 (EHB 1074) increases the administrative cap available for use by the Department of Community, Trade and Economic Development for its operation of the Housing Assistance Program and the Affordable Housing Program from 4 percent to 5 percent of the annual funds available for both programs.

Emergency Food Assistance - \$1.5 Million General Fund-State

The budget provides one-time funding for food banks to obtain and distribute nutritious food and to purchase equipment to transport and store perishable products.

Community Mobilization - \$1.2 Million Violence Reduction and Drug Enforcement Account-State

The budget provides funding to increase the number of grants to community organizations that develop and implement comprehensive strategies to prevent and reduce alcohol, tobacco, and other drug abuse and violence. The Department of Community, Trade and Economic Development will also provide state-wide trainings on community organizing and offer follow-up technical assistance to increase a community's capacity to reduce crime through community activities such as block-by-block organizing.

Individual Development Accounts - \$1.0 Million Individual Development Account

The budget provides funding from the general fund to the individual development account for the implementation of Chapter 402, Laws of 2005 (SHB 1408).

Methamphetamine Initiative - \$1.0 Million General Fund-State

The budget provides funding to Snohomish County for a law enforcement treatment methamphetamine pilot program and to Pierce County for the extension of treatment alternatives and targeting the identification and prosecution of perpetrators of methamphetamine-related crimes.

Mobile Home Ombudsman - \$0.5 Million Mobile Home Investigations Account

Pursuant to Chapter 429, Laws of 2005 (HB1640), the budget provides funding from the newly created mobile home investigations account to implement a process for resolving disputes between mobile home owners and tenants.

Small Communities Initiative - \$0.24 Million Public Works Assistance Account-State

The Small Communities Initiative is a collaboration between the Washington State Departments of Health, Ecology, and Community, Trade and Economic Development that provides intensive technical assistance to very small, rural communities struggling with economic viability and compliance with health and environmental regulations due to failing water or wastewater systems. The budget provides funding to add one additional staff person to work with and assist such communities.

Other Enhancements - \$2.7 Million General Fund-State

The budget provides funding to various entities: America's Freedom Salute (\$50,000); Cascade Dialogue (\$150,000); Safe Neighborhoods (\$50,000); NW Food Processors Association (\$50,000); Long Term Care Ombudsman (\$108,000); Center for Advanced Manufacturing (\$215,000); domestic violence (\$340,000); HistoryLink (\$150,000); Women's Hearth (\$50,000); Small Business Incubator (\$470,000); Farm Innovation Incubator (\$300,000); Center for Water & Environment (\$575,000); and Pierce County Youth Assessment Center (\$150,000).

Byrne Grant Reductions - \$8.6 Million General Fund-State

The budget recognizes that the federal fiscal year 2005 enacted budget combined and reduced two existing grants used to prevent violence and substance abuse, the Byrne Grant and the Local Law Enforcement Block Grant (LLEBG), into a new grant known as the Justice Assistance Grant. While the LLEBG portion is unaffected, the level of funding for Byrne Grant programs is cut by over 50 percent. Remaining federal funding is distributed according to the recommendations of CTED and the Governor. In addition, the budget uses state funds to replace funding for domestic violence legal advocacy.

Department of Archaeology and Historic Preservation

Creation of the Department of Archaeology and Historic Preservation - \$0.013 Million General Fund-State

The budget provides funding to implement Chapter 333, Laws of 2005 (SSSB 5056), which makes the Office of Archaeology and Historic Preservation in the Department of Community, Trade and Economic Development a separate department of state government.

Office of Financial Management

Government Management and Accountability Program - \$0.6 Million General Fund-State

The Office of the Governor and the Office of Financial Management will provide guidance to agencies, oversight of the process, and will review performance of all agencies.

Base Realignment & Closure Assistance - \$0.15 Million General Fund-State

The Office of Financial Management will provide grants to counties where a military base is at risk of being identified for closure as a result of the federal base realignment and closure process. Eligible counties may include Island, Kitsap, Pierce, Snohomish, and Spokane Counties.

Secretary of State

Election Reforms - \$0.4 Million General Fund-State, \$27.0 Million General Fund-Federal

Federal funds made available to the state under the federal Help America Vote Act (HAVA) will improve state election administration and voter outreach and education. In addition, state funds will allow the Secretary of State to increase the frequency of review of county election procedures.

Washington State Historical Society

Lewis and Clark Bicentennial - \$0.52 Million General Fund-State

The budget provides one-time funding for programs related to the Lewis and Clark bicentennial commemoration. The Corps of Discovery II, a national traveling exhibit, will travel through Clarkston, Dayton, Kennewick, Stevenson, Toppenish, Vancouver, and Pacific County. One-time funding is also included for reimbursement of costs incurred by county law enforcement agencies from providing additional security for events.

Women's History Consortium - \$0.2 Million General Fund-State

The budget provides funding to fully implement the Women's History Consortium, to be housed at the Washington State Historical Society. Chapter 391, Laws of 2005 (SB 5707) establishes the consortium, which will foster public access to women's history information and materials.

Washington State Military Department

Homeland Security Funding - \$127.6 Million General Fund-Federal

The budget provides Homeland Security funding based on recommendations from the Domestic Security Executive Group, the Committee on Homeland Security, and the federal government. Federal rules require that a minimum of 80 percent of these awards be passed through to local jurisdictions. The remaining 20 percent will be spent by state agencies on activities that support the Washington State Homeland Security Strategic Plan.

Mt. St. Helens Emergency Communications - \$0.9 Million Disaster Response Account

The budget provides one-time funding to the Cowlitz County 911 Communications Center for the purpose of purchasing interoperable radio communication technology for emergency communications in the Mt. St. Helens area.

General

Life Sciences Discovery Fund - \$0.15 Million General Fund-State

Start-up funding is provided for implementation of the Life Sciences Discovery Fund Authority, which will provide grants for life sciences research, using a portion of the state's tobacco settlements funds.

Government Efficiency and Accountability - \$46.3 Million – General Fund-State

The budget assumes increased efficiency and accountability by reducing middle management positions, implementing strategic purchasing initiatives based on lessons learned from the private sector, and eliminating double-filled personnel positions.

DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Home Care Workers

Homecare Worker Collective Bargaining Agreement - \$31.0 Million General Fund-State, \$30.3 Million General Fund-Federal

The budget provides funding to implement the provisions of the collective bargaining agreement between the state and the approximately 22,000 individuals who contract with it to provide in-home care for elderly and disabled people. Major provisions of the 2005-07 agreement include annual wage increases averaging 26 cents per hour; state contributions averaging \$506 per covered worker per month for medical, dental, and vision insurance; vacation leave at 1 hour per 50 worked; and state withholding of worker income tax.

Increase Agency Homecare Worker compensation - \$5.9 Million General Fund-State, \$5.9 Million General Fund-Federal

The budget provides funding so that agencies that contract with the state to deliver home care services can provide the same wage increase for their employees as provided for those who contract and collectively bargain directly with the state. Additionally, \$2 million is provided for supplemental compensation increases for homecare agencies subject to collective bargaining agreements.

Children and Family Services

General Fund-State funding for the Children's Administration was increased by 14.3 percent from the 03-05 biennium. The budget provides \$14.6 million in state and federal funding to reform the child protective services and child welfare system. 124 full-time equivalent (FTE) staff will be added so that child protective services workers can conduct investigations quicker, visit children in out-of-home care at least every 30 days, and oversee an increased number of families who will participate in voluntary services agreements with the department.

Secure crisis residential centers, which offer services to at-risk adolescents by providing them a safe and secure placement, will continue at the 2003-05 spending level. The budget provides funding through the

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Public Safety and Education Account of approximately \$4.7 million per year. However, regional crisis residential centers were reduced by \$1.7 million.

Chapter 512, Laws of 2005 (SSB 5922) modifies the threshold for screening and investigating child abuse cases to include circumstances which cause harm to or present a substantial threat of harm to the child's health, welfare, or safety. \$5 million in state and federal funding is provided for additional social workers, enhanced services and increased foster care placements in FY 2007.

Chemical dependency specialist services must be made available at each local child welfare office. These specialists will assist at-risk families in getting the help they need to keep children safe in their own homes. A total of \$2.3 million of state and federal funds was provided.

The budget provides \$1.3 million in funding to establish education coordinators to help youth in foster care who are ages nine to 16 years old in the K-12 and higher education systems.

Children's Advocacy Centers will receive \$355,000 in the 2005-07 biennium to support the multi-disciplinary based program that uses "best practices" in child abuse investigations. Each advocacy center receiving state funding must, at a minimum, match the state contribution.

The growth of the average costs paid per case for foster care and adoption support placements is limited to the one percent per year vendor rate increase. This action is expected to result in a \$5.0 million savings to the state.

Juvenile Rehabilitation

Maintain Family Integrated Transitions Program - \$1.4 Million General Fund-State

The budget maintains funding for a program for juvenile offenders with co-occurring substance abuse and mental health disorders in King, Snohomish, Pierce, and Kitsap counties. Federal Juvenile Accountability Incentive Block Grant funding for this program was eliminated by Congress in the federal Fiscal Year 2005 budget. The program, involving the family and a therapeutic team, begins treatment in the juvenile rehabilitation institution and continues for up to six months after release. The pilot program was evaluated by the Washington State Institute for Public Policy and was shown to have a 13 percent lower rate of recidivism, and to provide \$3.15 in benefits to taxpayers and victims per each dollar of cost.

Reinvesting in Youth - \$1.0 Million General Fund-State, No Net Increase to Total Budget

The budget transfers funding from the Governor's Juvenile Justice Advisory Committee to the Juvenile Rehabilitation Administration for the establishment of a Reinvesting in Youth pilot program. The program will award grants to counties for implementing research-based early intervention services that target juvenile justice involved youth and reduce crime. The Washington State Institute for Public Policy has identified several programs that, if properly implemented, are likely to reduce taxpayer and other costs in the future. During the 2005-07 biennium, a pilot program consisting of three counties or groups of counties will test methods for reinvesting state savings that result from local investments in evidence-based services for juvenile justice-involved youth.

Mental Health and Substance Abuse

Non-Medicaid Community Mental Health Services - \$80 Million General Fund-State

Under new federal rules and policies, the state's community mental health system is no longer able to use savings achieved through Medicaid managed care for people and services that would not otherwise be eligible for Medicaid. The budget provides state revenues to replace all but \$2.2 million of the lost federal funding. Of the "backfill" funding provided, \$10 million is earmarked for services to persons during and after incarceration, and \$3 million is earmarked for innovative service approaches. The \$67 million balance is to be used to the extent possible to maintain previous levels of non-Medicaid crisis and commitment, inpatient treatment, residential, and outpatient services.

Chemical Dependency Treatment Expansion and Omnibus Mental and Substance Abuse Disorders Act - \$18 Million General Fund-State

The budget provides funding for a significant expansion of substance abuse treatment, as well as funding pilot projects, evaluations, and assessment costs related to Chapter 504, Laws of 2005 (SB 5763).

Offsetting this increase in funding is assumed "cost avoidance" in medical assistance and long-term care of \$16.5 Million in General Fund-State and \$14.7 Million in General Fund-Federal during the 2005-07 biennium. These cost offsets are based on the results of a 2002 cost offset study by the DSHS Research and Data Analysis Division, with additional input from the Joint Legislative Audit and Review Committee. Funding added to the budget includes the items below. The net increase to the budget is \$18 Million in state general funds:

- \$21.1 million in state funds, and \$11.9 million in federal funds to the amount of substance abuse treatment over the fiscal year 2004 level by the second year of the 2005-07 biennium, for a doubling of current treatment for aged, blind, disabled, and other Medicaid-eligible persons, including clients of the General Assistance-Unemployable program. Funding also includes a 50 percent expansion of services to parents receiving Temporary Assistance to Needy Families, and \$745,000 in funds to expand the Parent-Child Assistance Program to southwestern Washington. In total, approximately 11,800 more treatment slots will be available by fiscal year 2007, in addition to the fiscal year 2003 maintenance level of 15,500.
- \$5 million in state funds and \$1.7 million in federal funds to provide substance abuse treatment to an additional 1,000 youth per year who are under 200 percent of the federal poverty level.
- \$1.1 million in state funds and \$1.2 million in federal funds for contracted substance abuse services for the child welfare system.
- \$7 million in state funds to implement pilot projects in four sites, including two cross-system crisis responder pilots that utilize an integrated involuntary treatment act approach and two intensive chemical dependency case management pilots. This funding also includes about \$310,000 for the Washington State Institute for Public Policy to evaluate the results of the pilots and conduct one other study in the bill and to report to the Legislature on cost-effectiveness and outcomes.
- \$655,000 in state funds and \$466,000 in federal funds to develop an integrated mental health/substance abuse screening and assessment tool to be used by the Mental Health Division and Division of Alcohol and Substance Abuse in DSHS. The budget also provides funding for training and quality assurance.
- \$100,000 in state funds for the Joint Legislative Audit and Review Committee to conduct a study of potential facilities that could be converted to regional jails to provide services to persons who need mental health treatment.

Offender Psychiatric Services – \$8.0 Million General Fund-State, \$1.5 Million Other Funds

The budget provides funding for eight additional psychiatrists and psychologists to conduct outpatient evaluations of competency to stand trial; and to open an additional legal offender ("forensic") ward at Western State Hospital. The state psychiatric hospitals are legally responsible for evaluating competency to stand trial, for providing treatment to restore competency for defendants judged incompetent for trial, and for providing supervision and ongoing treatment for defendants found not guilty by reason of insanity.

Chemical Dependency Vendor Rate Increases - \$7.1 Million Near General Fund-State

The budget provides \$2.1 million in near general funds for vendor rate increases to be prioritized for residential treatment providers and other providers as funds are available, and another \$5 million in General Fund-State specifically for supplemental vendor rate increases to residential treatment providers.

Increase Community Psychiatric Hospital Rates – \$6.4 Million General Fund-State

The number of community hospital beds available for short-term, emergency treatment of persons committed under the Involuntary Treatment Act (ITA) decreased 12 percent between 2000 and 2004. The budget provides funding to increase, by an average of about 40 percent, the rate paid for treatment of medically indigent patients in hospitals that accept ITA patients.

Maintain Safe Babies/Safe Moms - \$1.8 Million General Fund-State

The budget adds funding to the Division of Alcohol and Substance Abuse to continue providing this program, which was previously funded in Economic Services. The Safe Babies/Safe Moms program is for Medicaid-eligible pregnant and parenting women identified as "at serious risk for, or currently using" alcohol or substances.

Increase Children's Long-Term Inpatient (CLIP) Rates - \$1.4 Million General Fund-State, \$1.4 Million General Fund-Federal

The budget provides a 25 percent increase in payment rates for the Children's Long-Term Inpatient Program (CLIP) residential treatment facilities. The CLIP facilities provide inpatient treatment for children with severe psychiatric impairments who cannot be adequately served in less restrictive settings.

Developmental Disabilities

The total operating budget for the 2005-07 biennium represents a 10.4 percent increase in total state funding for services for persons with developmental disabilities, or an additional \$137 million.

The budget provides an additional \$8.6 million in new resources to add 74 new residential placements. Of these placements, 35 are provided for community protection placements and 39 are provided for other community placements. Priority for the new placements include children aging out of other state services, clients without residential services who are in crisis and at risk of needing an institutional placement, and current waiver clients.

The budget provides \$4.1 million in state and federal funding for employment and day transition services for approximately 600 clients with developmental disabilities. Priority consideration for this on-going funding will be for young adults with developmental disabilities living with their families who need employment opportunities and assistance after high school graduation.

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\$2 million per year is provided to increase uniformity in the rates paid to supported living agency providers for administrative costs. Providers who are receiving payments above the standard will be held at their current rate and will not receive an inflationary increase on the administrative portion of their rate.

Funding in the amount of \$2.5 million is provided for a pilot program to provide flexible family support dollars to an estimated 1,400 families who are providing care and support for family members with developmental disabilities. The funds are targeted to families who have a documented need for services, are not currently receiving services from the Division of Developmental Disabilities, and have gross household income at or below 400 percent of poverty (\$64,360 per year for a family of three).

\$2.4 million of state and federal funds are included in the budget to develop an integrated case management information system, which will provide case resource managers with a single source of information about client needs and resources.

The budget reduces \$3.3 million in state and federal funding for efficiencies that are expected to be achieved in Fircrest School and other residential habilitation centers.

The state is expected to save \$750,000 by recovering federal funding for eligible individuals who are currently supported only with state funds.

Long-Term Care

Nursing Home Rate Increase – \$11.0 Million General Fund–State, \$10.9 Million General Fund–Federal

The budget increases nursing home payment rates by 1.3 percent in July of each year.

Long-Term Care Vendor Rate Increases – \$5.2 Million General Fund–State, \$4.7 Million General Fund–Federal

Organizations that contract with the state to provide long-term care services will receive inflationary cost-of-living adjustments of 1.0 percent in July of each year. This increase applies to adult family homes, assisted living facilities, and other community residential facilities; to adult day health and private duty nursing providers; and to the homecare agency administrative rate.

Nursing Home Personal Needs Allowance – \$1.2 Million General Fund–State, \$1.2 Million General Fund–Federal

The amount of income nursing home residents retain for their personal use is increased by \$10, from \$41.62 to \$51.62 per month.

Farmer's Market Nutrition Programs – \$0.9 Million General Fund–State, \$0.8 Million General Fund–Federal

The number of Women, Infants, and Children (WIC) participants who will be able to purchase fresh fruits and vegetables at farmers markets will more than double from the 2003 level. The budget also provides state funds to replace private funds that were available on a one-time basis so that the increased number of lower income seniors who have been able to shop at farmers markets over the past two years can continue to do so.

Additional Estate Recoveries – \$4.8 Million General Fund-State Savings, \$4.8 Million General Fund-Federal Savings

The Department of Social and Health Services will increase efforts to recover the cost of publicly-funded care from the estates of deceased Medicaid recipients. Specific changes include earlier initiation of probate proceedings, improved notification of a client's death, and the statutory authority to place liens on the property of clients who are unlikely to return to their usual residence.

Area Agency on Aging Case Management Services – \$1.4 Million General Fund-State Savings, \$1.4 Million General Fund-Federal Savings

The budget reduces funding for Area Agency on Aging case management services by 3.75 percent. This is one-quarter of the amount by which funding for such services was increased during the current state fiscal year.

Nursing Home Tax Phase-Out – \$13.4 Million Tax Reduction

The \$6.50 per patient day quality maintenance fee imposed in 2003 will be reduced by 19 percent beginning July 2005, and eliminated over the course of the two subsequent biennia. After accounting for the reduced state expenditures to cover the cost of the fee on behalf of Medicaid-funded patients, the net revenue loss to the state is approximately \$8.8 million in the first biennium.

Economic Services Administration

Family child care homes and child care centers will receive an additional \$15 million for rate increases to subsidize child care paid by the State for low-income and at-risk families. This funding will facilitate child care access and quality. This funding is in addition to approximately \$11 million for child care vendor rate increases in the 2005-07 biennium.

The budget provides \$15 million in state funding to continue activities for the temporary assistance to needy families program (TANF). This program provides cash grants to families with children and pregnant women. This funding will help the state meet its requirement to maintain a specific level of funding and maintain current program expenditures.

The budget provides \$1.5 million for programs that serve individuals with limited English proficiency (LEP). This amount is in addition to existing state and federal funds for this purpose and is intended to support reducing General Assistance-Unemployable caseloads. An additional \$1 million in state funds is also provided to expand naturalization services for aging immigrants who receive services from the General Assistance-Unemployable program.

Chapter 374, Laws of 2005 (ESHB 1314), which establishes the Domestic Violence Prevention Account, will generate revenue that will be used for preventive, non-shelter community-based domestic violence services.

The budget provides \$500,000 in state funds to expand the TeamChild program. TeamChild helps troubled youth secure the community-based services they need by providing civil legal advocacy and offers juvenile courts practical and less costly alternatives to incarceration.

The budget anticipates \$18 million in savings in the General Assistance-Unemployable Program through strategies to improve the outcomes for GA-U clients. These strategies include: (1) invest in naturalization to reduce the number of aged clients who no longer qualify for SSI, (2) facilitate an increased number of

clients to obtain social security and veterans benefits, (3) provide medical services through managed care demonstration projects, and (4) provide improved mental health, and vocational rehabilitation and employment support to reduce the time needing assistance.

Medical Assistance

Maintain Current Medical Assistance Services - \$647.0 Million State Funds, \$172.0 Million General Fund-Federal

The budget includes a 21 percent increase in state funding in order to maintain current Medicaid eligibility and coverage policies. A little more than one-third of the expenditure increase is due to covering more people. An average of 900,000 persons per month are projected to receive Medicaid- and state-funded medical assistance coverage next biennium, compared to an average of 860,000 persons per month during the 2003-05 budget period. The number of persons covered is projected to grow 3.6 percent per year, about three times faster than total state population. About half of the increase in cost is due to higher medical costs per person served, which are projected to grow about 3.4 percent per year next biennium. Almost all this share of the increase is due to increased service utilization or to the introduction of new, more expensive procedures, rather than to higher payment rates for existing services. The remaining 15 percent of the \$647 million increase in state-fund expenditures is due to replacing the loss of federal financial assistance that was available on a one-time basis during the 2003-05 fiscal period.

Maintain Basic Health Plan Enrollment at 100,000 - \$44.0 Million Health Services Account

The budget provides funding to cover the cost of projected medical inflation so that the Basic Health Plan can continue to provide subsidized insurance coverage for 100,000 low-income Washingtonians without reducing current benefit or subsidy levels.

Medical Assistance Provider Rate Increases - \$34.0 Million State Funds, \$27.1 Million General Fund-Federal

Individuals and organizations who contract with the state to provide medical and dental services to medical assistance clients will receive a 1.0 percent cost-of-living increase in July 2005, and a second 1.0 percent increase in July 2006. Two groups will receive larger increases. Hospital rates will be increased by 1.3 percent, rather than by 1.0 percent, in July of each year. Rural family practice physicians will receive an additional \$194 per delivery in fiscal year 2006, and an additional \$410 per delivery in fiscal year 2007.

12-Month Children's Medical Coverage – \$32.6 Million State Funds, \$33.6 Million General Fund-Federal

The budget provides funding to implement the Governor's directive that, beginning in May 2005, children's continued eligibility for state medical assistance will be reviewed annually, rather than every six months. Additionally, once determined eligible, children will remain eligible until their next annual review, rather than losing coverage if family income or circumstances change. These changes are expected to result in an average of approximately 25,000 children per month retaining state medical assistance coverage in fiscal year 2005.

Medical Coverage for immigrant children - \$12.9 Million State Funds

The budget provides funding for health care coverage for undocumented children whose families have incomes below 100 percent of the federal poverty level. The "state-only" program that provided medical and dental coverage was eliminated in October 2002, and enrollment was offered through the Basic Health program. It is anticipated that 8,750 children will be provided health care coverage through this

program by the end of the biennium. The Department is directed to manage enrollment to keep program expenditures within the appropriated level.

Premium-Free Children's Medical Coverage - \$8.8 Million State Funds, \$9.2 Million General Fund-Federal

The Department of Social and Health Services will continue to provide premium-free medical and dental coverage for children with family incomes between 150-200 percent of poverty, which is about \$1,900 to \$2,600 per month for a family of three. Such families were previously budgeted to pay premiums of \$10 per child, up to \$30 per month, beginning in July 2005.

Drug Purchasing Consortium – \$0.4 Million Health Services Account, \$5.1 Million Enrollment Fees

As provided in Chapter 129, Laws of 2005 (SB 5471), the Health Care Authority will organize a drug purchasing consortium that will include all state agencies and any private organization or uninsured state resident who chooses to join. By building upon the state's current evidence-based preferred drug list, the consortium is expected to leverage discounted prices by combining the purchasing power of consortium members. State funds are provided to cover the initial costs of designing and organizing the consortium. Ongoing operating costs are to be covered by enrollment fees charged to consortium participants.

Electronic Medical Records Advisory Board - \$0.3 Million Health Services Account

As provided in Chapter 261, Laws of 2005 (SB 5064) the Health Care Authority must develop strategies for promoting adoption of electronic medical records and other health information systems that are interoperable, and consistent with national standards. The strategies are to be developed in consultation with an advisory board that includes health care professionals and information technology experts.

Increased Rebate Collections and Recoveries – \$7.1 Million State Fund Savings, \$7.1 Million General Fund-Federal Savings

Ten additional staff are provided to pursue collection of a backlog of disputed drug manufacturer rebates and audit recoveries.

Medical Equipment and Supply Cost Management – \$6.8 Million General Fund-State Savings, \$6.8 Million General Fund-Federal Savings

The growth in expenditures on incontinence supplies, medical nutritional supplements, wheelchairs, special bed and bath equipment, and other medical supplies is to be reduced by five percent in fiscal year 2006, and by 10 percent in fiscal year 2007. This is to be accomplished through strategies such as selective contracting, reducing rates to better reflect the best available market price, and more stringent reviews of the initial and ongoing medical necessity of proposed purchases.

Management of High-Utilizing Patients – \$5.3 Million General Fund-State Savings, \$5.3 Million General Fund-Federal Savings

An additional 1,500 medical assistance clients whose medical histories demonstrate a clear pattern of over-utilization and inappropriate use of medical services will be assigned a single primary care physician, pharmacy, and other medical providers from whom they may obtain services. Clients currently experiencing such assignments have shown a 48 percent decrease in emergency room use, a 41 percent decrease in office visits, and a 29 percent decrease in the number of prescriptions purchased.

Reduce Grant Funding to Community Clinics – \$5.0 Million Health Services Account Savings

The grant assistance provided to low-income community clinics through the state Health Care Authority is reduced by 20 percent. Restoration of medical assistance coverage for undocumented immigrant

children and resumption of 12-month continuous eligibility for Medicaid children may reduce the need for such assistance.

Additional Drug Cost Management – \$3.2 Million State Fund Savings, \$2.7 Million General Fund-Federal Savings

Approximately 30 additional classes of drug will be added to the evidence-based prescription drug program. The preferred drug will be the least costly, equally effective drug identified through clinical evidence reviews.

Discontinue "Pharmacy Connections" – \$0.8 Million Health Services Account Savings

The Pharmacy Connections program was expanded in 2003 to assist low-income people learn about and apply for manufacturer drug discount programs for which they may be eligible. The state-funded effort is discontinued as drug manufacturers, in coordination with a number of local patient advocacy and assistance groups, have undertaken a broadly-publicized effort that provides a very similar service.

Other

The budget eliminates redundancy and overlap in administrative positions in the Department of Social and Health Services by reducing state and local funding by \$6.8 million for non-case carrying staff.

Funds that were targeted for the continued downsizing of Fircrest, a residential rehabilitation center, are eliminated.

OTHER HUMAN SERVICES

Department of Health

A total of \$878 million is provided for public health activities in 2005-07, a \$93 million (11.8%) increase over the previous biennium. The major components of this increase include:

- \$26.4 million of increased federal funding for a broad array of activities, including bioterrorism preparedness and response; the Women, Infants, and Children (WIC) Nutrition Program; and the Steps to a Healthier U.S. health promotion effort.
- \$13.7 million to cover increased salary and benefit costs for the agency's 1,300 full-time equivalent employees.
- \$6.8 million for increased staffing and a new management information system to improve the timeliness and accuracy of the health professional credentialing and disciplinary process.
- \$6.3 million of additional manufacturer rebates that will be used to purchase additional infant formula through the WIC program.
- \$1.3 million to assist the 14 local health jurisdictions with marine shorelines develop and implement management plans and data systems to assure that septic systems are properly inventoried, monitored, and maintained.

Department of Labor and Industries

Fraud Detection - \$5.2 Million Electrical License, Accident, and Medical Aid Accounts-State

The budget includes funding to investigate and prosecute worker fraud and abuse within the underground electrical and construction industries. Funding is also provided to detect medical provider fraud by increasing the number of medical bill audits conducted by the department.

Crime Victims Compensation - \$3.3 Million General Fund-State, \$1.6 Million Other Funds

The budget provides a total of \$4.9 million for increased Crime Victims Compensation medical expenses.

Centers of Occupational Health and Education - \$0.4 Million Medical Aid Account-State

The budget provides funding to contract with the University of Washington's Centers of Occupational Health and Education (COHEs). COHEs provide medical treatment for employees injured on-the-job and offers employers training for developing return-to-work options for injured employees. Funding is provided to expand the Spokane COHE to include Yakima County. The Spokane COHE will recruit and train approximately 160 physicians in Yakima County in occupational medicine techniques. Business and labor will be included in the training.

Criminal Justice Training Commission

Improve Technology for the Washington Association of Sheriffs and Police Chiefs (WASPC) - \$0.2 Million Near General Fund-State

The budget funds new servers to maintain WASPC's public information website on registered sex offenders and to purchase a National Incident-Based Reporting System (NIBRS) program and data converter. The converter allows law enforcement agencies with incompatible records to transfer information to each other on crime scene data and suspect characteristics and to assist with solving crime across jurisdictions.

Adjust Class Size for Correctional Academies - \$0.3 Million Near General Fund-State Savings

The budget reduces funding to reflect a 20 percent decrease in the level of enrollment in correctional academies between Fiscal Year 2002 and Fiscal Year 2005.

Department of Corrections

Expand Offender Management Network - \$11.3 Million General Fund-State

The budget provides funding for half of the third phase of the project to replace the Offender-Based Tracking System (OBTS) with the new Offender Management Network Information (OMNI) system, which is expected to reduce staff data entry efforts, improve reporting capabilities, and redirect staff time towards offender supervision. Beginning in the 1999-01 biennium, the Legislature began funding the OMNI system to replace OBTS, the primary information system used by the Department to track and manage roughly 17,000 incarcerated offenders and 28,000 offenders in the community. The total cost of the OMNI project has been estimated at \$58 million.

Interstate Compact on Offender Supervision - \$0.8 Million General Fund-State

Chapter 400, Laws of 2005 (HB 1402) brings the state into compliance with the Interstate Compact on Adult Offender Supervision (ICAOS). By participating in the ICAOS, offenders who are released from a Washington facility and move to another state would still be subject to community supervision. In exchange, Washington State receives notification of out-of-state offenders who need supervision who

move to Washington. The state is then required to supervise these offenders under the terms of the compact. The funding level in the budget assumes about 200 out-of-state misdemeanor offenders will need to be supervised during the 2005-07 biennium.

Correctional Industries - \$0.4 Million General Fund-State

The budget provides funding to purchase equipment necessary to expand Class II Correctional Industries and to help maintain overall offender employment levels. Due to the 2004 state Supreme Court decision in *Waterjet v. Yarbrough*, the Department of Corrections can no longer use private employers in its facilities and 250 related offender jobs were eliminated. Improvements at the Monroe Correctional Complex will result in the consolidation of laundry services and increase production at the facility print shop. Other equipment purchases will expand and maintain industries at the Pine Lodge Corrections Center, Stafford Creek Corrections Center, and State Penitentiary.

Delay Opening of New Units at State Penitentiary - \$7.4 Million General Fund-State Savings

The budget assumes a one-time savings by delaying for four months the move of 892 offenders into units currently under construction at the State Penitentiary in Walla Walla. Offenders would occupy the units beginning in August of 2007, rather than in April of 2007, and would either remain in current penitentiary housing or in out-of-state rental beds. Savings are realized as a result of delaying the significant start-up costs of opening the 892 new units. Construction delays have already occurred at this site.

Make Supervision of Gross Misdemeanants Consistent with Felons - \$3.0 Million General Fund-State

Chapter 362, Laws of 2004 (SB 5256) eliminates supervision for 3,000 certain gross misdemeanants sentenced in superior court annually. Supervision requirements are maintained for misdemeanor offenders who are assessed as high risk (those with violent or sex offense histories), or those with domestic violence, residential burglary, or methamphetamine manufacture/dealing convictions. This would conform misdemeanor supervision to felony supervision law under SB 5990, enacted by the 2003 Legislature (Chapter 379, Laws of 2003).

Electronic Monitoring Pilot of Community Supervision Violators - \$2.2 Million General Fund-State Savings

Chapter 435, Laws of 2005 (HB 1136) creates a one-year pilot project using electronic monitoring in lieu of jail or prison sanction time when a low-risk offender violates the terms of their community supervision. The savings assumes that 100 low-risk offenders per day will be on electronic monitoring rather than incarcerated.

Reduce Funding for Performance Contract - \$0.6 Million General Fund-State Savings

The budget reduces funding for the interlocal agreement between the Department of Corrections and Peninsula College for the establishment of a Performance Institute. Funding for instructional support and curriculum design and development is preserved.

Washington State Patrol

Improve Crime Lab and DNA Analysis - \$4.6 Million General Fund-State

The budget provides funding for 20 additional forensic scientists, and related staff and supplies, to reduce turnaround times and avoid backlogs in crime scene and DNA analysis provided to local law enforcement. The new scientists and staff will be added to the existing crime labs in Marysville, Tacoma, and Seattle, to the newly expanded crime lab in Spokane, and to the new crime lab in Vancouver.

NATURAL RESOURCES

Department of Agriculture

Expansion of Asparagus and Hops Program - \$2.0 Million General Fund-State

Chapter 517, Laws of 2005 (SB 6121) provides one-time funding of \$1 million to extend and expand the department's asparagus automation and mechanization program and \$1 million to research and develop new hop harvesting technologies and for associated pilot projects.

Washington Wine Brand - \$0.3 Million General Fund-State

To strengthen consumer awareness and create a brand identity for Washington wines, the budget provides funding to implement a new branding campaign created by the Washington Wine Industry

Small Farm Direct Marketing- \$0.2 Million General Fund-State

The budget provides funding for the Small Farm and Direct Marketing Program which connects small farmers directly with consumers.

Poultry Disease Eradication - \$0.025 Million General Fund-State

The budget provides funding for indemnity payments for poultry that are ordered by the state to be slaughtered or destroyed.

Market Access/Trade Barrier - \$0.5 Million General Fund-State

The budget provides funding to enhance the market promotion and trade barrier grants program. Grants are provided to educate the public and promote Washington produce, improve access to foreign markets, develop and update data, and match buyers with sellers.

Food Safety/Animal Health - \$0.5 Million General Fund-State

The budget provides one-time funding to complete a database application that would consolidate program information and enable the Department of Agriculture to more effectively respond to a food safety or animal disease emergency.

Agricultural Fair Study - \$0.07 Million General Fund-State

The budget provides one-time funding to conduct or contract for an economic impact study of fairs in the state of Washington.

Department of Ecology

Clean Up Toxic Waste Sites - \$9.0 Million State Toxic Control Account

The budget includes an additional \$9 million in the State Toxic Control account to manage the clean up of toxic waste sites. This amount is in addition to \$80 million of local toxic account funding in the capital budget and will increase the pace of cleaning up contaminated sites that present a risk to human health and the environment.

Beyond Waste & Business Assistance - \$3.2 Million State Toxic Control Account

The budget provides increased funding to assist businesses to reduce hazardous and solid waste. Program staff will work with businesses to reduce waste, increase organic composting, coordinate "Green Building" practices, implement financial and regulatory incentives, and improve pollution prevention plans.

2005 Emergency Drought - \$0.7 Million State Emergency Water Projects Revolving Account

The budget provides funding for the 2005 emergency drought declared by the Governor. (There is also \$8.2 million in the capital budget which will fund planning, design, purchase, and construction of water saving irrigation improvement projects.)

Reduce PBTs in the Environment - \$1.4 Million State Toxic Control Account

The budget provides enhanced funding for reducing persistent bioaccumulative toxins (PBTs). The Department of Ecology will implement a proposed Polybromated Diphenyl Ethers (PBDE) chemical action plan, monitor for mercury in fish, and continue implementing the overall PBT strategy.

Water Quality in Hood Canal and Other Marine Waters - \$0.9 Million General Fund-State, \$0.6 Million Aquatic Lands Account

The budget provides funding to address water quality problems in Hood Canal. Twenty-two of Washington's ninety-six commercial shellfish growing areas are threatened with closure, and harvesting is prohibited at seven areas because of bacteriological contamination.

Oil Spill Advisory Council - \$0.5 Million Oil Spill Prevention Account

The budget creates the Oil Spill Advisory Council in the Governor's Office to increase the state's capabilities of oil spill prevention, preparedness, and response capabilities.

Department of Fish and Wildlife

Technology/Infrastructure Improvements - \$0.8 Million Wildlife Account-State

The budget provides funding to evaluate the Department of Fish and Wildlife's recreational license sales system and, if necessary, select a new vendor to design and deploy the next generation licensing system to replace the current Washington Interactive Licensing Database. The budget also provides funding for replacement of servers and implementation of phase II of the Hydraulic Permit Management System.

Naselle Hatchery - \$0.5 Million Wildlife Account-State

The budget provides additional funding to allow the Naselle Hatchery to increase production and release of anadromous fish into Willapa Bay.

State Wildlife Account Reduction Plan - \$3.1 Million Wildlife Account-State

State Wildlife Account reductions are necessary to keep this account solvent. The budget directs the agency to reduce funding for Bogachiel/Eels and Garrison Springs Hatchery production, and complete the decommissioning of the Brinnon Shellfish Hatchery. Other activities to be eliminated or reduced include the Go Play Outside contract; the Keeping Common Species Common program, access sites, marine resources, print shop, and mail room. In addition, one district office staff, one region 2 biological field staff, middle management positions, and the agency administration/business services expenditures are reduced.

Pacific Salmon Treaty - \$0.7 Million General Fund-State

The budget provides one-time funding to purchase six purse seine and three gill net licenses to meet the provisions of the United States/Canada salmon treaty.

State Parks & Recreation

Cabins and Yurts - \$1.0 Million Parks Renewal and Stewardship Account-State

The budget provides a combination of one-time and ongoing funding for installing and operating cabins, yurts, and other rentable structures in three parks (Battle Ground, Cape Disappointment, and Dosewalips) in order to extend the camping season and generate new revenue.

Parks Maintenance/Operation - \$0.6 Million Parks Renewal and Stewardship Account-State; \$1.0 Million General Fund-State

The budget provides a combination of one-time and ongoing funding for operating and maintaining state parks. Funding is also provided to replace furnishings at Fort Worden State Park and to hire staff to improve interpretation services and collect fees at Cape Disappointment State Park.

State Conservation Commission

Sustaining Conservation Operations - \$0.2 Million General Fund-State

The budget provides funding to implement Chapter 31, Laws of 2005 (SHB 1462) which amends the state's conservation district statute. This one-time funding will provide supplementary basic funding to the state's lowest-income conservation districts.

Department of Natural Resources

Shellfish Settlement - \$9.0 Million General Fund-State, \$2.0 Million Aquatic Lands Enhancement Account

The budget provides one-time funding to settle claims involving tribal rights to harvest shellfish from tidelands used by commercial shellfish growers. The funding is contingent on federal matching funds of \$22 million.

Increase Funding for Forest and Fish Commitments - \$2.3 Million General Fund-State

The budget increases funding to fulfill compliance monitoring commitments in the Forest and Fish Report. This funding is required as part of the Habitat Conservation Plan (HCP) which the state is preparing to obtain assurances from the federal government that the state is meeting the requirement under the federal Endangered Species Act and Clean Water Act.

Enhance Maintenance of DNR Campsites - \$0.6 Million General Fund-State

The budget provides funding to improve maintenance of 25 recreation sites and 140 miles of trails on Department of Natural Resources lands. The money will also expand the department's recreation-volunteer coordination capacity.

PUBLIC SCHOOLS

INCREASES & ENHANCEMENTS

Initiative 732 Salary Increases - \$139.0 Million General Fund-State

Funding is included in the maintenance level budget for salary increases for school district employees of 1.2 percent in the 2005-06 school year and 1.7 percent in the 2006-07 school year, as required by Initiative 732.

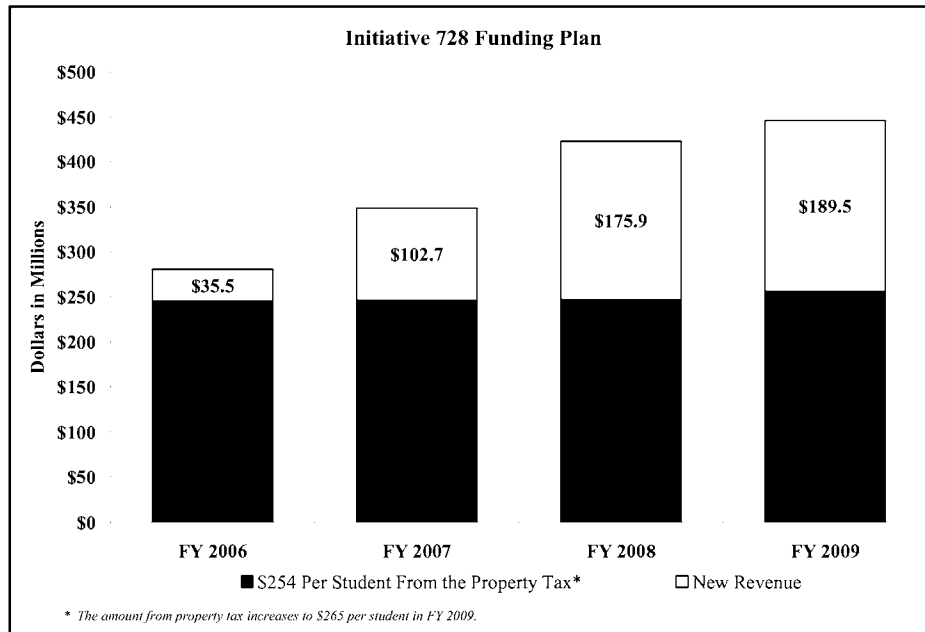
Health Benefits - \$126.2 Million General Fund-State

The monthly allocation for health benefits is increased from \$582.47 per FTE staff in the 2004-05 school year to \$629.07 in the 2005-06 school year and to \$679.39 in the 2006-07 school year.

Initiative 728 Step Up - \$138.2 Million Student Achievement Fund-State

The Student Achievement Fund was authorized by voter approval of Initiative 728 in 2000. Districts use funds to lower class sizes, create extended learning opportunities for students, provide professional development for educators, and provide early childhood programs.

Under current law, the property tax transfers into the Student Achievement Fund will change from \$254 per student to \$300 per student in the 2005-06 school year and \$375 per student in the 2006-07 school year. Legislation passed in the 2005 legislative session maintains the property tax transfers into the Student Achievement Fund at \$254 per student but also dedicates a reconfigured estate tax and an increase in cigarette taxes to support the increased per student distributions.



Expand Learning Assistance Program - \$25.1 Million Education Legacy Trust Account

Using new revenue from the restoration of the reconfigured estate tax and an increase in cigarette taxes, funding for the Learning Assistance Program (LAP) is increased. In addition, the funding formula is changed from one that allocates funding based 90% on norm-referenced test scores and 10% on poverty to one that more fully recognizes the learning and instructional challenges created by poverty. Pursuant to

Chapter 489, Laws of 2005 (HB 1066), all districts will receive funding based on the percentage of students eligible for free or reduced price lunch, with additional funding going to districts with more than 40% of such students. Districts that receive increased funding under the new formula will use the new funds to serve high school students who have not met state standards on the 10th grade WASL. Districts with decreased funding under the new formula will be held harmless so that no district receives less than it received in the 2004-05 school year.

Enhance Special Education Safety Net - \$18.9 Million General Fund-State, \$3.0 Million General Fund-Federal

The budget increases funding for the special education safety net to reflect the impact of two rule changes: (1) the application threshold for individual high cost students, based on services identified in individual education plans (IEPs), will increase to match the new federal definition of high cost; and (2) the current maintenance of local effort requirement will be eliminated in the school district application form documenting financial need. This change will provide greater equity among districts and allow more districts to access the safety net grant process.

Special Education Allocation - \$10.4 Million General Fund-State

State funding provided for special education students is increased by \$48 per student.

Fund Science Assessment - \$4.5 Million General Fund-State

In fiscal year 2006, there are insufficient federal funds to cover the federally-mandated reading and math assessments in grades 3, 5, 6, and 8 and to develop and implement a new science assessment, which will be required by the federal government in 2008. For this reason, the budget supports the costs to administer and score the Washington Assessment of Student Learning (WASL) for science with state funding.

Assessment System Changes - \$3.2 Million General Fund-State

Chapter 19, Laws of 2004 (3ESHB 2195), while defining graduation requirements for 2008 to include demonstrated mastery of state standards, also provided policy support for multiple test re-take opportunities for students and the development of options for an objective alternative assessment. The budget provides funding for these next steps to fully implement the 2008 graduation requirement.

Focused Assistance Expansion - \$2.0 Million General Fund-State

The budget provides funding to expand the Focused Assistance Program to high schools and districts. This funding must be matched by a private, non-profit foundation.

Comprehensive Education Finance Study - \$1.7 Million General Fund-State

The budget provides funding for Chapter 496, Laws of 2005 (SSB 5441), the education study, which provides for comprehensive finance studies on early learning, K-12, and higher education. The legislation establishes a steering committee that will direct and coordinate the studies and develop recommendations. The steering committee is required to provide interim reports to the appropriate policy and fiscal committees of the Legislature by November 15, 2005 and June 16, 2006, and a final report and recommendations by November 15, 2006.

Student Transportation Funding Formula and Special Education Excess Cost Studies - \$0.14 Million General Fund-State

The Joint Legislative Audit and Review Committee (JLARC) will examine the student transportation funding formula and, together with the State Auditor's Office, review special education excess cost

accounting methodology. These two studies will provide information and recommendations that may be considered by the Education Finance Steering Committee.

Other K-12 Enhancements and Increases - \$6.2 Million General Fund-State

The budget also provides funding for a variety of smaller K-12 increases, including the following: a new computer system for calculating state allocations to school districts (\$1.9 million); incentive grants to encourage school districts to enroll higher numbers of students in vocational Skills Centers (\$1.2 million); expansion of mentor opportunities for students at 16 high schools which are part of the Washington Achievers Scholars program (\$1 million); the implementation of the Lorraine Wojahn pilot dyslexia reading program (\$677,000); the establishment of an Early Reading Grant Program for community-based initiatives that develop pre-reading and early reading skills (\$250,000); additional efforts at improving reading curriculum and instruction (\$250,000); and other small increases and enhancements.

REDUCTIONS AND SAVINGS

Pension Rate Savings - \$240.9 Million General Fund-State Savings

Funding levels for employer contributions to the Public Employees' Retirement System (PERS), the Teachers' Retirement System (TRS), and the School Employees' Retirement System (SERS) are adjusted consistent with Chapter 370, Laws of 2005 (SHB 1044), pertaining to pension funding methodology. The following are suspended for the 2005-07 biennium: (1) contributions towards the cost of future gain-sharing benefits in plans 1 and 3 of PERS, TRS, and SERS; and (2) the cost of amortizing the Unfunded Accrued Actuarial Liabilities in PERS Plan 1 and TRS Plan 1. The Select Committee on Pension Policy will study gain sharing during FY 2005. A phased-in schedule of contribution rates is adopted for PERS, TRS, and SERS.

Levy Equalization Reduction - \$12.9 Million General Fund-State Savings

In the 2005-07 Biennium, levy equalization payments to school districts will be prorated at 95.63 percent, resulting in a savings compared to funding the payments at 100 percent. Local Effort Assistance, or levy equalization, allocations to school districts are expected to increase by \$12.3 million from the 2004-05 school year to the 2005-06 school year and by another \$5.6 million from the 2005-06 year to the 2006-07 school year.

School Bus Replacement - \$6.5 Million General Fund-State Savings

The final report on K-12 School Bus Bidding and Purchasing, issued by the Joint Legislative Audit and Review Committee in February 2005, noted that the present method for reimbursing districts for school bus purchases results in wide annual fluctuations in state payments to districts. In consideration of this, school bus depreciation payments will be based on a five-year average of prices for each bus category. In the final year on the depreciation schedule, the payment for a bus will be adjusted so that the total depreciation payments and assumed investment returns will be sufficient to replace the bus according to that year's low bid price for that bus category. These changes are intended to provide additional stability and predictability for state expenditures and school district revenues, and to maintain the current policy of providing the replacement value by the end of the depreciation payments.

Reduce Reading Corps - \$5.7 Million General Fund-State Savings

The budget reduces state funding for the Washington Reading Corps to \$1.7 million, which is sufficient for the state match needed to receive federal Ameri-Corps funds. The program provides state grants to assist in the coordination of reading tutors and volunteers.

Other Non-Basic Education Reductions - \$1.9 Million General Fund-State Savings

The budget makes a variety of reductions in non-basic education programs. These include: lowering the costs associated with the alternative certification routes which are alternatives to the traditional teacher preparation programs (\$1.1 million); eliminating funding for the Academic Achievement and Accountability Commission and associated staff positions (\$439,000), consistent with the provisions of Chapter 497, Laws of 2005 (SB 5732) pertaining to K-12 governance; and making administrative reductions in the Office of Superintendent of Public Instruction (\$394,000).

HIGHER EDUCATION

New Enrollments

Increase General Enrollments - \$72.5 Million General Fund-State and Education Legacy Trust Account-State

The budget provides funds to increase the capacity of colleges and universities by 7,900 general enrollments. At the community and technical colleges 4,185 new enrollments are added and an annual general fund-subsidy of \$5,400 per student is assumed. At the research and comprehensive institutions, 4,185 new enrollments are added and a general fund-subsidy of \$6,303 is assumed for undergraduates and a \$15,000 subsidy is assumed for graduate students. Of the new enrollments at the 4-year institutions, 600 upper division enrollments are added at UW-Tacoma, UW-Bothell and WSU-Vancouver at a subsidy of \$9,000 per student. In addition, 475 lower division enrollments are added at Bothell, Tacoma, Vancouver and WSU-Tri-Cities.

Expand Adult Basic Education - \$4.0 Million Education Legacy Trust Account-State

The budget provides funding to strengthen and expand Adult Basic Education programs at the community and technical colleges.

Veterinary Medicine - \$1.5 Million Education Legacy Trust Account-State

The budget provides funding to replace the loss of funds as a result of Oregon State University's termination of its contract with Washington State University's Doctor of Veterinary Medicine program.

**2005-07 Biennial Budget
Higher Education New Enrollments
Student FTEs By Campus**

	FY 2006	FY 2007	Total
UW-Seattle	180	180	360
UW-Tacoma	100	225	325
UW-Bothell	75	200	275
Total University of Washington	355	605	960
WSU-Pullman	215	215	430
WSU-Vancouver	125	325	450
WSU-Tri-Cities	0	25	25
Total Washington State University	340	565	905

2005-07 Operating Budget (ESSB 6090)

Central Washington University	324	326	650
Eastern Washington University	324	326	650
The Evergreen State College	105	105	210
Western Washington University	170	170	340
Total Comprehensives	923	927	1,850
Total 4-Year	1,618	2,097	3,715
Community & Technical Colleges	2,050	2,135	4,185
Total New Enrollments	3,668	4,232	7,900

Financial Aid

Expand the State Need Grant - \$69.7 Million General Fund-State and Education Legacy Trust Account-State

The budget expands financial eligibility for the state need grant from 55 percent of the State's median family income (MFI), approximately \$36,300 per year for a family of four, to 65 percent of the MFI, approximately \$43,300 per year for a family of four. The budget also provides funding to cover the impact of tuition increases and new state-funded enrollments.

Eliminate the Promise Scholarship - \$12.7 Million General Fund-State Savings

The budget eliminates funding for the Promise scholarship; the last grant recipients are the 2004 high school graduates. Savings of \$12.7 million help to expand the state need grant.

Increase State Work Study and Washington Scholars - \$3.3 Million General Fund-State and Education Legacy Trust Account-State

The budget increases funding for the State Work Study program by \$2.8 million and the Washington Scholars program by \$435,000 to reflect increases in tuition and new enrollments. In academic year 2006-07, the Washington Scholars program will decrease from 3 students to 2 students from each legislative district.

Compensation

In addition to the changes described on page 3, the following enhancements are provided:

Initiative 732 COLA - \$10.9 Million General Fund-State

The budget provides funding for a cost-of-living adjustment at the consumer price index of 1.2 percent in FY 2006 and 1.7 percent in FY 2007 for eligible faculty and classified staff at the community and technical colleges.

Community College Faculty Increment - \$4.5 million Education Legacy Trust Account-State

The budget combines state funds and salary turnover savings authority to help community and technical colleges fund increments awarded to full-time faculty.

Part-Time Faculty Equity Pay - \$4.5 Million Education Legacy Trust Account-State

The budget provides funding to partially address salary equity for part-time instructors at the 34 community and technical colleges.

Tuition

Governing boards will decide the appropriate level of tuition for most students, except resident undergraduates. For resident undergraduates, the Legislature authorizes the following annual increases in tuition over the rates charged by the institution in the previous academic year: seven percent a year at the research institutions, six percent a year at the comprehensive institutions and The Evergreen State College, and five percent a year at the community and technical colleges.

Reductions

Facility Preservation - \$67.0 Million General Fund-State Savings

In addition to the fund transfer that occurred in the 2003-05 biennial budget, the budget transfers an additional \$15 million of the maintenance and operations budget for the higher education institutions from the general fund to the education construction account in the capital budget.

Reduce University and College Operating Appropriations - \$16.6 Million General Fund-State Savings

The budget reduces general fund expenditures by \$16.6 million, representing 25 percent of the increased tuition revenue attributable to resident undergrads that the institutions may expect in the 2005-07 biennium.

Reduce Non-Instruction Programs - \$10.3 million General Fund-State Savings

The budget makes a 1 percent general fund-state reduction to all non-instruction programs.

Miscellaneous

UW Tacoma Autism Center - \$0.7 Million General Fund-State

The budget provides funding to maintain an Autism Center at the University of Washington (UW) Tacoma campus. The facility will continue to operate as a satellite facility to the Autism Center at the UW Medical Center in Seattle.

College Readiness Standards for English and Science - \$0.6 Million General Fund-State

The budget provides funding for the Higher Education Coordinating Board to develop college readiness standards in English and science. Standards ease articulation among sectors of the state's education system.

Korean Studies Endowed Chair - \$0.5 Million General Fund-State

The budget provides one-time funding to establish an endowed chair in Korean studies at the University of Washington, Seattle.

Northwest Autism Center - \$0.43 Million General Fund-State

The budget provides funding through Eastern Washington University for the Northwest Autism Center to provide community-based approaches to assisting children and adults with autism spectrum disorder. The funding is also for the establishment of a preschool at EWU to serve children identified with autism spectrum disorder.

Jefferson County Pilot Project - \$0.4 Million General Fund State

The budget provides funding to continue a demonstration project to increase opportunities and participation in post-secondary education in rural areas of Jefferson County.

Ghost Shrimp Research - \$0.4 Million General Fund State

The budget provides funding for Washington State University to research alternatives for controlling ghost shrimp in Willapa Bay.

SPECIAL APPROPRIATIONS

Compensation

Employee Health Benefit Changes - \$118.8 Million General Fund-State, \$89.9 Million Other Funds

The budget increases funding for state employee health benefits in general government and higher education. The increases for represented state employees comply with the collective bargaining agreements reached by the Governor's Office of Labor Relations and the unions representing state employees in general government and higher education. The amount paid by employing agencies increases from \$584.58 per employee per month in fiscal year 2005 to \$663.00 per employee per month in fiscal year 2006. In fiscal year 2007, the employer contribution per represented employee is \$744.00 per month, while the employer rate per non-represented employee is \$618.00 per month.

Funding levels are adequate to limit the employee share of medical premiums costs to no more than 12 percent (assuming an 8.5 percent annual rate of inflation). An additional \$20 million reserve has been set aside in the insurance account to cover the costs of inflation if it is greater than expected. If additional funds are needed to cover the cost of inflation in employee health benefits, the Legislature intends to appropriate such sums as necessary to prevent the average employee share of premium costs rising above 12 percent, up to a maximum of 11 percent annual inflation.

Increase Salaries for Represented Employees - \$106.2 Million General Fund-State, \$761 Million Other Funds

Funding is provided to cover the costs of collective bargaining agreements. The agreements generally provide cost-of-living adjustments of 3.2 percent on July 1, 2005, and 1.6 percent on July 1, 2006 with the 1.6 percent increase expiring on June 30, 2007. One exception to this is the agreement with the International Brotherhood of Teamsters; the second-year cost-of-living increase is 2.9 percent. Most agreements provide for the implementation of the Department of Personnel's 2002 Salary Survey for those classifications that are more than 25 percent behind the market rate of compensation.

Increase Salaries for Non-Represented Employees - \$102.1 Million General Fund-State, \$97.7 Million Other Funds

Funding is provided for cost-of-living adjustments of 3.2 percent on September 1, 2005, and 1.6 percent on September 1, 2006. The 1.6 percent increase expires on June 30, 2007. Funding is also provided for job classifications that are more than 25 percent behind the market rate of compensation according to the Department of Personnel's 2002 Salary Survey.

Pension Funding Changes - \$325.3 Million General Fund-State, \$61.5 Million Other Funds

Funding levels for employer contributions to the Public Employees' Retirement System (PERS), the Teachers' Retirement System (TRS), and the School Employees' Retirement System (SERS) are adjusted consistent with Chapter 370, Laws of 2005 (SHB 1044), pertaining to pension funding methodology. The following are suspended for the 2005-07 biennium: (1) contributions towards the cost of future gain-sharing benefits in plans 1 and 3 of PERS, TRS, and SERS; and (2) the cost of amortizing the Unfunded Accrued Actuarial Liabilities in PERS Plan 1 and TRS Plan 1. The Select Committee on Pension Policy will study gain sharing during FY 2005. A phased-in schedule of contribution rates is adopted for PERS, TRS, and SERS. The employee contribution rates in FY 2006 are 2.25 percent of pay for PERS Plan 2, 2.48 percent of pay for TRS Plan 2, and 2.75 percent of pay for SERS Plan 2. In FY 2007, the employee contribution rates are 3.50 percent of pay for PERS Plan 2, 3.00 percent of pay for TRS Plan 2, and 3.75 percent of pay for SERS Plan 2. For retirement system plans unaffected by gain sharing and amortization of the Unfunded Accrued Actuarial Liabilities, funding is provided for the contribution rates recommended by the Pension Funding Council and adopted by the Law Enforcement Officers' and Fire Fighters Plan 2 Board (LEOFF 2 Board). For the Pension Funding Council, these rates include no resumption of contribution rates for employers and employees in the Law Enforcement Officers' and Fire Fighters' Retirement System Plan 1 during the 2005-07 biennium, and a 4.51 percent of pay contribution rate for both employers and employees of the Washington State Patrol Retirement System. The rates adopted by the LEOFF 2 Board incorporate a phased-in schedule of annual contribution rates, including employee contribution rates of 6.75 percent of pay in FY 2006, and 7.55 percent of pay in FY 2007.

2005-07 Capital Budget Overview

The Legislature enacted three major capital budget-related bills in the 2005 session: the 2005-07 Capital Budget and the 2005 Supplemental Capital Budget, Chapter 488, Laws of 2005, Partial Veto (ESSB 6094); a bond bill, Chapter 487, Laws of 2005 (ESHB 2299); and a bill that increased the 9 percent constitutional debt limit, Chapter 486, Laws of 2005 (HB 2170).

Appropriations in the 2005-07 Capital Budget totaled \$3.2 billion, \$1.7 billion from a variety of revenue sources and \$1.6 billion from the issuance of new state general obligation bonds. Additionally, \$2.0 billion was reappropriated for projects from prior biennia. The 2005 Supplemental Capital Budget authorized \$211.5 million in net new appropriations, of which \$17.9 million was financed with new state general obligation bonds.

Bond Bill

The bond bill (ESHB 2299) authorized the issuance of \$1.3 billion in state general obligation bonds to be repaid over 25 years by the state general fund. This amount included \$30 million for a possible supplemental budget in 2006 to address emergency or unforeseen circumstances.

Debt Limit Considerations

The state has both a 7 percent statutory and a 9 percent constitutional debt limit. Numerous amendments and exceptions to the statutory limit in recent years have made the 7 percent and 9 percent limits equivalent. Due to increased pressure on the capital budget from the need for prison expansion and a desire to put additional resources into public school construction, the Legislature enacted HB 2170 which removed language dedicating to common schools the portion of the Real Estate Excise Tax going to the state general fund. This increased the amount of general state revenues used to calculate the 9% constitutional debt limit, thereby increasing the amount of bond capacity available for capital projects and programs in the 2005-07 biennium.

Public School Construction

A total of \$605.1 million was appropriated for K-12 construction assistance grants. This amount includes an additional \$156.2 million for: (1) an area cost allowance enhancement to the current matching formula to help offset the difference between actual and state formula construction costs of schools; (2) an increase in the amount of funded square feet per student at all grade levels; and (3) an increase in the amount paid for modernization projects. Also included in this amount is \$14.6 million for design, new construction, and small maintenance projects and equipment replacement at the ten vocational Skills Centers throughout the state.

The Common School Construction Fund receives revenue from a variety of sources. The following revenue streams are expected to be deposited into the fund to support the 2005-07 school construction assistance grants appropriation: \$115.3 million from timber trust revenues; \$99.7 million from the Education Construction Account; \$49.7 million of state bonds is provided through the Trust Land Transfer program; \$30 million from Education Savings Account transfers that are derived from state agency under-expenditures; and \$14.2 million from interest earnings, federal funds and other transfers. In addition, the Common School Construction Fund is augmented by an additional \$130.2 million appropriation of state bond funds.

The enacted budget also includes the following appropriations for K-12: \$6.5 million for grant allocations to school districts implementing high performance building standards into their

school construction projects; \$4.5 million for continuation of a school mapping and safety project, which was initiated in the 2003-05 biennium; \$3 million for a small repair grant program; \$2.4 million for construction projects at the Chewelah Peak Environmental Learning Center and Camp Waskowitz; \$2.3 million for school construction assistance program staff; and \$500,000 for Apple Award Construction Achievement Grants.

Higher Education

A total of \$890.2 million was appropriated for higher education, of which \$677.6 million was state bonds. This includes \$389.2 million in state bonds for the community and technical college system and \$288.5 million in state bonds for the public baccalaureate institutions. Of this amount, \$213 million in Gardner-Evans bonds are appropriated for a variety of new facilities and renovation or replacement of existing facilities, leaving \$250 million to be appropriated for higher education projects in future biennia.

The Legislature largely accepted the recommendations of the Council of Presidents' prioritized capital project list for the 4-year institutions and funded additional projects that reflect the statewide needs of expanding access and prioritizing facilities that benefit multiple schools.

Major 4-year projects include:

- The Evergreen State College - Daniel J. Evans Library renovation;
- Western Washington University - Academic Instruction Center construction;
- University of Washington - Architecture Hall and Guggenheim Hall renovations;
- WSU Tri-Cities - Bioproducts Research Facility construction;
- WSU Spokane - Riverpoint Nursing Building construction; and
- WSU Vancouver - Student Services Center construction and classroom building design.

Major 2-year projects include:

- Bates Technical College - Learning Resource Center;
- Edmonds Community College - Instructional Lab;
- Everett Community College - Pilchuck/Glacier;
- Green River Community College - Science Building;
- Lower Columbia Community College - Instructional Fine Arts Building;
- Peninsula Community College - Science and Technology Building Replacement;
- Spokane Falls Community College - Business and Social Science Building;
- Wenatchee Valley Community College - Anderson Hall and Portable Replacement; and
- Yakima Valley Community College - Glenn/Anthon Replacement.

The capital budget also provided \$228.4 million for higher education facility preservation and minor works projects, as well as \$67.8 million for preventative facility maintenance that is intended to maintain state-owned university facilities housing educational and general programs and extend the useful life of the buildings.

Prison Construction

To relieve overcrowding, the capital budget funds the construction of a new prison at Coyote Ridge Corrections Center in Connell, Washington. The prison will include 1,280 medium security beds, 512 of which will be less expensive "hybrid" beds within a medium security perimeter. In order to reduce operating costs for this prison, the Department of Corrections is

directed to design the new prison with an assumption that some of the support and administrative functions will be provided by staff within the region.

Salmon Recovery and Water

The Legislature continued efforts to restore salmon populations to healthy, harvestable levels by investing in salmon recovery programs, water quality, and water quantity programs.

Funding for salmon recovery includes: \$62 million for grants for salmon restoration projects and activities; \$15.3 million for hatchery management and reform; and \$12.2 million to purchase riparian easements from timber land owners to mitigate the economic impact of forest practices rules and to remove fish blockages on family-owned forests through the Forest Riparian Easement Program and the Family Forest Fish Passage Program.

Capital funding for several programs to improve the quality and quantity of water includes: \$12 million for capital projects and water acquisition financing to implement locally developed watershed plans; \$16 million for the Columbia River Initiative; \$3.9 million for Sunnyside Valley Irrigation District water conservation; \$3.5 million for water irrigation efficiencies through which conserved water will be placed in a trust water program; \$2.5 million for livestock water quality; and \$3.5 million for a water quality grants program that provides technical and cost share assistance to private landowners to fix current and potential agricultural nonpoint water quality problems. In addition, \$8.1 million is provided for state drought preparedness activities including water acquisition and mitigation projects including emergency agriculture, municipal and fish protection projects.

Habitat and Recreation

Over \$170 million is provided to improve public access to recreation and preserve open space and habitat. Through the Washington Wildlife and Recreation Program (WWRP), \$50 million in state bonds is provided for habitat and recreation projects. With the Trust Land Transfer Program, \$73.5 million is provided to purchase unharvestable timber lands from the school trust and transfer those lands to recreation and habitat status. Through the Aquatic Lands Enhancement Grant Program, \$5 million in revenue from state tidelands and bedlands is provided for water access projects. The State Parks and Recreation Commission is provided \$40.7 million in state, federal, and local authority to preserve and improve the state park system.

Local Infrastructure

Various grant and loan programs provide over \$918 million to local governments and non-profit organizations. The largest of these programs are for roads, sewer, water, housing, and pollution control. These include the Public Works Trust Fund (\$289 million), the Water Pollution Revolving Account (\$240 million), the Housing Trust Fund (\$100 million), Local Toxics Grants for Cleanup and Prevention (\$80 million), the Drinking Water Assistance Program (\$47.7 million), the Centennial Clean Water Program (\$38 million), and the Community Economic Revitalization Board (\$20.4 million).

State assistance to local governments and non-profit organizations also extends to several other competitive grant programs including: Building for the Arts (\$5.4 million), Community Services Facilities Program (\$5.3 million), Youth Recreational Facilities Program (\$3.3 million), Heritage Program (\$4.6 million), and Historic Courthouse Rehabilitation (\$5 million). Funding is also provided for Job/Economic Development grants (\$50 million), Jobs in Communities (\$12.3 million), and a variety of local/community projects (\$39.4 million).

Projects Funded by Alternative Financing Contracts

In addition to regular appropriations for capital projects, the capital budget authorizes state agencies to enter into financing contracts for the acquisition of land and facilities. There are 23 such projects.

2005-07 Capital Budget (ESSB 6094)

2005-07 Capital Budget New Appropriations Project List (Dollars in Thousands)

	State Bonds	Total
GOVERNMENTAL OPERATIONS		
Jt Leg Audit & Review Committee		
Capital Budget Studies	0	200,000
Office of the Secretary of State		
TVW Digital Equipment	3,000,000	3,000,000
Dept Community, Trade, Econ Dev		
Building for the Arts	5,390,000	5,390,000
Coastal Erosion Grants	1,500,000	1,500,000
Community Economic Revitalization Board (CERB)	0	20,448,657
Community Services Facilities Program	5,345,000	5,345,000
Drinking Water Assistance Program	0	19,600,000
Historic Courthouse Rehabilitation	5,000,000	5,000,000
Housing Assistance, Weatherization, and Affordable Housing	100,000,000	100,000,000
Job/Economic Development Grants	0	50,000,000
Jobs in Communities	12,250,000	12,250,000
Local/Community Projects	39,391,000	39,391,000
Public Works Trust Fund	0	288,900,000
Rural Washington Loan Fund	0	4,126,905
Water System Acquisition and Rehabilitation Program	2,000,000	2,000,000
Youth Recreational Facilities Program	3,300,000	3,300,000
Total	174,176,000	557,251,562
Dept of General Administration		
ADA Access Between Legislative, Cherberg, O'Brien & Prichard	1,349,000	1,349,000
Capitol Lake: Environmental Preservation & Planning	270,000	270,000
Capitol Public/Historic Facilities: Preservation Minor Works	1,000,000	1,000,000
Cherberg Building: Rehabilitation	12,253,000	13,692,000
Emergency Repairs	350,000	1,400,000
Engineering and Architectural Services	9,216,771	11,783,624
General Administration Building Rehabilitation	0	750,000
Heritage Park Complete Development	1,600,000	1,600,000
Highway-License Building Repair and Renewal	0	925,000
Infrastructure Projects - Savings	1	1
Legislative Building Omnibus	1,100,000	1,978,000
Natural Resources Building Repairs and Renewal	0	502,000
State Capitol Campus Master Plan	0	200,000
Statewide Infrastructure: Preservation Minor Works	1,000,000	3,067,600
Statewide Office Facilities: Preservation Minor Works	0	4,815,000
Statewide Parking Facilities: Preservation Minor Works	0	880,000
Transportation Building Preservation	0	5,190,000
Total	28,138,772	49,402,225

2005-07 Capital Budget (ESSB 6094)

Military Department

Alteration of Building No. 2, Camp Murray	0	1,260,000
Auditorium & Instructor Support Facility	0	1,390,000
Courseware Development Support Facility	0	1,237,000
Design and Construct Olympia Area Readiness Center	250,000	250,000
Infrastructure Projects - Savings	1	1
Kent Readiness Center Preservation	386,000	1,136,000
National Guard Headquarter's Building Preservation	643,000	643,000
Omnibus Preservation Projects - Statewide	2,723,000	2,723,000
Omnibus Support for Federal Minor Works Projects-Statewide	2,000,000	17,851,000
Total	6,002,001	26,490,001

State Convention and Trade Center

Minor Works: Facility Preservation	0	3,000,000
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Total Governmental Operations

211,316,773 639,343,788

HUMAN SERVICES

Criminal Justice Training Comm

Omnibus Minor Works	100,000	100,000
School Mapping	0	4,500,000
Total	100,000	4,600,000

Dept of Social and Health Services

Capital Project Management	0	2,250,000
Cliff Bailey Center	225,000	225,000
Developmental Disabilities: Omnibus Programmatic Projects	1,500,000	1,500,000
Eastern State Hospital-Westlake Building: Fire Alarm Upgrade	1,650,000	1,650,000
Firecrest School - Health and Safety Improvements	750,000	750,000
Juvenile Rehabilitation: Omnibus Programmatic Projects	0	1,000,000
Lakeland Village-Nine Cottages: Renovation, Phase 4, 5, & 6	2,400,000	2,400,000
Mental Health Division-Clark County: Center for Community Health	3,000,000	3,000,000
Mental Health Division-CLIP Facilities: Preservation	1,300,000	1,300,000
Mental Health Division-Eastern Washington: Evaluation & Treatment	1,500,000	1,500,000
Mental Health Division-Highline Mental Health: Preservation	50,000	50,000
Mental Health Division-North Sound Eval & Trtmt: Air Conditioning	35,000	35,000
Mental Health: Omnibus Programmatic Projects	1,000,000	1,000,000
Omnibus Preservation: Facility Preservation	3,000,000	3,000,000
Omnibus Preservation: Health, Safety & Code Requirements	5,000,000	5,000,000
Omnibus Preservation: Infrastructure Preservation	3,000,000	3,000,000
Pediatric Interim Care Newborn Nursery	617,000	617,000
Project Savings: Infrastructure & Preservation Projects	1	1
Special Commitment Center on McNeil Island: Additional Capacity	100,000	100,000
Statewide: Emergency & Unanticipated Repair Projects	800,000	800,000
Statewide: Facilities Assessment & Preservation Planning, Phase 2	0	300,000
Statewide: Hazards Abatement & Demolition	0	1,300,000
Washington Information Network 2-1-1	1,000,000	1,000,000
Western State Hospital-Laundry: New Construction	0	100,000
Total	26,927,001	31,877,001

2005-07 Capital Budget (ESSB 6094)

Department of Health

Cruise Ship Virus Study	0	100,000
Drinking Water Assistance Program	0	28,122,000
Public Health Laboratory: Chiller Plant Upgrade	500,000	500,000
Public Health Laboratory: Roof Replacement	1,625,000	1,625,000
Total	2,125,000	30,347,000

Department of Veterans' Affairs

Emergency Funds	0	500,000
Infrastructure Projects - Savings	1	1
Minor Works Health, Safety, Code Requirements	0	120,000
Minor Works Infrastructure Preservation	0	55,000
Total	1	675,001

Department of Corrections

Class II/ Class III Offender Work Program Master Plan	0	150,000
Clallam Bay Corrections Center: Replace Support Building Roof	4,752,053	4,752,053
Clallam Bay Corrections Ctr: Install Close Custody Slider Doors	750,000	750,000
Coyote Ridge Corrections Center: Expansion	179,000,000	179,000,000
Emergency Projects	1,500,000	2,400,000
Infrastructure Projects - Savings	1	1
MICC: Predesign/Design Replace/Stabilize Housing Unit Siding	794,000	794,000
Mission Creek: Add 120 Beds	3,425,184	3,425,184
Monroe Corrections Center: Health Care Facility	700,000	700,000
Monroe Corrections Center: Improve C & D Units Security Features	2,898,269	2,898,269
Omnibus Preservation: Facility Preservation (Minor Works)	3,833,000	3,833,000
Omnibus Preservation: Health, Safety, and Code (Minor Works)	4,100,000	4,100,000
Omnibus Preservation: Infrastructure Preservation (Minor Works)	3,826,000	3,826,000
Omnibus Program: Programmatic Projects (Minor Works)	1,915,000	1,915,000
Stafford Creek Corrections Center: Correct Security Deficiencies	1,593,266	1,593,266
Statewide: Add Minimum Security Beds	7,442,997	7,442,997
Statewide: Inflow and Infiltration Analysis	0	250,000
Telecommunications Infrastructure Master Plan	0	150,000
Washington Corrections Center for Women: Replace Steamlines	1,016,000	1,016,000
Washington Corrections Center: Regional Infrastructure	10,078,942	10,078,942
Washington State Penitentiary: North Close Security Compound	5,891,000	6,818,000
Washington State Penitentiary: South Close Security Complex	4,000,000	4,000,000
Washington State Penitentiary: Design Kitchen Improvements	629,552	629,552
WCC: Predesign/Design Health Care Facility Remodel	1,200,000	1,200,000
WCCW: Healthcare Predesign	1,200,000	1,200,000
Total	240,545,264	242,922,264

Department of Employment Security

Walla Walla WorkSource Office: Training Room Expansion	0	250,000
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Total Human Services

	269,697,266	310,671,266
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2005-07 Capital Budget (ESSB 6094)

NATURAL RESOURCES

Department of Ecology

Centennial Clean Water Program	20,000,000	38,000,000
Columbia River Initiative	16,000,000	16,000,000
Local Toxics Grants for Cleanup and Prevention	0	80,000,000
Minor Works	555,000	555,000
Safe Soil Remediation and Awareness Projects	0	2,000,000
Sunnyside Valley Irrigation District Water Conservation	3,878,000	3,878,000
Water Irrigation Efficiencies	3,500,000	3,500,000
Water Pollution Control Revolving Account	0	239,616,286
Watershed Plan Implementation and Flow Achievement	12,000,000	12,000,000
Wetland Mitigation Bank Demonstration -- Chehalis	100,000	100,000
Total	56,033,000	395,649,286

State Parks and Recreation Comm

Beacon Rock - Pierce Trust	0	350,000
Cama Beach - New Destinations	2,820,000	2,820,000
Coastal Parks - Renewed Traditions	1,000,000	1,000,000
Cowan Barn and House	350,000	350,000
Deception Pass - Renewed Traditions	1,000,000	1,000,000
Donation for Construction of Cama Beach State Park	0	1,916,036
Emergency and Unforeseen Needs	500,000	500,000
Facility Preservation - Facilities	16,750,000	16,750,000
Federal Authority	0	500,000
Fort Worden - Facilities	2,000,000	2,000,000
Historic Stewardship - Stewardship	2,015,000	2,015,000
Hoko River Initial Property Development	100,000	100,000
Ice Age Floods - Cherished Resources	300,000	300,000
Local Authority	0	500,000
Natural Resources - Stewardship	860,000	860,000
Park Development	900,000	900,000
Parkland Acquisition Account	0	4,000,000
Revenue Creation - Financial Strategy	2,100,000	2,100,000
Rocky Reach - Chelan County Public Utility District	0	500,000
Southeast Washington Parks	250,000	250,000
Statewide Boat Pumpout - Federal Clean Vessel Act	0	1,000,000
Trails	1,000,000	1,000,000
Total	31,945,000	40,711,036

Interagency Comm for Outdoor Rec

Aquatic Lands Enhancement Account	0	5,024,500
Boating Facilities Program (BFP)	0	8,350,000
Boating Infrastructure Grant (BIG)	0	200,000
Consolidate Salmon & Watershed Data - Pilot	0	500,000
Family Forest Fish Passage Program	4,150,000	4,150,000
Firearm & Archery Range Program (FARP)	0	222,300
Improve Hatchery Management	0	6,000,000
Land & Water Conservation Fund (LWCF)	0	4,500,000

2005-07 Capital Budget (ESSB 6094)

National Recreation Trails Program (NRTP)	0	2,350,000
Nonhighway & Off-Road Vehicle Program (NOVA)	0	7,579,000
Salmon Recovery Fund Board Programs (SRFB)	18,000,000	62,000,000
Washington Wildlife & Recreation Program (WWRP)	50,000,000	50,000,000
Total	72,150,000	150,875,800

State Conservation Commission

Bi-State Habitat Conservation Plan	150,000	150,000
Conservation Reserve Enhancement Program	2,000,000	2,000,000
Conservation Reserve Enhancement Program - Loans	0	1,000,000
Livestock Water Quality - Landowner Cost Share	0	2,500,000
Puget Sound District Grants	0	840,000
Skokomish Anaerobic Digester	560,000	560,000
Water Quality Grants Program	500,000	3,500,000
Total	3,210,000	10,550,000

Dept of Fish and Wildlife

Dole Bee Be Property	1,500,000	1,500,000
Facility, Infrastructure, Lands and Access Condition Improvements	6,457,000	7,107,000
Fish & Wildlife Opportunity Improvements	500,000	2,800,000
Fish and Wildlife Population and Habitat Protection	500,000	7,430,000
Hatchery and Fish Acclimation Studies	0	500,000
Hatchery Reform, Retrofits, and Condition Improvement	7,350,000	15,250,000
Internal and External Partnership Improvements	0	14,200,000
Pollution Abatement Study	100,000	100,000
Sustainability & Department of Fish & Wildlife Energy Savings	500,000	500,000
Wind Power Mitigation	500,000	500,000
Total	17,407,000	49,887,000

Department of Natural Resources

Community and Technical College Trust Land Acquisition	0	100,000
Deep Water Geoduck and Sea Cucumber Population Surveys	0	650,000
Forest Legacy	0	8,000,000
Land Bank	0	5,000,000
Minor Works - Preservation	144,000	800,000
Minor Works - Programmatic	447,000	775,000
Molluscan Model and Monitoring	0	200,500
Natural Areas Facilities Preservation	500,000	500,000
Natural Resources Real Property Replacement	0	30,000,000
Recreation Facilities Preservation	865,000	865,000
Right of Way Acquisition	0	1,000,000
Riparian Open Space Program	1,500,000	1,500,000
RMAP Compliance: Natural Areas and Recreation	700,000	700,000
Small Timber Landowner (FREP)	8,000,000	8,000,000
State Lands Maintenance	0	600,000
Statewide Aquatic Restoration Projects	150,000	450,000
Trust Land Transfer	61,610,000	73,480,000
Wetland Grants	0	1,500,000
Total	73,916,000	134,120,500

2005-07 Capital Budget (ESSB 6094)

Department of Agriculture

Fair Improvements	200,000	200,000
Hop Initiative	500,000	500,000
Total	700,000	700,000

Total Natural Resources

	255,361,000	782,493,622
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TRANSPORTATION

Washington State Patrol

Minor Work Projects	495,000	495,000
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HIGHER EDUCATION

Higher Education Coordinating Board

Snohomish, Skagit, and Island County Needs Assessment	0	500,000
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University of Washington

Architecture Hall Renovation	21,850,000	21,850,000
Clark Hall Renovation	2,500,000	2,500,000
Guggenheim Hall Renovation	24,500,000	24,500,000
Health Sciences - H Wing	5,000,000	5,000,000
Infrastructure Savings	2	2
Minor Works - Facility Preservation	0	21,200,000
Minor Works - Health, Safety, and Code Requirements	0	11,000,000
Minor Works - Infrastructure Preservation	0	5,000,000
Minor Works - Program	900,000	4,700,000
Preventive Facility Maintenance and Building System Repairs	0	25,825,000
Savery Hall Renovation	6,600,000	6,600,000
UW Playhouse Theater	1,000,000	1,000,000
UW Tacoma - Assembly Hall	7,500,000	7,500,000
Total	69,850,002	136,675,002

Washington State University

Campus Infrastructure	7,000,000	7,000,000
Center for Precision Agriculture	2,800,000	2,800,000
Equipment Omnibus	0	7,000,000
Infrastructure Savings	2	2
Minor Capital Improvements (MCI)	0	6,000,000
Minor Works - Facility Preservation	25,000,000	30,500,000
Minor Works - Health, Safety, and Code	0	2,000,000
Preventive Facility Maintenance and Building System Repairs	0	10,115,000
WSU Spokane - Nursing Building at Riverpoint	31,600,000	31,600,000
WSU Tri-Cities - Bioproducts Facility	13,100,000	13,100,000
WSU Vancouver - Student Services Center	10,600,000	10,600,000
WSU Vancouver: Applied Technology & Classroom Building	150,000	150,000
WSU Vancouver: Undergraduate Classroom Building	3,650,000	3,650,000
Total	93,900,002	124,515,002

2005-07 Capital Budget (ESSB 6094)

Eastern Washington University

Cheney Hall Renovation	2,002,000	2,002,000
Hargreaves Hall Renovation	1,414,000	1,414,000
Infrastructure Savings	2	2
Minor Works - Facility Preservation	8,000,000	8,000,000
Minor Works - Health Safety and Code Compliance	5,700,000	5,700,000
Minor Works - Infrastructure Preservation	4,000,000	4,000,000
Minor Works Program	6,600,000	15,600,000
Preventive Facility Maintenance and Building System Repairs	0	2,217,000
Total	27,716,002	38,933,002

Central Washington University

Combined Utilities	4,400,000	4,400,000
Dean Hall Renovation	2,200,000	2,200,000
Infrastructure Savings	2	2
Minor Works - Facility Preservation	0	2,058,000
Minor Works - Health, Safety, & Code Compliance	0	800,000
Minor Works - Infrastructure Preservation	0	1,100,000
Minor Works Program	0	4,390,000
Nicholson Pavilion Indoor Air/Asbestos	4,100,000	4,100,000
Preventive Facility Maintenance and Building System Repairs	0	2,422,000
Total	10,700,002	21,470,002

The Evergreen State College

Daniel J Evans Building - Modernization	22,250,000	22,250,000
Health, Safety, & Code Requirements	0	2,000,000
Infrastructure Preservation	0	1,000,000
Infrastructure Savings	2	2
Lab I First Floor Class/Laboratory Renovation	3,100,000	3,100,000
Minor Works - Facility Preservation	0	4,000,000
Minor Works Program	0	500,000
Prevention and Intervention Study to Stabilize Inmate Population	0	50,000
Preventive Facility Maintenance and Building System Repairs	0	760,000
Schools for the Deaf & Blind Comparative Study	0	50,000
Total	25,350,002	33,710,002

Western Washington University

Academic Instructional Center	51,438,000	51,438,000
Infrastructure Savings	2	2
Minor Works - Facility Preservation	4,290,000	4,290,000
Minor Works - Health, Safety, & Code	2,580,000	2,580,000
Minor Works - Infrastructure Preservation	2,630,000	2,630,000
Minor Works - Program	0	8,900,000
Preventive Facility Maintenance and Building System Repairs	0	3,614,000
Total	60,938,002	73,452,002

Community/Technical College System

Bates Technical College - Learning Resource Center/Vocational	15,169,058	15,169,058
Bellevue Community College: Flood Damage	700,000	700,000
Bellevue Community College: Science and Technology	7,647,600	7,647,600
Big Bend Community College: Aviation Program Fleet Replacement	500,000	500,000
Big Bend Community College: Performing Arts and Fine Arts	3,698,000	3,698,000

2005-07 Capital Budget (ESSB 6094)

Cascadia Community College: Center for Arts, Technology, Commun	3,031,000	3,031,000
Centralia Community College: Science Building	3,247,000	3,247,000
Clark College: East County Satellite	2,392,000	2,392,000
Clark College: Gaiser Hall Renovation	8,374,000	8,374,000
Clark College: O'Connell Sports Center Improvements	650,000	650,000
Clover Park Technical College: Allied Health Care Facility	160,000	160,000
Clover Park Technical College: Personal Care Services Facility	6,499,000	6,499,000
Columbia Basin College: Diversity Initiatives Office	1,000,000	1,000,000
Columbia Basin College: Health Sciences Center	6,000,000	6,000,000
Edmonds Community College-Instructional Lab Building-Construction	14,490,832	14,490,832
Edmonds Community College: Brier Hall Renovation	5,133,020	5,133,020
Edmonds Community College: Center for Fine Arts & Performing Arts	1,000,000	1,000,000
Everett Community College - Pilchuck/Glacier	17,633,300	17,633,300
Everett Community College: Paine Field Technical Center	1,000,000	1,000,000
Everett Community College: Undergraduate Education Center	7,363,700	7,363,700
Facility Repairs	0	22,327,000
Grays Harbor College: Ilwaco Education Center	350,000	350,000
Grays Harbor College: Vocational Education Renovation	5,371,199	5,371,199
Green River Community College - Science Building	27,407,344	27,407,344
Green River Community College: General Classroom Building	137,000	137,000
Green River Community College: Physical Education Renovation	477,000	477,000
Green River Community College: Skills Support Center Addition	800,000	800,000
Highline Community College: Marine Science and Technology	500,000	500,000
Infrastructure Savings	2	2
Lake Washington Technical College: Allied Health Building	197,000	197,000
Lake Washington Technical College: Science Lab Renovation	1,758,237	1,758,237
Lower Columbia College - Instructional Fine Arts Building	20,333,976	20,333,976
Minor Works Preservation (RMI)	0	14,000,000
Minor Works: Program	20,002,598	20,002,598
North Seattle Community College - Employment Resource Center	520,000	520,000
North Seattle Community College: Wellness Center Repairs	3,000,000	3,000,000
Olympic College: Bremer Student Center	600,000	600,000
Olympic College: Humanities and Student Services	3,499,000	3,499,000
Peninsula College - Replacement Science and Technology Building	22,423,200	22,423,200
Peninsula College: Library Renovation	14,000,000	14,000,000
Peninsula College: Phase II Cultural and Arts Center	250,000	250,000
Pierce College - Fort Steilacoom: Science and Technology	1,986,447	1,986,447
Pierce College Fort Steilacoom: Cascade Building Renovation	3,350,622	3,350,622
Pierce College Puyallup: Community Arts/Allied Health	1,946,716	1,946,716
Preventive Facility Maintenance and Building System Repairs	0	22,802,000
Renton Technical College - Portable Replacement	2,976,235	2,976,235
Roof Repairs	0	8,840,000
Seattle Central Community College: Greenhouse/Educational Center	250,000	250,000
Seattle Central Community College: IT and Visual Communications	8,096,000	8,096,000
Shoreline Community College: Annex Renovation	2,739,000	2,739,000
Shoreline Community College: Automotive Building (Phase I)	1,000,000	1,000,000
Site Repairs	0	3,837,000
Skagit Valley College - Science Building Replacement	2,693,000	2,693,000
South Puget Sound Community College: Learning Resource Center	197,000	197,000
South Puget Sound Community College: Satellite Campus Acquisition	4,700,000	4,700,000
South Puget Sound Community College: Science Complex	3,160,500	3,160,500

2005-07 Capital Budget (ESSB 6094)

South Seattle Community College - Training Facility	9,272,283	9,272,283
South Seattle Community College: Automotive Collision Technology	1,972,300	1,972,300
South Seattle Community College: Horticulture/SCGS Classrooms	557,000	557,000
Spokane Falls Community College: Campus Classrooms	82,000	82,000
Spokane Falls: Business and Social Science Building	18,512,385	18,512,385
Tacoma Community College - Science Building	29,517,238	29,517,238
Walla Walla CC - Center for Water and Environmental Studies	2,000,000	2,000,000
Walla Walla Community College - Basic Skills/Computer Lab	6,569,000	6,569,000
Walla Walla Community College: Clarkston Health Science Facility	1,000,000	1,000,000
Wenatchee Valley College: Anderson Hall and Portable Replacement	23,042,145	23,042,145
Wenatchee Valley College: Brown Library Renovation	2,404,300	2,404,300
Yakima Valley Community College - Glenn/Anthon Hall - Replacement	28,645,152	28,645,152
Yakima Valley Community College: Center for Workforce Education	1,000,000	1,000,000
Yakima Valley Community College: Raymond Hall Renovation	4,168,350	4,168,350
Total	389,152,739	460,958,739

Total Higher Education	677,606,751	890,213,751
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PUBLIC SCHOOLS

State Board of Education

Apple Award Construction Achievement Grants	0	500,000
Environmental Learning Centers	2,350,000	2,350,000
High Performance Buildings	6,500,000	6,500,000
School Construction Assistance Program	130,200,000	605,053,000
Small Repair Grant Program	0	3,000,000
Total	139,050,000	617,403,000

Public Schools

State School Construction Assistance Program Administration	0	2,279,004
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Total Public Schools	139,050,000	619,682,004
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OTHER EDUCATION

State School for the Blind

Campus Preservation	700,000	700,000
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State School for the Deaf

Omnibus Minor Works - Preservation	200,000	200,000
Omnibus Minor Works - Safety	800,816	800,816
Total	1,000,816	1,000,816

Washington State Historical Society

Olympia - State Capital Museum: Building Preservation	330,694	330,694
Statewide - Washington Heritage Project Grants	4,612,500	4,612,500
Tacoma - Research Center: Building Preservation	181,650	181,650
Tacoma - State History Museum: Building Preservation	481,344	481,344
Total	5,606,188	5,606,188

2005-07 Capital Budget (ESSB 6094)**East Wash State Historical Society**

History and American Indian Education Classrooms	156,000	156,000
Museum Preservation	250,000	250,000
Total	406,000	406,000

Total Other Education 7,713,004 7,713,004

Projects Total 1,561,239,794 3,250,612,435

GOVERNOR VETO**Dept of General Administration**

Capitol Lake: Environmental Preservation & Planning	-270,000	-270,000
State Capitol Campus Master Plan	0	-200,000
Total	-270,000	-470,000

Department of Natural Resources

Deep Water Geoduck and Sea Cucumber Population Surveys	0	-650,000
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Governor Veto Total -270,000 -1,120,000

TOTALS

Projects Total	1,561,239,794	3,250,612,435
Governor Veto Total	-270,000	-1,120,000
Statewide Total	1,560,969,794	3,249,492,435

2005-07 Capital Budget (ESSB 6094)

2005 Supplemental Capital Budget Project List

(Dollars in Thousands)

	State Bonds	Total
GOVERNMENTAL OPERATIONS		
Dept Community, Trade, Econ Dev		
Coastal Erosion Grants	500,000	500,000
Drinking Water SRF - Authorization to Use Loan Repayments	0	4,000,000
Public Works Trust Fund	0	155,000,000
Total	500,000	159,500,000
Dept of General Administration		
Engineering & Architectural Services	727,000	0
Legislative Building: Rehabilitation and Capital Addition	7,100,000	7,100,000
Total	7,827,000	7,100,000
Military Department		
Alteration of Building #2, Camp Murray	0	140,000
Courseware Development Support Facility	0	138,000
Total	0	278,000
Total Governmental Operations	8,327,000	166,878,000
HUMAN SERVICES		
Department of Veterans' Affairs		
Retsil: 240 Bed Nursing Facility	1,420,000	1,420,000
NATURAL RESOURCES		
Department of Ecology		
State Drought Preparedness	8,200,000	16,400,000
Water Pollution Control Program	0	21,560,410
Total	8,200,000	37,960,410
State Parks and Recreation Comm		
Jefferson County PUD Grant	0	265,000
Dept of Fish and Wildlife		
Region 1 Office - Spokane	0	500,000
Department of Natural Resources		
Trust Land Transfer Program	0	4,500,000
Total Natural Resources	8,200,000	43,225,410
Projects Total	17,947,000	211,523,410

2005-07 Transportation Budget

OVERVIEW

The 2005-07 transportation budget focuses on improving the safety of our roadways, preserving at-risk roads and bridges, and protecting and enhancing Washington's economy. Earthquakes, safety problems, population and economic growth, and an aging infrastructure have contributed to significant unmet state and local needs. The transportation budget package meets these critical needs through a phased-in gas tax increase, fees for services, and partnerships with local and regional governments.

AT RISK STRUCTURES

The condition of many roads and bridges throughout Washington pose a public safety risk. The Alaskan Way Viaduct and the SR 520 floating bridge face shutdown or collapse in the event of an earthquake or major storm.

The Alaskan Way Viaduct, which carries more than 103,000 vehicles a day, has a one in twenty chance of failure in the next earthquake. The viaduct is a crucial link in the Puget Sound region's transportation system and a major freight carrier, making it critical to the state's economy. In the 2005-07 transportation budget plan, \$2 billion is provided as the state's approximated remaining share of the cost of replacing the viaduct with a similar structure. Additional funding to cover the costs of replacing the seawall or replacing the viaduct with a tunnel will need to come from other sources such as tolls, a regional contribution, and/or federal funds.

Like the viaduct, the 520 floating bridge has a one in twenty chance of failure in the next earthquake. The bridge is also vulnerable to high winds. The transportation budget includes \$500 million toward replacing the bridge, with the balance coming from tolls, a regional contribution, and possibly a federal contribution.

Across the state, 800 bridges are at risk due to needed seismic retrofits. The transportation budget provides \$87 million to retrofit 180 of the state's most vulnerable bridges located within high and moderate seismic risk zones.

HIGH PRIORITY SAFETY PROJECTS

Statewide, 139 bridges are under load restrictions due to age and damage. Structural deficiencies such as deteriorating columns, exposed and corroding steel rebar, and crumbling concrete beams need repair in order to avoid safety risks and further weight restrictions. The 2005-07 budget package provides \$391 million to replace the 25 bridges that the Department of Transportation has identified as the highest priority. The remaining bridge repairs will be addressed in the coming years within existing revenues.

Another significant safety issue in Washington is two-lane rural roads. The transportation budget provides nearly \$260 million to address dangerous structural issues and implement critical safety improvements including fixing unsafe intersections, flattening slopes, creating passing lanes, realigning dangerous curves, and installing highway barriers.

Bicyclist and pedestrian fatalities represent 14 percent of all transportation-related deaths in Washington, many on transit routes or involving children walking or biking to school. In order to address these critical safety issues, \$74 million is provided for a pedestrian safety grant program to help local governments fund safe routes to schools and transit stops, and other pedestrian safety projects.

2005-07 Transportation Budget (ESSB 6091)

MOVING PEOPLE AND GOODS

The transportation spending plan earmarks nearly \$3 billion to address chokepoints and congestion relief, building on the 2003 Nickel Package.

Interstate 405 Congestion

I-405 carries 600,000 people daily and congestion lasts up to 12 hours a day. The 2005-07 transportation budget contains \$972 million to address the worst bottlenecks and chokepoints by adding lanes and improving intersections at key locations.

Construction Mitigation

The budget includes \$620 million to reduce traffic congestion, including improvements to SR 167, SR 519, major I-405 projects, bridge repair on I-5 in south Seattle, and a project on SR 522. In addition to ongoing traffic congestion relief, these projects will be especially beneficial during the construction of the Alaskan Way Viaduct.

HOV Lanes

Two major HOV lane projects are funded: I-5 Pierce County between SR 16 and SR 167, and SR 167 between SR 410 and 14th Street Southwest.

Freight Mobility

In addition to work on the Snoqualmie Pass, the transportation spending plan invests \$130 million in more than 27 state and local freight mobility projects. These projects include Lincoln Avenue grade separation at the Port of Tacoma, the city of Yakima's grade separated rail crossing, and Renton's Strander Boulevard/Southwest 27th Street connection.

Nearly \$24 million is invested in freight rail projects including the Geiger spur connection in Spokane County and a critical junction in the Chehalis and Centralia area. \$200,000 in start-up funding is provided to develop a new refrigerated produce rail car program to improve the availability of transport and reliability of shipment.

State government is increasingly being asked to finance investments in private rail lines in order to keep Washington's freight rail system moving. A comprehensive study is funded to help ensure any public investment in rail results in the greatest benefit.

Public Transportation and Passenger Rail Investments

A new program is created to provide \$330 million in grants to local governments for a broad range of capital and operating programs. Engrossed Substitute House Bill 2124 created the Office of Transit Mobility and a new grant program. Grants will be prioritized and submitted to the legislature for approval. The grants will focus on areas such as rush hour transit; system connectivity; preserving, replacing, or improving capital assets; and park and ride lots.

Funding of \$55 million for special needs grants for transit systems and nonprofits will build on the program created in the 2003 transportation package. These grants will finance local transit service for the elderly and disabled who depend on public or nonprofit transit.

Increased commute trip reduction tax credits of \$12 million will encourage employers to create programs that reduce drive-alone commuting. The tax credit leverages private resources to encourage employers to invest more in alternative transportation for their employees. The current tax credit law is modified to make it more accessible to small and medium-sized employers.

The 2005-07 transportation budget invests \$95 million in capital improvements to overhaul trainsets and speed train service by building Phase 1 of the Point Defiance bypass near Tacoma, and making other track improvements in Chehalis, Newakum, and Blaine.

Ferry System

The Washington State ferry system is the largest ferry transit system in the country, serving 24 million passenger and vehicle trips per year on ten ferry routes that run nearly 500 sailings a day.

The transportation plan provides \$185 million in new revenues to improve the Bainbridge Island terminal, to preserve terminals at Fauntleroy and Port Townsend, and to replace the Hyak vessel built in 1967.

The transportation budget maintains the state-provided Vashon-Seattle service for this biennium. Ferry unions have agreed to part-time scheduling that provides more flexibility and cost efficiency. A one-year moratorium is placed on any further private ferry start-ups, which will give the Legislature time to study how to best use public and private operations and state, county, or transit service providers.

LOCAL AND REGIONAL INVESTMENTS

Local Government Funding Stream

Cities and counties have seen expenses rise while funding has been reduced through initiatives and the resulting loss of state funds. Counties and cities need funding for preservation, maintenance, safety improvements, construction, and local freight improvements.

The 2005-07 transportation package provides a new direct funding stream to local governments to help finance local transportation needs: one cent of the total fuel tax increase.

Local Grant Programs

The 2005-07 transportation budget provides \$56 million to the Transportation Improvement Board for grants to local governments and \$24 million to the County Road Administration Board for grants to preserve and improve county roads. These grants will generate local matching funds, thereby maximizing the state's investment.

Local Freight Mobility Grants

A total of \$108 million is provided for local freight mobility projects prioritized by the Freight Mobility Strategic Investment Board. These projects will enhance trade opportunities by facilitating freight movement between local, national, and international markets. The state's \$108 million is anticipated to be matched five to one, for a total transportation investment nearing \$600 million.

Other Regional Transportation Funding

Substitute Senate Bill (SSB) 5177 gives cities and counties throughout the state, except King, Pierce, and Snohomish Counties, the opportunity to raise money locally to improve their transportation systems. The legislation allows cities and counties to propose transportation benefit districts to fund projects on highways of statewide significance or local roads and streets. SSB 5177 gives local government tools to design a ballot measure that reflects local transportation needs and preferences, including multi-modal solutions, so long as they reduce facility risk, improve safety, improve travel time and capacity, and optimize system performance.

COMPENSATION AND PERSONNEL ADJUSTMENTS

Cost-of Living Adjustments

The 2005-07 transportation budget provides a 3.2 percent increase on July 1, 2005 and a 1.6 percent increase on July 1, 2006 for employees subject to the new collective bargaining agreement. Other employees are provided a 3.2 percent increase on September 1, 2005 and a 1.6 percent increase on September 1, 2006. The budget also provides an additional 3.8 percent increase to Washington State Patrol troopers on July 1, 2005 for salary equalization.

2005-07 Transportation Budget (ESSB 6091)

Funding for State Employee Health Benefits

The transportation budget provides increased employer contributions for health care for represented employees to comply with the collective bargaining agreements reached by the Governor's Office of Labor Relations and the unions. The amount paid by agencies increases from \$484.58 per employee per month in fiscal year 2005 to \$663.00 per employee per month in fiscal year 2006. In fiscal year 2007, the employer contribution rate per represented employee is \$744 per month, and the employer rate per non-represented employee is \$618 per month.

Pension Adjustments

The 2005-07 transportation budget reflects changes to pension funding laws. A phased-in schedule of contribution rates is adopted for PERS, TRS, and SERS. Employer contributions towards amortizing the Unfunded Accrued Actuarial Liabilities in PERS are phased-in.

Salary Survey

Funding is provided for salary increases for job classifications identified as being compensated more than 25 percent lower than the market rate in the Department of Personnel's 2002 Salary Survey.

Middle Management Adjustments

The transportation budget assumes the proportional reduction in middle management as proposed by Governor Gregoire.

BUDGET BILL PARTIAL VETO SUMMARY

Governor Gregoire vetoed the following provisions of the 2005 Transportation budget (ESSB 6091):

- Required the State Parks and Recreation Commission to do a study on the existing requirements regarding all-terrain vehicles, their operators, equipment, and rules.
- Directed the newly created Legislative Joint Transportation Committee to conduct a study of the appropriate functions of the Transportation Commission and the Department of Transportation.
- Imposed a maximum dollar amount on Washington State Patrol expenditures for activities related to ferry security.
- Provided \$4,900,000 to implement House Bill 2157 or Senate Bill 6089 (making changes to the regional transportation investment district). Neither bill passed during the 2005 legislative session.
- Funded right-of-way acquisition for the widening of State Route 502 and directed the Department of Transportation to develop an acquisition plan in conjunction with the city of Battleground.
- Provided \$500,000 for an Eastern Washington corridor freight study.
- Directed the Department of Transportation to remove motorist safety barriers preventing left turns on South Kent Des Moines Road between Interstate 5 and Pacific Highway.
- Directed that the middle-management position cuts at the Department of Transportation not impact the delivery of projects funded by the 2003 and 2005 new revenue packages.
- Directed the Department of Transportation to implement Governmental Accounting Standards Board Statement 34 as it relates to asset valuation of the state's highway system.

Accountability Measures

The Legislature has enacted a variety of measures over the last three years to increase the accountability and efficiency of transportation in Washington State.

2005 ACCOUNTABILITY MEASURES

ESB 5513 - Transportation Governance

The Department of Transportation is now directly answerable to an elected official. The Governor appoints the Secretary of Transportation, subject to Senate confirmation. The Secretary serves at the pleasure of the Governor.

The Transportation Performance Audit Board (TPAB) is moved out of the legislative environment and under the Transportation Commission. The Transportation Commission is no longer directly responsible for oversight of the Department of Transportation. TPAB will establish benchmarks and milestones for monitoring and evaluating the department's efforts in implementing the construction projects designated in the 2005-07 transportation budget project list.

ESSB 6103 - Transportation Funding

The State Auditor is authorized to conduct performance audits on state transportation agencies, including the Department of Transportation, the Transportation Improvement Board, the County Road Administration Board, and the Traffic Safety Commission. The State Auditor becomes a member of the TPAB. \$4 million is appropriated to cover the costs of the performance audits for the 2005-07 biennium.

If the Auditor's financial audit indicates that a performance audit is warranted, the TPAB must include this performance audit in its annual work plan.

ESSB 6091 - 2005-07 Transportation Budget

Strict project appropriations ensure that the projects funded in the budget are the projects that are built. Project changes must be approved by the Legislature.

2003 ACCOUNTABILITY MEASURES

SSB 5748 - Performance Audits of Transportation Agencies

SSB 5748 created the Transportation Performance Audit Board (TPAB). Since their creation, TPAB has completed five major audits: WSDOT's capital management program, environmental permitting, highway and ferry programs, and transportation programs in the Department of Licensing and the Washington State Patrol.

ESB 5279 - Permit Streamlining

ESB 5279 reauthorized the Transportation Permit Efficiency and Accountability Committee (TPEAC) for another three years, to continue its work to develop one-stop permitting, programmatic permits, to integrate local permitting into the streamlined process, and to better coordinate state permit requirements.

SB 5248 - Workforce Efficiencies

SB 5248 authorized contracting out of transportation construction and engineering services and prevailing wage process improvements, increased apprenticeships, and requires local government transportation efficiencies as a condition of receiving state funds.

ESHB 1163 - 2003-05 Transportation Budget

Strict project appropriations ensure the Washington State Department of Transportation (WSDOT) cannot move money from one project to another without legislative approval.

2005-07 Transportation Budget (ESSB 6091)

Revenue Package (ESSB 6103)

OVERVIEW

The transportation package raises \$5.5 billion in new revenue through a 9.5-cent fuel tax increase phased in over four years: 3 cents on July 1, 2005, three cents on July 1, 2006, two cents on July 1, 2007, and 1.5 cents on July 1, 2008.

The plan uses \$5.1 billion in bonds that are paid back with the increased fuel tax.

The revenue plan also contains a vehicle weight fee on cars, light trucks, and SUVs beginning January 1, 2006. The vast majority of passenger vehicles (about 85%) will pay an additional \$10 per year collected at the time of licensing. The majority of light trucks (under 8,000 pounds) will pay an additional \$20. Motor homes will pay an additional flat rate fee of \$75.

Other vehicle and driver fees are adjusted in order to bring them into alignment with the cost of the service provided (see Licensing Fees table below), while the licensing fee for small trailers is reduced from \$30 to \$15 a year.

NEW TRANSPORTATION REVENUE SOURCES AND USES

(Dollars in Millions)

<u>Sources of Funding</u>	<u>16 Year Total</u>
9.5¢ gas tax increase (3¢ 7/1/05 ,3¢ 7/1/06, 2¢ 7/1/07, 1.5¢ 7/1/08)	\$5,547
Bond Proceeds	\$5,100
Vehicle Weight Fee (passenger cars, \$10 to \$30 annually)	\$908
Light Truck Weight Fee (under 8,000 lbs., \$10 to \$30 annually)	\$436
Personal Trailer License (reduced from \$30 to \$15)	(\$95)
Motor Homes (\$75 annual fee)	\$130
Various Drivers License and License Plate Fees	\$405
Interest Income	\$38
Debt Service	(\$3,994)
Total Sources of Funding	<u><u>\$8,475</u></u>
<u>Uses of Funding</u>	
Alaskan Way Viaduct	\$2,000
SR 520 Bridge	\$500
I-405	\$972
Congestion Relief Projects	\$1,981
Seismic Retrofit Bridges	\$87
Bridge Replacements	\$391
Safety Projects	\$279
Local Government Distribution (1¢ distributed)	\$602
Local Grant Programs (TIB, CRAB)	\$80
Ferries	\$185
Public Transportation, Rail	\$740
Local Freight Mobility Projects	\$108
State Freight Mobility	\$415
Environmental (fish passage barrier noise mitigation)	\$108
RTID Support, Performance Audits	\$6
Total Uses of Funding	<u><u>\$8,454</u></u>

2005-07 Transportation Budget (ESSB 6091)

NEW MULTI-MODAL FUNDING

(Dollars in Thousands)

	Biennium								Total
	05-07	07-09	09-11	11-13	13-15	15-17	17-19	19-21	
PUBLIC TRANSPORTATION PROGRAM									
(revenue assumed)	\$80,000	\$100,000	\$105,000	\$105,000	\$110,000	\$110,000	\$110,000	\$115,000	\$835,000
<u>New Grant Program:</u>									
Grants prioritized by DOT and submitted to the Legislature for appropriation. Grants are to focus on such areas as moving more people through congested corridors; connectivity; preserving, replacing, or improving capital assets; providing for park and ride lots; etc.	\$20,000	\$40,000	\$40,000	\$40,000	\$40,000	\$50,000	\$50,000	\$50,000	\$330,000
<u>Additional Investment in Existing Grant Programs:</u>									
CTR tax credits for business	\$1,000	\$1,500	\$1,500	\$1,500	\$1,500	\$1,500	\$1,500	\$2,000	\$12,000
Paratransit for transit systems and non-profits	\$5,000	\$5,000	\$6,000	\$7,000	\$8,000	\$8,000	\$8,000	\$8,000	\$55,000
Safe routes to schools, transit, and bike/pedestrian	\$5,000	\$7,000	\$7,000	\$7,000	\$8,000	\$8,000	\$8,000	\$8,000	\$58,000
<i>Public Transportation Investment Total:</i>	<i>\$31,000</i>	<i>\$53,500</i>	<i>\$54,500</i>	<i>\$55,500</i>	<i>\$57,500</i>	<i>\$67,500</i>	<i>\$67,500</i>	<i>\$68,000</i>	<i>\$455,000</i>
RAIL PROGRAM									
Passenger Rail (see project list)	\$10,500	\$14,449	\$26,516	\$35,920	\$7,400				\$94,785
Freight Rail Investment Bank		\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000	\$35,000
Freight Rail (see project list)	\$16,700	\$6,765							\$23,465
<i>Rail Investments Total:</i>	<i>\$27,200</i>	<i>\$26,214</i>	<i>\$31,516</i>	<i>\$40,920</i>	<i>\$12,400</i>	<i>\$5,000</i>	<i>\$5,000</i>	<i>\$5,000</i>	<i>\$153,250</i>
TOTAL	\$58,200	\$79,714	\$86,016	\$96,420	\$69,900	\$72,500	\$72,500	\$73,000	\$608,250
OTHER EXPENDITURES									
Produce rail car program	\$200								\$200
Statewide rail study	\$1,150								\$1,150
Flexcar	\$2,000								\$2,000
Implementation of SHB 2124	\$1,200	\$1,200	\$1,200	\$1,200	\$1,200	\$1,200	\$1,200	\$1,200	\$9,600
Freight mobility projects (see project list)	\$7,400	\$5,000							\$12,400
Freight mobility distribution	\$6,000	\$6,000	\$6,000	\$6,000	\$6,000	\$6,000	\$6,000	\$6,000	\$48,000
Eastern Skagit County rail study	\$50								\$50
Spokane North/South freeway					\$30,000	\$5,000			\$35,000
TOTAL OTHER EXPENDITURES	\$18,000	\$12,200	\$7,200	\$7,200	\$37,200	\$12,200	\$7,200	\$7,200	\$108,400
	\$76,200	\$91,914	\$93,216	\$103,620	\$107,100	\$84,700	\$79,700	\$80,200	\$716,650

ESTIMATED ECONOMIC IMPACT OF 2005 TRANSPORTATION REVENUE PACKAGE

Estimated Sales Tax Revenue Generated

	2005-07	2007-09	2009-11	2011-13	2013-15	10 Year Total
State Sales Tax Revenue	\$11,896,154	\$38,834,299	\$64,258,983	\$68,207,728	\$55,488,302	\$238,685,466
Local Sales Tax Revenue	<u>\$3,477,338</u>	<u>\$11,351,565</u>	<u>\$18,783,396</u>	<u>\$19,937,644</u>	<u>\$16,219,658</u>	<u>\$69,769,601</u>
Total Sales Tax Revenue	\$15,373,492	\$50,185,864	\$83,042,379	\$88,145,372	\$71,707,960	\$308,455,067

Assumption: Statewide average sales tax of 8.4%.

2005-07 Transportation Budget (ESSB 6091)

LICENSING FEE CHANGES

Vehicle Services (Effective January 1, 2006)

Fee	Current Amount	New Amount	Agency Cost
Reflectorized Plate Fee (single plate) Fee for reflectorized coating on vehicle license plates.	\$0.50	\$2.00	\$1.16
Reflectorized Plate Fee (plate set) Fee for reflectorized coating on vehicle license plates.	\$2.00	\$4.00	\$3.36
Replacement Plates Fee to replace license plates when lost, damaged, or required per seven-year replacement cycle.	\$3.00	\$10.00	\$7.09
Small Trailers License fee for small personal trailers (under 2,000 lbs.).	\$30.00	\$15.00	

Driver Services (Effective July 1, 2005)

Fee	Current Amount	New Amount	Agency Cost
Original License Application Driver license examination fee.	\$10.00	\$20.00	\$15.15
Identicards Fee for ID card issued to non-drivers.	\$15.00	\$20.00	\$18.54
Driver Permit Fee for a driver instruction permit.	\$15.00	\$20.00	\$28.08
Agricultural Permits Permit fee to drive a vehicle on public roads in connection with farm work.	\$15.00	\$20.00	\$23.26
License Reinstatement Fee to have a drivers license reinstated after suspension or revocation.	\$20.00	\$75.00	\$70.27
DUI Hearings Fee for a hearing regarding an alleged DUI.	\$100.00	\$200.00	\$283.07
Commercial Driver License Fee for a commercial driver license (valid for five years).	\$20.00	\$30.00	\$34.15
Commercial Driver License Renewal Fee to renew a commercial driver license (five years).	\$20.00	\$30.00	\$14.98

TRANSPORTATION TAXES AND FEES (ESSB 6103)
EXAMPLES OF COST TO DRIVER - 7/1/2005

Annual Cost from 3¢ Gas Tax Increase 7/1/2005										
		Miles Traveled Per Year								
		8,000	10,000	12,000	14,000	16,000	18,000	20,000	22,000	24,000
Miles Per Gallon	8	\$30	\$38	\$45	\$53	\$60	\$68	\$75	\$83	\$90
	10	\$24	\$30	\$36	\$42	\$48	\$54	\$60	\$66	\$72
	12	\$20	\$25	\$30	\$35	\$40	\$45	\$50	\$55	\$60
	14	\$17	\$21	\$26	\$30	\$34	\$39	\$43	\$47	\$51
	16	\$15	\$19	\$23	\$26	\$30	\$34	\$38	\$41	\$45
	18	\$13	\$17	\$20	\$23	\$27	\$30	\$33	\$37	\$40
	20	\$12	\$15	\$18	\$21	\$24	\$27	\$30	\$33	\$36
	22	\$11	\$14	\$16	\$19	\$22	\$25	\$27	\$30	\$33
	24	\$10	\$13	\$15	\$18	\$20	\$23	\$25	\$28	\$30
	26	\$9	\$12	\$14	\$16	\$18	\$21	\$23	\$25	\$28
	28	\$9	\$11	\$13	\$15	\$17	\$19	\$21	\$24	\$26
	30	\$8	\$10	\$12	\$14	\$16	\$18	\$20	\$22	\$24
	32	\$8	\$9	\$11	\$13	\$15	\$17	\$19	\$21	\$23
	34	\$7	\$9	\$11	\$12	\$14	\$16	\$18	\$19	\$21
	36	\$7	\$8	\$10	\$12	\$13	\$15	\$17	\$18	\$20
	38	\$6	\$8	\$9	\$11	\$13	\$14	\$16	\$17	\$19
40	\$6	\$8	\$9	\$11	\$12	\$14	\$15	\$17	\$18	

Monthly Cost from 3¢ Gas Tax Increase 7/1/2005										
		Miles Traveled Per Year								
		8,000	10,000	12,000	14,000	16,000	18,000	20,000	22,000	24,000
Miles Per Gallon	8	\$2.50	\$3.13	\$3.75	\$4.38	\$5.00	\$5.63	\$6.25	\$6.88	\$7.50
	10	\$2.00	\$2.50	\$3.00	\$3.50	\$4.00	\$4.50	\$5.00	\$5.50	\$6.00
	12	\$1.67	\$2.08	\$2.50	\$2.92	\$3.33	\$3.75	\$4.17	\$4.58	\$5.00
	14	\$1.43	\$1.79	\$2.14	\$2.50	\$2.86	\$3.21	\$3.57	\$3.93	\$4.29
	16	\$1.25	\$1.56	\$1.88	\$2.19	\$2.50	\$2.81	\$3.13	\$3.44	\$3.75
	18	\$1.11	\$1.39	\$1.67	\$1.94	\$2.22	\$2.50	\$2.78	\$3.06	\$3.33
	20	\$1.00	\$1.25	\$1.50	\$1.75	\$2.00	\$2.25	\$2.50	\$2.75	\$3.00
	22	\$0.91	\$1.14	\$1.36	\$1.59	\$1.82	\$2.05	\$2.27	\$2.50	\$2.73
	24	\$0.83	\$1.04	\$1.25	\$1.46	\$1.67	\$1.88	\$2.08	\$2.29	\$2.50
	26	\$0.77	\$0.96	\$1.15	\$1.35	\$1.54	\$1.73	\$1.92	\$2.12	\$2.31
	28	\$0.71	\$0.89	\$1.07	\$1.25	\$1.43	\$1.61	\$1.79	\$1.96	\$2.14
	30	\$0.67	\$0.83	\$1.00	\$1.17	\$1.33	\$1.50	\$1.67	\$1.83	\$2.00
	32	\$0.63	\$0.78	\$0.94	\$1.09	\$1.25	\$1.41	\$1.56	\$1.72	\$1.88
	34	\$0.59	\$0.74	\$0.88	\$1.03	\$1.18	\$1.32	\$1.47	\$1.62	\$1.76
	36	\$0.56	\$0.69	\$0.83	\$0.97	\$1.11	\$1.25	\$1.39	\$1.53	\$1.67
	38	\$0.53	\$0.66	\$0.79	\$0.92	\$1.05	\$1.18	\$1.32	\$1.45	\$1.58
40	\$0.50	\$0.63	\$0.75	\$0.88	\$1.00	\$1.13	\$1.25	\$1.38	\$1.50	

2005-07 Transportation Budget (ESSB 6091)

**TRANSPORTATION TAXES AND FEES (ESSB 6103)
EXAMPLES OF COST TO DRIVER - FULLY IMPLEMENTED 7/1/2008**

Annual Cost from 9.5¢ Gas Tax Increase 7/1/2008										
		Miles Traveled Per Year								
		8,000	10,000	12,000	14,000	16,000	18,000	20,000	22,000	24,000
Miles Per Gallon	8	\$95	\$119	\$143	\$166	\$190	\$214	\$238	\$261	\$285
	10	\$76	\$95	\$114	\$133	\$152	\$171	\$190	\$209	\$228
	12	\$63	\$79	\$95	\$111	\$127	\$143	\$158	\$174	\$190
	14	\$54	\$68	\$81	\$95	\$109	\$122	\$136	\$149	\$163
	16	\$48	\$59	\$71	\$83	\$95	\$107	\$119	\$131	\$143
	18	\$42	\$53	\$63	\$74	\$84	\$95	\$106	\$116	\$127
	20	\$38	\$48	\$57	\$67	\$76	\$86	\$95	\$105	\$114
	22	\$35	\$43	\$52	\$60	\$69	\$78	\$86	\$95	\$104
	24	\$32	\$40	\$48	\$55	\$63	\$71	\$79	\$87	\$95
	26	\$29	\$37	\$44	\$51	\$58	\$66	\$73	\$80	\$88
	28	\$27	\$34	\$41	\$48	\$54	\$61	\$68	\$75	\$81
	30	\$25	\$32	\$38	\$44	\$51	\$57	\$63	\$70	\$76
	32	\$24	\$30	\$36	\$42	\$48	\$53	\$59	\$65	\$71
	34	\$22	\$28	\$34	\$39	\$45	\$50	\$56	\$61	\$67
	36	\$21	\$26	\$32	\$37	\$42	\$48	\$53	\$58	\$63
	38	\$20	\$25	\$30	\$35	\$40	\$45	\$50	\$55	\$60
40	\$19	\$24	\$29	\$33	\$38	\$43	\$48	\$52	\$57	

Monthly Cost from 9.5¢ Gas Tax Increase 7/1/2008										
		Miles Traveled Per Year								
		8,000	10,000	12,000	14,000	16,000	18,000	20,000	22,000	24,000
Miles Per Gallon	8	\$7.92	\$9.90	\$11.88	\$13.85	\$15.83	\$17.81	\$19.79	\$21.77	\$23.75
	10	\$6.33	\$7.92	\$9.50	\$11.08	\$12.67	\$14.25	\$15.83	\$17.42	\$19.00
	12	\$5.28	\$6.60	\$7.92	\$9.24	\$10.56	\$11.88	\$13.19	\$14.51	\$15.83
	14	\$4.52	\$5.65	\$6.79	\$7.92	\$9.05	\$10.18	\$11.31	\$12.44	\$13.57
	16	\$3.96	\$4.95	\$5.94	\$6.93	\$7.92	\$8.91	\$9.90	\$10.89	\$11.88
	18	\$3.52	\$4.40	\$5.28	\$6.16	\$7.04	\$7.92	\$8.80	\$9.68	\$10.56
	20	\$3.17	\$3.96	\$4.75	\$5.54	\$6.33	\$7.13	\$7.92	\$8.71	\$9.50
	22	\$2.88	\$3.60	\$4.32	\$5.04	\$5.76	\$6.48	\$7.20	\$7.92	\$8.64
	24	\$2.64	\$3.30	\$3.96	\$4.62	\$5.28	\$5.94	\$6.60	\$7.26	\$7.92
	26	\$2.44	\$3.04	\$3.65	\$4.26	\$4.87	\$5.48	\$6.09	\$6.70	\$7.31
	28	\$2.26	\$2.83	\$3.39	\$3.96	\$4.52	\$5.09	\$5.65	\$6.22	\$6.79
	30	\$2.11	\$2.64	\$3.17	\$3.69	\$4.22	\$4.75	\$5.28	\$5.81	\$6.33
	32	\$1.98	\$2.47	\$2.97	\$3.46	\$3.96	\$4.45	\$4.95	\$5.44	\$5.94
	34	\$1.86	\$2.33	\$2.79	\$3.26	\$3.73	\$4.19	\$4.66	\$5.12	\$5.59
	36	\$1.76	\$2.20	\$2.64	\$3.08	\$3.52	\$3.96	\$4.40	\$4.84	\$5.28
	38	\$1.67	\$2.08	\$2.50	\$2.92	\$3.33	\$3.75	\$4.17	\$4.58	\$5.00
40	\$1.58	\$1.98	\$2.38	\$2.77	\$3.17	\$3.56	\$3.96	\$4.35	\$4.75	

EXAMPLES OF CARS SUBJECT TO THE VEHICLE WEIGHT FEE

Starting January 1, 2006

Under 4,000 pounds - 84% of Washington's passenger automobiles

<u>Fee Increase</u>	<u>Examples of Vehicles</u>	<u>Weight</u>
\$10	Chevrolet Cavalier	2,838
	Mazda 626	2,840
	Subaru Legacy	2,898
	Ford Taurus	3,285
	Volvo 90-Series	3,547
	Lexus	3,590
	Jeep Grand Cherokee	3,900

4,000 to 6,000 pounds - 15% of Washington's passenger automobiles

<u>Fee Increase</u>	<u>Examples of Vehicles</u>	<u>Weight</u>
\$20	Lincoln Town Car	4,020
	BMW 700	4,255
	Buick Roadmaster	4,563
	Mercedes CL Coupe	4,798
	Ford Expedition	5,275
	Lincoln Navigator	5,350

6,000 to 8,000 pounds - 1% of Washington's passenger automobiles

<u>Fee Increase</u>	<u>Examples of Vehicles</u>	<u>Weight</u>
\$30	Ford E-350 Super Club Wagon	6,030
	GMC G20 Extended Passenger Van	6,045
	GMC G30 Extended Passenger Van	6,204
	Hummer	7,213

EXAMPLES OF TRUCKS SUBJECT TO THE VEHICLE WEIGHT FEE

Starting January 1, 2006

Under 4,000 pounds gross vehicle weight - 18% of Washington's small trucks

Fee Increase

\$10

Examples of Vehicles

Ford Ranger Pickup
Mazda Pickup
Nissan Pickup
Isuzu Pickup

Under 6,000 pounds gross vehicle weight - 50% of Washington's small trucks

Fee Increase

\$20

Examples of Vehicles

Chevrolet 1/2 Ton Extended Cab
Toyota Pickup
Ford 1/2 Ton Extended Cab
Dodge 1/2 Ton Pickup

Under 8,000 pounds gross vehicle weight - 24% of Washington's small trucks

Fee Increase

\$30

Examples of Vehicles

GMC 3/4 Ton 4x4 Extra Cab
Ford 3/4 Ton Crew Cab
Dodge 3/4 Ton Extra Cab
Chevrolet 3/4 Ton 4x4 Extended Cab

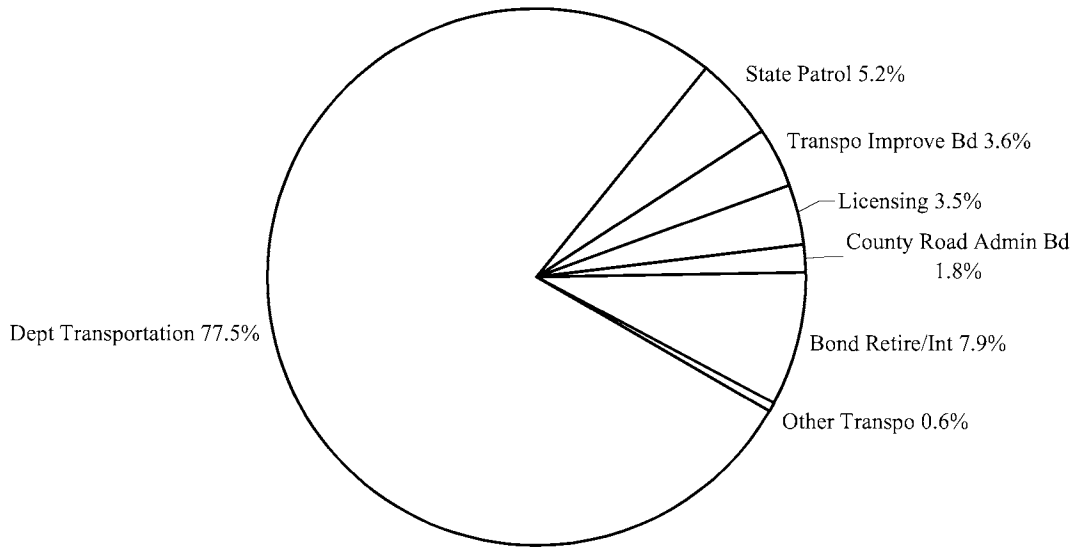
2005-07 Washington State Transportation Budget
TOTAL OPERATING AND CAPITAL BUDGET
Total Appropriated
(Dollars in Thousands)

Department of Transportation	4,511,912
Pgm B - Toll Op & Maint-Op	8,615
Pgm C - Information Technology	66,835
Pgm D - Hwy Mgmt & Facilities-Op	33,499
Pgm D - Plant Construction & Supv	2,492
Pgm F - Aviation	9,044
Pgm H - Pgm Delivery Mgmt & Suppt	49,711
Pgm 11 - Improvements - Mobility	1,688,825
Pgm 12 - Improvements - Safety	206,084
Pgm 13 - Improvements - Econ Init	95,940
Pgm 14 - Improvements - Env Retro	39,648
Pgm 17 - Tacoma Narrows Br	272,329
Pgm K - Transpo Economic Part-Op	1,068
Pgm M - Highway Maintenance	302,389
Pgm P1 - Preservation - Roadway	240,076
Pgm P2 - Preservation - Structures	343,736
Pgm P3 - Preservation - Other Facil	65,183
Pgm Q - Traffic Operations	44,989
Pgm Q - Traffic Operations - Cap	32,695
Pgm S - Transportation Management	27,758
Pgm T - Transpo Plan, Data & Resch	45,442
Pgm U - Charges from Other Agys	45,430
Pgm V - Public Transportation	65,027
Pgm W - WA State Ferries-Cap	261,413
Pgm X - WA State Ferries-Op	354,114
Pgm Y - Rail - Op	36,420
Pgm Y - Rail - Cap	87,661
Pgm Z - Local Programs-Operating	10,755
Pgm Z - Local Programs-Capital	74,734
Washington State Patrol	300,800
Field Operations Bureau	213,243
Technical Services Bureau	84,756
Capital	2,801
Department of Licensing	203,327
Management & Support Services	18,787
Information Systems	41,985
Vehicle Services	52,968
Driver Services	89,587
Office of the State Auditor	4,000
Board of Pilotage Commissioners	417
Utilities and Transportation Comm	501
WA Traffic Safety Commission	21,303
County Road Administration Board	102,220
Transportation Improvement Board	208,275
Marine Employees' Commission	390
Transportation Commission	5,757
Freight Mobility Strategic Invest	664
State Parks and Recreation Comm	2,376
Department of Agriculture	329
Archaeology & Historic Preservation	200
Joint Transportation Committee	1,400
Total Appropriation	5,363,871
Bond Retirement and Interest	461,336
Total	5,825,207

**2005-07 Washington State Transportation Budget
Chapter 313, Laws of 2005, Partial Veto (ESSB 6091)
Total Appropriated Funds**

(Dollars in Thousands)

**MAJOR COMPONENTS BY AGENCY
Total Operating and Capital Budget**

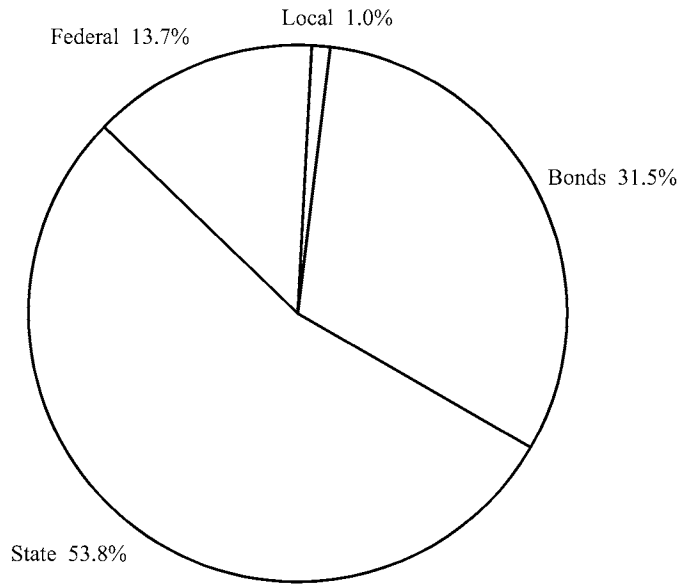


Major Transportation Agencies	
Department of Transportation	4,511,912
Washington State Patrol	300,800
Transportation Improvement Board	208,275
Department of Licensing	203,327
County Road Administration Board	102,220
Bond Retirement and Interest	461,336
Other Transportation	37,337
Total	5,825,207

**2005-07 Washington State Transportation Budget
 Chapter 313, Laws of 2005, Partial Veto (ESSB 6091)
 Total Appropriated Funds**

(Dollars in Thousands)

**COMPONENTS BY FUND TYPE
 Total Operating and Capital Budget**

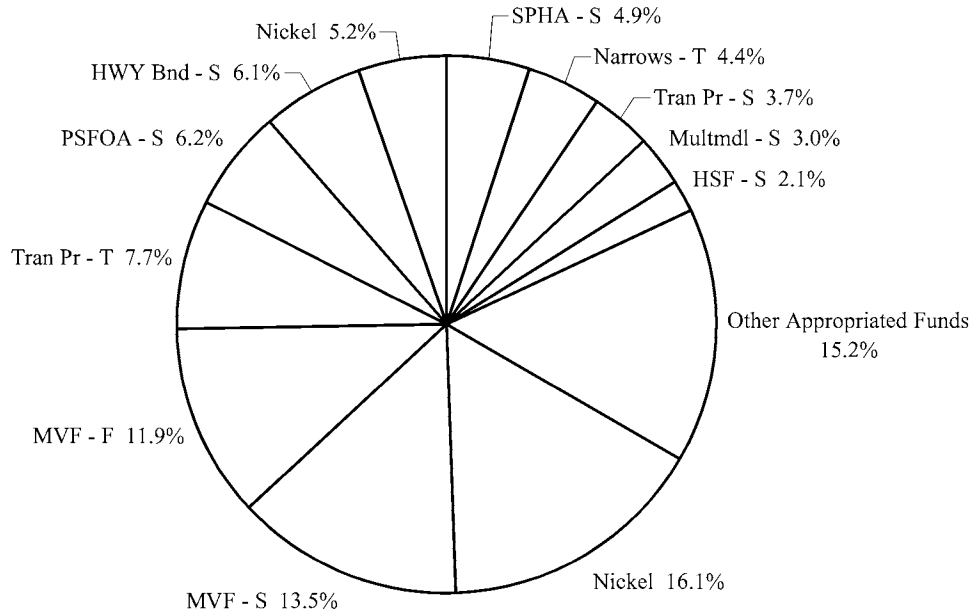


<u>Fund Type</u>	
State	3,131,333
Federal	800,814
Local	57,217
Bonds	<u>1,835,843</u>
Total	5,825,207

**2005-07 Washington State Transportation Budget
Chapter 313, Laws of 2005, Partial Veto (ESSB 6091)
Total Appropriated Funds**

(Dollars in Thousands)

**MAJOR COMPONENTS BY FUND SOURCE AND TYPE
Total Operating and Capital Budget**



Major Fund Source

Transportation 2003 Acct (Nickel) - Bonds (Nickel - T)	940,000
Motor Vehicle Account - State (MVF - S)	784,375
Motor Vehicle Account - Federal (MVF - F)	692,417
Transportation Partnership Account - Bonds (Tran Pr - T)	450,000
Puget Sound Ferry Operations Acct - State (PSFOA - S)	360,723
Highway Bond Retirement Account - State (HWY Bnd - S)	354,913
Transportation 2003 Acct (Nickel) - State (Nickel - S)	301,690
State Patrol Highway Account - State (SPHA - S)	288,079
Tacoma Narrows Toll Bridge Account - Bonds (Narrows - T)	257,016
Transportation Partnership Account - State (Tran Pr - S)	217,619
Multimodal Transportation Account - State (Multmdl - S)	173,887
Highway Safety Account - State (HSF - S)	119,706
Other Appropriated Funds	884,782
Total	5,825,207

2005-07 Washington State Transportation Budget

Fund Summary

TOTAL OPERATING AND CAPITAL BUDGET

(Dollars in Thousands)

	MVF-S	PSFOA-S	Nickel-S	SPHA-S	Tran Pr-S	Multmdl-S	Oth App	Tot App
Department of Transportation	700,625	360,333	280,113	0	210,819	172,338	2,787,684	4,511,912
Pgm B - Toll Op & Maint-Op	0	0	0	0	0	0	8,615	8,615
Pgm C - Information Technology	55,941	8,558	0	0	0	363	1,973	66,835
Pgm D - Hwy Mgmt & Facilities-Op	33,499	0	0	0	0	0	0	33,499
Pgm D - Plant Construction & Supv	2,492	0	0	0	0	0	0	2,492
Pgm F - Aviation	0	0	0	0	0	100	8,944	9,044
Pgm H - Pgm Delivery Mgmt & Suppt	48,961	0	0	0	0	250	500	49,711
Pgm I1 - Improvements - Mobility	2,245	0	141,152	0	42,398	0	1,503,030	1,688,825
Pgm I2 - Improvements - Safety	1,746	0	24,945	0	10,152	0	169,241	206,084
Pgm I3 - Improvements - Econ Init	4,390	0	57,223	0	4,471	0	29,856	95,940
Pgm I4 - Improvements - Env Retro	8,978	0	11,184	0	12,265	0	7,221	39,648
Pgm I7 - Tacoma Narrows Br	0	0	0	0	0	0	272,329	272,329
Pgm K - Transpo Economic Part-Op	1,068	0	0	0	0	0	0	1,068
Pgm M - Highway Maintenance	296,648	0	0	0	0	0	5,741	302,389
Pgm P1 - Preservation - Roadway	15,652	0	10,622	0	0	0	213,802	240,076
Pgm P2 - Preservation - Structures	27,894	0	0	0	139,033	0	176,809	343,736
Pgm P3 - Preservation - Other Facil	33,278	0	0	0	500	0	31,405	65,183
Pgm Q - Traffic Operations	42,811	0	0	0	0	0	2,178	44,989
Pgm Q - Traffic Operations - Cap	17,519	0	0	0	0	0	15,176	32,695
Pgm S - Transportation Management	25,434	1,321	0	0	0	973	30	27,758
Pgm T - Transpo Plan, Data & Resch	22,390	0	0	0	2,000	1,367	19,685	45,442
Pgm U - Charges from Other Agys	45,030	0	0	0	0	0	400	45,430
Pgm V - Public Transportation	0	0	0	0	0	62,269	2,758	65,027
Pgm W - WA State Ferries-Cap	0	0	34,987	0	0	3,000	223,426	261,413
Pgm X - WA State Ferries-Op	0	350,454	0	0	0	3,660	0	354,114
Pgm Y - Rail - Op	0	0	0	0	0	36,420	0	36,420
Pgm Y - Rail - Cap	0	0	0	0	0	33,723	53,938	87,661
Pgm Z - Local Programs-Operating	7,947	0	0	0	0	211	2,597	10,755
Pgm Z - Local Programs-Capital	6,702	0	0	0	0	30,002	38,030	74,734
Washington State Patrol	0	0	0	288,079	0	0	12,721	300,800
Field Operations Bureau	0	0	0	202,530	0	0	10,713	213,243
Technical Services Bureau	0	0	0	82,748	0	0	2,008	84,756
Capital	0	0	0	2,801	0	0	0	2,801
Department of Licensing	69,032	0	0	0	0	0	134,295	203,327
Management & Support Services	7,043	0	0	0	0	0	11,744	18,787
Information Systems	12,095	0	0	0	0	0	29,890	41,985
Vehicle Services	49,894	0	0	0	0	0	3,074	52,968
Driver Services	0	0	0	0	0	0	89,587	89,587
Office of the State Auditor	0	0	0	0	4,000	0	0	4,000
Board of Pilotage Commissioners	0	0	0	0	0	0	417	417
Utilities and Transportation Comm	0	0	0	0	0	0	501	501
WA Traffic Safety Commission	0	0	0	0	0	0	21,303	21,303
County Road Administration Board	2,297	0	0	0	0	0	99,923	102,220
Transportation Improvement Board	0	0	0	0	0	0	208,275	208,275
Marine Employees' Commission	0	390	0	0	0	0	0	390
Transportation Commission	4,607	0	0	0	0	1,150	0	5,757
Freight Mobility Strategic Invest	664	0	0	0	0	0	0	664
State Parks and Recreation Comm	2,376	0	0	0	0	0	0	2,376
Department of Agriculture	329	0	0	0	0	0	0	329
Archaeology & Historic Preservation	200	0	0	0	0	0	0	200
Joint Transportation Committee	1,400	0	0	0	0	0	0	1,400
Total Appropriation	781,530	360,723	280,113	288,079	214,819	173,488	3,265,119	5,363,871
Bond Retirement and Interest	2,845	0	21,577	0	2,800	399	433,715	461,336
Total	784,375	360,723	301,690	288,079	217,619	173,887	3,698,834	5,825,207

2005-07 Washington State Transportation Budget
Fund Balances for Selected Funds
(Dollars in Thousands)

Fund	Beginning Balance ⁽¹⁾	Revenues ⁽²⁾	Expenditures (ESSB 6091) ⁽³⁾	Ending Balance
Pilotage Account	628	361	417	572
Essential Rail Assistance Account	19	247	250	16
Aeronautics Account	1,199	7,581	7,782	998
License Plate Technology Account	1,039	224	0	1,263
Grade Crossing Protective Account	3	500	501	2
State Patrol Highway Account	21,305	287,859	300,800	8,364
Motorcycle Safety Education Account	1,957	3,059	3,136	1,880
Highway Infrastructure Account (SIB)	1,717	1,652	1,809	1,560
Recreational Vehicle Account	1,483	-489	0	994
Puget Sound Capital Construction Acct.	9,958	204,315	213,177	1,096
Rural Arterial Trust Account	25,925	42,845	68,754	16
Highway Safety Fund	7,907	133,826	135,445	6,288
Motor Vehicle Fund	-204	1,571,927	1,573,702	-1,979
Puget Sound Ferry Operations Account	154	363,782	360,723	3,213
Urban Arterial Trust Account	2,139	99,975	101,049	1,065
Transportation Improvement Account	11,219	94,192	105,239	172
County Arterial Preservation Program	1,056	30,139	31,169	26
Licensing Services Account	3,511	5,548	9,059	0
Special Category C Account	2,497	900	3,419	-22
Multi Modal Transportation Account	27,504	276,297	270,108	33,693
Impaired Driving Safety Account	1,432	850	0	2,282
Bicycle & Pedestrian Safety Account	51	0	40	11
Tacoma Narrows Toll Bridge Account	7,010	268,508	170,318	105,200
Transportation 2003 (Nickel Account)	43,968	1,190,833	1,229,613	5,188
Puyallup Tribal Settlement Account	10,750	250	11,000	0
School Zone Safety Account	2,096	2,470	3,300	1,266
Freight Mobility Investment Acct	0	12,000	12,000	0
Small City Pavement and Sidewalk Acct	0	2,000	2,000	0
Transportation 2005 Account	0	723,905	667,619	56,286

(1) Beginning fund balance as of June 30, 2005.

(2) Revenues reflect the March 2005 forecast and revenue legislation passed in 2005. Revenues are reduced by debt service.

(3) Expenditure numbers reflect the 2005-07 transportation budget.



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- Topical Index
- Bill Number to Session Law Table
- Session Law to Bill Number Table
- Gubernatorial Appointments Confirmed
- Legislative Leadership
- Legislative Members by District
- Standing Committee Assignments

A
Map of
LEWIS AND CLARK'S TRACK,
Across the Western Portion of
(North America)
 From the
MISSISSIPPI TO THE PACIFIC OCEAN;
By Order of the Executive
 of the
UNITED STATES,
 in 1804, 5 & 6.

*Copied by Samuel Lewis from the
 Original Drawing of Wm. Clark*

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ESHB	2171	Comprehensive plans	C 294	L 05
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2SHB	2212	Educator certification	C 461	L 05
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SHB	2223	Records concerning sex offenders	C 202	L 05
SHB	2225	Higher education endowment funds	C 203	L 05
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SHB	2289	Hospital efficiencies	C 383	L 05
ESHB	2299	General obligation bonds	C 487	L 05
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ESB	5049	Mold in residential units	C 465	L 05
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SSB	5092	Beginning farmers loan program	C 120	L 05	
ESB	5094	Conservation district assessment	C 466	L 05	
SSB	5097	Public works/apprenticeship	C 3	L 05	
SSB	5101	Renewable energy incentives	C 300	L 05	
SSB	5105	WTUC certification	C 121	L 05	
ESB	5110	Regional transportation planning organizations	C 334	L 05	
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SSB	5112	Veterans' benefits	C 255	L 05	
ESSB	5121	Air transportation needs	C 316	L 05	
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ESSB	5151	Metropolitan park district	C 4	L 05	
2SSB	5154	Historical property tax exemption	C 170	L 05	
ESSB	5158	Uniform health care information act	C 468	L 05	
SSB	5161	Accident reports	C 171	L 05	
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ESSB	5173	Uniform mediation act	C 172	L 05	
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ESSB	5186	Physical activity	C 360	L 05	
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SB	5268	Water-sewer districts	C	43	L 05
SB	5274	Real estate appraisers	C	339	L 05
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SSB	5316	Parks and recreation license plates	C	44	L 05
SSB	5317	Insurance commissioner examinations	C	126	L 05
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ESB	5332	Dr. Martin Luther King, Jr.	C	90	L 05
ESSB	5348	Electrical appliance repair	C	175	L 05
SB	5354	Flood control zone districts	C	127	L 05
ESB	5355	Salmon and steelhead recovery	C	308	L 05
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2SSB	5370	Economic development strategic account	C	427	L 05
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ESSB	5395	Voting devices/paper records	C	242	L 05
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SSB	5471	Prescription purchasing	C	129	L 05
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SSB	5479	Landlord/tenant act	C	130	L 05
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ESB	5583	Older child victims of abuse	C 345	L 05	
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ESB	5606	Activation of National Guard	C 9	L 05	
SSB	5610	Salmon recovery	C 309	L 05	
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ESSB	5620	Open space plans	C 310	L 05	
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2SSB	5663	Agricultural burning	C 420	L 05	
SSB	5664	Teachers' skills	C 393	L 05	
SSB	5676	Oil spill management	C 78	L 05	
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SSB	5708	Epinephrine	C 463	L 05	
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2SSB	5782	Linked deposit program	C 302	L 05	
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ESSB	5806	Child care services	C 473	L 05	
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SB	5831	Well construction	C 84	L 05	
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SSB	5862	Association of Washington Generals	C 69	L 05	
SB	5869	Fish planting	C 87	L 05	
ESSB	5872	Family/children's department	C 474	L 05	
SB	5898	Postpartum depression	C 347	L 05	
SSB	5899	Background checks	C 421	L 05	
SSB	5902	Entrepreneurial development	C 357	L 05	
SSB	5914	Salmon recovery funding broad	C 271	L 05	
2SSB	5916	Alternative fuel vehicles	C 296	L 05	
ESSB	5922	Child abuse and neglect	C 512	L 05	PV
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SSB	5939	Victims of identity theft	C 366	L 05	
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ESSB	5952	Horse race/person transport	C 350	L 05	
SSB	5953	Horse racing handicapping	C 351	L 05	
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ESB	5962	Agricultural practices	C 511	L 05	
ESB	5966	Vehicle immobilization	C 88	L 05	
SSB	5969	State fuel tax distributions	C 89	L 05	
SB	5974	Opiate treatment programs	C 70	L 05	
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SB	5979	Search and rescue dogs	C 212	L 05	
ESSB	5983	Certification of teachers	C 498	L 05	
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ESSB	5997	Out-of-state banks	C 348	L 05	
SSB	5999	Parking and business improvement	C 476	L 05	
ESB	6003	Commute reduction tax credit	C 297	L 05	
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ESSB	6050	Financial assistance/local government	C 450	L 05	
SSB	6064	Homeowners' associations	C 179	L 05	
SSB	6078	State expenditure limits	C 72	L 05	
ESSB	6090	Operating budget 2005-07	C 518	L 05	PV
ESSB	6091	Transportation budget 2005-07	C 313	L 05	PV
ESSB	6094	Capital budget	C 488	L 05	PV
ESB	6096	Education funding	C 516	L 05	
SB	6097	Other tobacco products tax	C 180	L 05	
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C	10	L 05	Crime victims' compensation	SB	5993
C	11	L 05	Puyallup Tribe/cigarette tax	SB	5794
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C	13	L 05	Slander of a woman	SB	5148
C	14	L 05	State Route 290	SB	5356
C	15	L 05	Judicial conduct commission	SB	5433
C	16	L 05	Commemorative works account	HB	1007
C	17	L 05	Nursing quality commission	SHB	1075
C	18	L 05	Commercial feed	HB	1086
C	19	L 05	Transportation signs	SHB	1090
C	20	L 05	Food fish and shellfish licenses	SHB	1214
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C	22	L 05	Boilers	HB	1312
C	23	L 05	TRS average final compensation	HB	1321
C	24	L 05	Pension policy committee	HB	1323
C	25	L 05	Business and professions account	SHB	1394
C	26	L 05	Marine pilots	SSB	5150
C	27	L 05	State patrol in accidents	SHB	1387
C	28	L 05	Nurse practitioners	HB	1479
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C	31	L 05	Conservation districts	SHB	1462
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C	33	L 05	Health care quality assurance	SHB	1569
C	34	L 05	Short board appeals	HB	1838
C	35	L 05	Fire protection policy board	HB	2088
C	36	L 05	State art collection	HB	2188
C	37	L 05	Volunteer firefighters and officers	SB	5135
C	38	L 05	Volunteer ambulance personnel	SB	5168
C	39	L 05	Specialty hospitals	SSB	5178
C	40	L 05	Commercial feed	SSB	5190
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C	42	L 05	Wildlife license plates	SSB	5230
C	43	L 05	Water-sewer districts	SB	5268
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C	45	L 05	Speech-language pathologists	SB	5358

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C	47	L 05	Medicare	SSB	5406
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C	54	L 05	Health care dispute reviews	HB	1140
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C	59	L 05	Reclaimed water permits	SHB	1891
C	60	L 05	Water supply during drought	HB	2166
C	61	L 05	Driver's license exam waiver	HB	1260
C	62	L 05	LEOFFRS plan 1 ex spouse	HB	1319
C	63	L 05	Regional law libraries	SB	5701
C	64	L 05	Military service credit	HB	1325
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C	66	L 05	Local disability boards	HB	1328
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C	68	L 05	Exceptional sentences	SB	5477
C	69	L 05	Association of Washington Generals	SSB	5862
C	70	L 05	Opiate treatment programs	SB	5974
C	71	L 05	We love our pets license plates	SB	5977
C	72	L 05	State expenditure limits	SSB	6078
C	73	L 05	Youth courts	SB	5809
C	74	L 05	Credit card marketing	ESSB	5506
C	75	L 05	Women's contribution in WWII	SB	5563
C	76	L 05	Rental cars	SSB	5584
C	77	L 05	Agricultural land	SB	5589
C	78	L 05	Oil spill management	SSB	5676
C	79	L 05	Vehicle license renewal fees	SSB	5709
C	80	L 05	Multiple-unit housing	SB	5713
C	81	L 05	Air ambulance services	ESSB	5736
C	82	L 05	Dungeness crab fishery licenses	SSB	5765
C	83	L 05	Small city and town streets	SSB	5775
C	84	L 05	Well construction	SB	5831
C	85	L 05	Gonzaga University license plates	SB	5833
C	86	L 05	Nonprofit comm health center	SB	5857
C	87	L 05	Fish planting	SB	5869
C	88	L 05	Vehicle immobilization	ESB	5966
C	89	L 05	State fuel tax distributions	SSB	5969
C	90	L 05	Dr. Martin Luther King, Jr.	ESB	5332
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C	94	L 05	Rural Washington loan fund	HB	1092
C	95	L 05	Superior court judges	HB	1112
C	96	L 05 PV	Farm implement weight limit	SHB	1117
C	97	L 05	Trusts and estates	HB	1125
C	98	L 05	Automated teller fees	HB	1138
C	99	L 05	Notification about offenders	HB	1161
C	100	L 05	Longshore and harbor workers	SHB	1196
C	101	L 05	Marine vessel county contracts	SHB	1460
C	102	L 05	Liquor purchase/ID	HB	1621
C	103	L 05	Employee information	HB	1625
C	104	L 05	Resident/hunting and fishing	HB	1695
C	105	L 05	Indigent persons/legal aid	SHB	1747
C	106	L 05	Transfer of technology	SHB	1806
C	107	L 05	Cougars	HB	1832
C	108	L 05	Industrial insurance injury report	SHB	1918
C	109	L 05	Fire sprinkler system parts	SHB	1945
C	110	L 05	Fisheries buyback programs	HB	1958
C	111	L 05	Office of Public Defense	HB	2028
C	112	L 05	Camping resort contracts	ESSB	5002
C	113	L 05	Aquacultural products	SB	5006
C	114	L 05	Rural public hospital district	SB	5044
C	115	L 05	Title insurance companies	ESB	5045
C	116	L 05	Ethics complaints	SB	5046
C	117	L 05	Parenting plans	SB	5053
C	118	L 05	Injuries from health care	SSB	5065
C	119	L 05	Community college faculty	ESB	5087
C	120	L 05	Beginning farmers loan program	SSB	5092
C	121	L 05	WTUC certification	SSB	5105
C	122	L 05	Fire protection districts	SB	5136
C	123	L 05	Ports providing pilots	SSB	5207
C	124	L 05	State patrol officers	SB	5267
C	125	L 05	Running start program	SSB	5289
C	126	L 05	Insurance commissioner examinations	SSB	5317
C	127	L 05	Flood control zone districts	SB	5354
C	128	L 05	Amber alert system	SB	5453
C	129	L 05	Prescription purchasing	SSB	5471
C	130	L 05	Landlord/tenant act	SSB	5479
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C	132	L 05	Child passenger restraint	ESHB	1475
C	133	L 05	Unemployment insurance	EHB	2255
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C	135	L 05	International companies	SB	5175
C	136	L 05	CTED programs	SSB	5176
C	137	L 05	Economic finance authority	SB	5180
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C	147	L 05	Local government insurance	HB	1356
C	148	L 05	Fire safety	ESHB	1401
C	149	L 05	Disabled hunt/fish committee	HB	1405
C	150	L 05	Ban on American beef	HB	1407
C	151	L 05	Contract liquor stores	HB	1409
C	152	L 05	Alcoholic beverage courses	SHB	1431
C	153	L 05	Instant runoff voting	HB	1447
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C	156	L 05	Malpractice insurance program	HB	1534
C	157	L 05	Indigent defense services	2SHB	1542
C	158	L 05	Naturopathic physicians	HB	1546
C	159	L 05	Comm college tuition waivers	SHB	1560
C	160	L 05	Nonprofit capital projects	ESHB	1577
C	161	L 05	County engineer	HB	1599
C	162	L 05	County road project report	HB	1600
C	163	L 05	American Indian tuition rate	ESHB	1607
C	164	L 05	University of Washington dental school	HB	1612
C	165	L 05	Juvenile proceedings	SHB	1661
C	166	L 05	Forensic pathology	SSB	5035
C	167	L 05	Traffic safety cameras	ESSB	5060
C	168	L 05	Off-road vehicle noise	ESB	5089
C	169	L 05	Quality improvement committee	SSB	5146
C	170	L 05	Historical property tax exemption	2SSB	5154
C	171	L 05	Accident reports	SSB	5161
C	172	L 05	Uniform mediation act	ESSB	5173
C	173	L 05	Vehicle parts	SB	5181
C	174	L 05	TANF and WorkFirst	E2SSB	5213
C	175	L 05	Electrical appliance repair	ESSB	5348
C	176	L 05	Broadcasting	ESSB	5720
C	177	L 05	National park fund license plates	SSB	5832
C	178	L 05	Parking and bus improvement areas	SB	6012
C	179	L 05	Homeowners' associations	SSB	6064
C	180	L 05	Other tobacco products tax	SB	6097
C	181	L 05	Monetary assessments	HB	1555
C	182	L 05	Salary warrants for judges	HB	1024
C	183	L 05	Traffic signal devices	SHB	1113
C	184	L 05	Campaign account inspections	HB	1130
C	185	L 05	Real estate research account	HB	1141
C	186	L 05	Real estate agreements	SHB	1699

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C 187	L 05	Violence in state hospitals	HB	1160
C 188	L 05	Health plans/student visas	HB	1170
C 189	L 05	Vehicle size limits	HB	1180
C 190	L 05	Supreme court reports commission	HB	1183
C 191	L 05	Forfeited property	SHB	1208
C 192	L 05	Short-term fishing licenses	SHB	1210
C 193	L 05	Patient transport vehicles	HB	1237
C 194	L 05	Technical corrections/RCW 46.87	HB	1259
C 195	L 05	Pharmacy benefit	HB	1287
C 196	L 05	Antiharassment court jurisdiction	HB	1296
C 197	L 05	Burn ban triggers	ESHB	1302
C 198	L 05	Industrial insurance benefits	SHB	1732
C 199	L 05	Jury source lists	HB	1769
C 200	L 05	Ignition interlock devices	HB	1872
C 201	L 05	Master licensing service	HB	2131
C 202	L 05	Records concerning sex offender	SHB	2223
C 203	L 05	Higher education endowment funds	SHB	2225
C 204	L 05	People with disabilities	HB	2271
C 205	L 05	Tribal history in schools	SHB	1495
C 206	L 05	Enrollment cards/Indians	SHB	1496
C 207	L 05 PV	Dropout prevention	SHB	1708
C 208	L 05	Cigarette tax contracts	HB	1915
C 209	L 05	Aiding injured persons	SHB	1236
C 210	L 05	Special license plates	ESB	5423
C 211	L 05	Model toxics control	SSB	5449
C 212	L 05	Search and rescue dogs	SB	5979
C 213	L 05 PV	Off-road vehicles	EHB	1003
C 214	L 05	Motor pool	HB	1008
C 215	L 05 PV	Foster care scholarship	2SHB	1050
C 216	L 05	Armed forces license plates	SHB	1065
C 217	L 05	Student assessments	EHB	1068
C 218	L 05	Controlled substances	HB	1072
C 219	L 05	Housing programs	EHB	1074
C 220	L 05	Ski and ride Washington license plates	SHB	1116
C 221	L 05	Candidacy filing	SHB	1132
C 222	L 05	Group life insurance	EHB	1146
C 223	L 05 PV	Insurance	SHB	1197
C 224	L 05	Wild on Washington license plates	SHB	1216
C 225	L 05	Endangered wildlife license plates	SHB	1218
C 226	L 05	Metropolitan park districts	HB	1303
C 227	L 05	Sex offender records	SHB	1337
C 228	L 05	Registered offender web site	HB	1338
C 229	L 05	Part-time student financial aid	SHB	1345
C 230	L 05	Video game rating systems	SHB	1366
C 231	L 05	Liquor retail business plan	SHB	1379
C 232	L 05	Classified school employees	HB	1432
C 233	L 05	County road administration board	HB	1598

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C	234	L 05	Fruits and vegetables	HB	1722
C	235	L 05	Vintage snowmobiles	HB	1739
C	236	L 05	Voting rights and guardianship	SHB	1876
C	237	L 05	School employees/sex offense	HB	2058
C	238	L 05	Juvenile court	SHB	2061
C	239	L 05	Ballot measure petitions	EHB	1222
C	240	L 05	County election procedures	HB	1749
C	241	L 05	Mail ballot elections	SHB	1754
C	242	L 05	Voting devices/paper records	ESSB	5395
C	243	L 05 PV	Election reform	ESSB	5499
C	244	L 05	Manual of election laws	SB	5564
C	245	L 05	Out-of-state voters' info	SB	5565
C	246	L 05	Voter registration	ESSB	5743
C	247	L 05	PERS armed forces members	SHB	1938
C	248	L 05	Property tax exemptions	HB	1019
C	249	L 05	Veterans' tuition waivers	SHB	1174
C	250	L 05	Veterans' relief	SHB	1189
C	251	L 05	Definition of veteran	HB	1307
C	252	L 05	Military department accounts	HB	1457
C	253	L 05	Widows of veterans	SHB	1509
C	254	L 05	Service member civil relief	SHB	2173
C	255	L 05	Veterans' benefits	SSB	5112
C	256	L 05	Military borrowers	ESSB	5415
C	257	L 05	Veterans conservation corps	SSB	5539
C	258	L 05	Baccalaureate degree programs	E2SHB	1794
C	259	L 05	Autism task force	SB	5311
C	260	L 05	Vehicle fuel tax payment date	SSB	5058
C	261	L 05 PV	Electronic medical records	SSB	5064
C	262	L 05	Sexual misconduct with minor	SSB	5309
C	263	L 05	Costs of incarceration	SB	5461
C	264	L 05	Recreational vehicles	SSB	5463
C	265	L 05	Juvenile court hiring	SB	5501
C	266	L 05	School employment applicants	SSB	5552
C	267	L 05	Prescription drug foundation	SSB	5558
C	268	L 05	Nursing work force	ESSB	5599
C	269	L 05	Driver's license suspension	SSB	5644
C	270	L 05	Ferry fares	SSB	5729
C	271	L 05	Salmon recovery funding board	SSB	5914
C	272	L 05	Advanced college payment	SB	5926
C	273	L 05	Special meetings	HB	1000
C	274	L 05	Public disclosure law	SHB	1133
C	275	L 05	Prescription reimportation	2SHB	1168
C	276	L 05	Long-term care financing	2SHB	1220
C	277	L 05	Dishonored checks	SHB	1347
C	278	L 05	Insurance overpayment	E2SHB	1418
C	279	L 05 PV	Health insurance for children	E2SHB	1441
C	280	L 05	Electrical board	HB	1557

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C 281	L 05	PV	Fire protection districts	SHB	1652
C 282	L 05	PV	Administrative Office of the Courts	HB	1668
C 283	L 05		Certificate of need program	E2SHB	1688
C 284	L 05		Public employee information	SHB	1694
C 285	L 05		Fare cards for transportation service	ESHB	1703
C 286	L 05		School district bidding	SHB	1719
C 287	L 05		School breakfast programs	HB	1771
C 288	L 05		Driving privilege	SHB	1854
C 289	L 05		Litter tax exemptions	SHB	1887
C 290	L 05		Juvenile court jurisdiction	HB	2064
C 291	L 05		Quality improvement programs	EHB	2254
C 292	L 05		Medical assistance debts	SHB	2304
C 293	L 05		Prescription importation	ESSB	5470
C 294	L 05		Comprehensive plans	ESHB	2171
C 295	L 05		Motor vehicle emissions	ESHB	1397
C 296	L 05		Alternative fuel vehicles	2SSB	5916
C 297	L 05		Commute reduction tax credit	ESB	6003
C 298	L 05		Energy efficiency/products	ESHB	1062
C 299	L 05		Statewide energy efficiency	SHB	1895
C 300	L 05		Renewable energy incentives	SSB	5101
C 301	L 05		Solar energy systems	E2SSB	5111
C 302	L 05		Linked deposit program	2SSB	5782
C 303	L 05		Habitat conservation programs	ESSB	5396
C 304	L 05		Oil spill oversight council	ESSB	5432
C 305	L 05		Academy of sciences	ESB	5381
C 306	L 05		Soil contamination	E2SHB	1605
C 307	L 05		Geoduck harvest	E2SHB	1896
C 308	L 05		Salmon and steelhead recovery	ESB	5355
C 309	L 05		Salmon recovery	SSB	5610
C 310	L 05		Open space plans	ESSB	5620
C 311	L 05		Ocean-going containers	SHB	1181
C 312	L 05		HOV lanes pilot project	SHB	1179
C 313	L 05	PV	Transportation budget 2005-07	ESSB	6091
C 314	L 05		Transportation revenue	ESSB	6103
C 315	L 05		Transportation bonds	ESHB	2311
C 316	L 05		Air transportation needs	ESSB	5121
C 317	L 05		Transportation innovative partnership	SHB	1541
C 318	L 05		Public transportation	SHB	2124
C 319	L 05	PV	Transportation agencies	ESB	5513
C 320	L 05		Compression brakes	HB	1002
C 321	L 05		Definition of conviction	HB	1128
C 322	L 05		Cell phone numbers	SHB	1185
C 323	L 05		Vehicle licensing and registration	EHB	1241
C 324	L 05		Manufactured housing	HB	1247
C 325	L 05		Commercial drivers	SHB	1266
C 326	L 05		Real estate excise taxes	HB	1315
C 327	L 05		Retirement technical corrections	HB	1330

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C	328	L 05	Multimodal concurrency	2SHB	1565
C	329	L 05	Toll charge oversight	HB	1864
C	330	L 05	Historic public facilities	SHB	1995
C	331	L 05	Traffic infraction liability	HB	1999
C	332	L 05	Uniform estate tax act	SSB	5052
C	333	L 05	Archaeology and history	2SSB	5056
C	334	L 05	Regional transportation planning organizations	ESB	5110
C	335	L 05 PV	Tolling authority	SSB	5139
C	336	L 05 PV	Transportation benefit district	SSB	5177
C	337	L 05	Employer-owned life insurance	SB	5196
C	338	L 05	Customer financial transaction	SSB	5266
C	339	L 05	Real estate appraisers	SB	5274
C	340	L 05	Vehicle owners' addresses	SB	5321
C	341	L 05	Aviation fees and taxes	SSB	5414
C	342	L 05	Credit reports	ESB	5418
C	343	L 05	Licensing subagent fees	SB	5518
C	344	L 05	Sexually violent predators	SB	5582
C	345	L 05	Older child victims of abuse	ESB	5583
C	346	L 05	Inmate work programs	SSB	5631
C	347	L 05	Postpartum depression	SB	5898
C	348	L 05	Out-of-state banks	ESSB	5997
C	349	L 05	Horse racing license disclosure	SSB	5951
C	350	L 05	Horse race/person transport	ESSB	5952
C	351	L 05	Horse racing handicapping	SSB	5953
C	352	L 05	Public building contract/insurance	SSB	6022
C	353	L 05	Developmental disabilities trust fund	SHB	1791
C	354	L 05	Cleanup of waste tires	SHB	2085
C	355	L 05	Legislative youth council	SB	5254
C	356	L 05	Digital or online learning	SSB	5828
C	357	L 05	Entrepreneurial development	SSB	5902
C	358	L 05	Victims of human trafficking	SB	5127
C	359	L 05	Cemetery interment space	SSB	5182
C	360	L 05	Physical activity	ESSB	5186
C	361	L 05	Inmates possessing weapons	SSB	5242
C	362	L 05	Misdemeanors	SSB	5256
C	363	L 05	Purchasing service credit	SB	5522
C	364	L 05	Relocation assistance	ESSB	5577
C	365	L 05	Funeral services	SSB	5752
C	366	L 05	Victims of identity theft	SSB	5939
C	367	L 05	Unclaimed property	SB	5948
C	368	L 05	Personal info security	SSB	6043
C	369	L 05	Problem gambling	ESHB	1031
C	370	L 05	Pension funding methodology	ESHB	1044
C	371	L 05	Mental health for minors	SHB	1058
C	372	L 05 PV	LEOFFRS retire rehire	HB	1270
C	373	L 05	Parks and recreation commission	SHB	1313
C	374	L 05	Domestic violence prevention	ESHB	1314

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C 375	L 05	Nursing home temporary managers	HB	1364
C 376	L 05	Fire department employees	SHB	1756
C 377	L 05	Alternative public works	ESHB	1830
C 378	L 05	Electronic mail fraud	E2SHB	1888
C 379	L 05	Vision exams for children	SHB	1951
C 380	L 05	Offenders who are students	HB	2101
C 381	L 05	Dependent persons	ESHB	2126
C 382	L 05	Transporting offender property	HB	2282
C 383	L 05	Hospital efficiencies	SHB	2289
C 384	L 05	Government management	2SHB	1970
C 385	L 05 PV	Government performance	ESHB	1064
C 386	L 05	State budgeting process	ESHB	1242
C 387	L 05	Industrial insurance fund audits	SHB	1856
C 388	L 05	Precursor drugs	ESHB	2266
C 389	L 05	Child welfare services staff	HB	2189
C 390	L 05 PV	Parking/disabilities	SHB	1711
C 391	L 05	Women's history consortium	SB	5707
C 392	L 05	Boater safety and education	SSB	5145
C 393	L 05	Teachers' skills	SSB	5664
C 394	L 05	Recycling	ESSB	5788
C 395	L 05	Dungeness crab	SB	6033
C 396	L 05	Vehicles passing pedestrians	HB	1108
C 397	L 05	Pesticide application	HB	1110
C 398	L 05	Signs and banners over highway	HB	1124
C 399	L 05	Older mobile homes	SHB	1393
C 400	L 05	Offender travel or transfer	ESHB	1402
C 401	L 05	Specialized forest products	SHB	1406
C 402	L 05	Individual development account	SHB	1408
C 403	L 05	Incarcerated parents	SHB	1426
C 404	L 05 PV	Meningococcal immunization	SHB	1463
C 405	L 05	State funded health care	HB	1690
C 406	L 05	Fish and wildlife violations	ESHB	1696
C 407	L 05	Motorist information signs	SHB	1798
C 408	L 05 PV	Park rangers	ESHB	1799
C 409	L 05	Statute Law Committee	SHB	1847
C 410	L 05	Industrial insurance premium rates	EHB	1917
C 411	L 05	Workers' compensation medical aid	EHB	2185
C 412	L 05	Water right fees	ESHB	2309
C 413	L 05	Failure to yield	SSB	5038
C 414	L 05	Milk and milk products	SB	5039
C 415	L 05	Child car seats	SSB	5085
C 416	L 05	Biotoxin testing funds	SSB	5169
C 417	L 05	Child abuse reporting	ESSB	5308
C 418	L 05	Wildlife harvest reports	SSB	5227
C 419	L 05	Theft of livestock	SSB	5290
C 420	L 05	Agricultural burning	2SSB	5663
C 421	L 05	Background checks	SSB	5899

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C	422	L 05	Industrial insurance claims	SSB	6014
C	423	L 05	Recreational facilities	EHB	2241
C	424	L 05	Life sciences research	E2SSB	5581
C	425	L 05	Job development fund	ESHB	1903
C	426	L 05	Share the road license plates	HB	1254
C	427	L 05	Economic development strategic account	2SSB	5370
C	428	L 05 PV	Underground petroleum tank	SHB	1823
C	429	L 05	Landlord and tenant disputes	ESHB	1640
C	430	L 05	Parental rights/termination	SHB	2156
C	431	L 05	Vehicle loads on highways	SHB	1478
C	432	L 05	Distressed insurers	HB	1034
C	433	L 05	Uniform arbitration act	SHB	1054
C	434	L 05	Law enforcement applicants	HB	1081
C	435	L 05 PV	Electronic monitoring system	HB	1136
C	436	L 05	Community protection zones	SHB	1147
C	437	L 05	Youthful offenders	EHB	1187
C	438	L 05	State patrol officer wages	2SHB	1188
C	439	L 05	Kinship care committee	SHB	1280
C	440	L 05	Medical care for minors	SHB	1281
C	441	L 05	Life insurance	EHB	1561
C	442	L 05	Historical documents	HB	1386
C	443	L 05	Tax preferences	SHB	1299
C	444	L 05	Commercial motor vehicle law	HB	1469
C	445	L 05	Campaign funding	ESSB	5034
C	446	L 05	State health care programs	SHB	1512
C	447	L 05	Inspection of hospitals	HB	1533
C	448	L 05	Excavating near pipelines	ESHB	1539
C	449	L 05	County conservation futures	ESHB	1631
C	450	L 05	Financial assistance/local government	ESSB	6050
C	451	L 05	LEOFFRS disability allowance	SSB	5615
C	452	L 05	Background check task force	SHB	1681
C	453	L 05	Firearms/insanity	SHB	1687
C	454	L 05	Dental health services	SHB	1689
C	455	L 05	Child witnesses	HB	1837
C	456	L 05	Multi-unit residential buildings	EHB	1848
C	457	L 05	Court operations	E2SSB	5454
C	458	L 05	Assault of a peace officer	SHB	1934
C	459	L 05	PERS emergency medical technicians	SHB	1936
C	460	L 05	Substance abuse treatment	E2SHB	2015
C	461	L 05	Educator certification	2SHB	2212
C	462	L 05	Asthma	SSB	5841
C	463	L 05	Epinephrine	SSB	5708
C	464	L 05	Aquatic invasive species	ESSB	5699
C	465	L 05	Mold in residential units	ESB	5049
C	466	L 05	Conservation district assessment	ESB	5094
C	467	L 05	Surplus funds of candidates	ESSB	5140
C	468	L 05	Uniform health care info act	ESSB	5158

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C 469	L 05	Water quality development	ESSB	5285
C 470	L 05	Hospital reporting	SSB	5492
C 471	L 05	Tax refund loans	SSB	5692
C 472	L 05	Mandatory arbitration	SB	5733
C 473	L 05	Child care services	ESSB	5806
C 474	L 05	Family/children's department	ESSB	5872
C 475	L 05	Industrial injury 2nd injury fund	SSB	5992
C 476	L 05	Parking and business improvement	SSB	5999
C 477	L 05	Development of rural areas	SSB	6037
C 478	L 05	Hood Canal	SHB	2081
C 479	L 05	Hood Canal rehabilitation	ESHB	2097
C 480	L 05	Real estate excise tax	2SHB	1240
C 481	L 05	Animal cruelty	SHB	1304
C 482	L 05	Ambulance services funding	ESHB	1635
C 483	L 05	Public disclosure	2SHB	1758
C 484	L 05 PV	Homeless housing program	E2SHB	2163
C 485	L 05	Housing for the homeless	SSB	5767
C 486	L 05	Real estate excise tax	HB	2170
C 487	L 05	General obligation bonds	ESHB	2299
C 488	L 05 PV	Capital budget	ESSB	6094
C 489	L 05	Learning assistance program	HB	1066
C 490	L 05	Early learning council	E2SHB	1152
C 491	L 05	Family and consumer science education	ESHB	1252
C 492	L 05	School bus bid process	HB	1485
C 493	L 05	Teachers of the deaf	SHB	1893
C 494	L 05	Alternative assessments	SHB	1987
C 495	L 05	Student achievement	EHB	1998
C 496	L 05	Education finance study	E2SSB	5441
C 497	L 05	Education boards	ESSB	5732
C 498	L 05	Certification of teachers	ESSB	5983
C 499	L 05	Definition of sick leave	SSB	5850
C 500	L 05	Computer spyware	ESHB	1012
C 501	L 05	Physical therapy	SHB	1137
C 502	L 05	County treasurer	SHB	1158
C 503	L 05 PV	Community mental health	E2SHB	1290
C 504	L 05 PV	Mental disorder treatment	E2SSB	5763
C 505	L 05 PV	Assisted care facilities	SHB	1591
C 506	L 05 PV	Dispute resolution process	SHB	1606
C 507	L 05 PV	Wages for child care workers	SHB	1636
C 508	L 05	Juvenile sentencing	SHB	2073
C 509	L 05	Family day care	SHB	2169
C 510	L 05 PV	Livestock nutrients	SSB	5602
C 511	L 05	Agricultural practices	ESB	5962
C 512	L 05 PV	Child abuse and neglect	ESSB	5922
C 513	L 05	Fruit and vegetable processing	ESHB	2221
C 514	L 05	Revenue and taxation	ESHB	2314
C 515	L 05	Regional transit authority	SSB	5623

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C	516	L 05	Education funding	ESB	6096
C	517	L 05	Fiscal matters	ESB	6121
C	518	L 05 PV	Operating budget 2005-07	ESSB	6090

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James O. Luce

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John Ellis
Alan R. Parker

Horse Racing Commission
Gary Christenson

Housing Finance Commission
Isabel Bedolla
Claire Grace
Dennis Kloida
Hon Richard McIver

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Reiko Callner, Chair
Reverend Ellis H. Casson
Jerry Hebert
Deborah S. Lee

Indeterminate Sentence Review Board
Jeralita Costa, Chair
Jeralita Costa
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Mr. George Masten
Patrick McElligott

K-20 Educational Network Board
Martin F. Smith

Liquor Control Board
Merritt Long

Lottery Commission
Chris Liu, Director

Pacific NW Electric Power and Conservation Planning Council
Tom Karier

Personnel Appeals Board
Walter T. Hubbard

Personnel Resources Board
Marsha Long

Pollution Control/Shorelines Hearings Board
David Danner

Sentencing Guidelines Commission
David Boerner
Mike Brasfield
Dr Ronald D. Cantu
Hon. Tari Eitzen

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Paul R. Calderon

Transportation Commission
Robert Distler
Richard Ford
A. Daniel O'Neal
Dale Stedman

Utilities and Transportation Commission
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Mark Sidran, Chair

Washington Public Power Supply System, (Energy Northwest)
Lawrence Kenney

Work Force Training and Education Coordinating Board
Rick S. Bender
David Harrison, Chair

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Rosa Franklin President Pro Tempore
Paull Shin Vice President Pro Tempore
Thomas Hoemann Secretary
Brad Hendrickson Deputy Secretary
Jim Ruble Sergeant At Arms

Caucus Officers

Democratic Caucus

Lisa Brown Majority Leader
Harriet A. Spanel Majority Caucus Chair
Tracey Eide Majority Floor Leader
Debbie Regala Majority Whip
Pat Thibaudeau Majority Caucus Vice Chair
Phil Rockefeller Majority Asst. Floor Leader
Brian Weinstein Majority Assistant Whip

Republican Caucus

Bill Finkbeiner Republican Leader
Jim Honeyford Republican Caucus Chair
Luke Esser Republican Floor Leader
Mike Hewitt Republican Whip
Linda Evans Parlette Republican Deputy Leader
Dale Brandland Republican Caucus Vice Chair
Cheryl Pflug Republican Deputy Floor Leader
Joyce Mulliken Republican Deputy Whip

Legislative Members by District

District 1

Sen. Rosemary McAuliffe (D)
Rep. Al H. O'Brien (D-1)
Rep. Jeanne A. Edwards (D-2)

District 2

Sen. Marilyn Rasmussen (D)
Rep. Jim McCune (R-1)
Rep. Tom J. Campbell (R-2)

District 3

Sen. Lisa J. Brown (D)
Rep. Alex W. Wood (D-1)
Rep. Timm Ormsby (D-2)

District 4

Sen. Bob McCaslin (R)
Rep. Larry W. Crouse (R-1)
Rep. Lynn Maureen Schindler (R-2)

District 5

Sen. Cheryl A. Pflug (R)
Rep. Jay Rodne (R-1)
Rep. Glenn Anderson (R-2)

District 6

Sen. Brad Benson (R)
Rep. John Serben (R-1)
Rep. John E. Ahern (R-2)

District 7

Sen. Bob Morton (R)
Rep. Bob F. Sump (R-1)
Rep. Joel Kretz (R-2)

District 8

Sen. Jerome Delvin (R)
Rep. Shirley W. Hankins (R-1)
Rep. Larry Haler (R-2)

District 9

Sen. Mark Schoesler (R)
Rep. Don L. Cox (R-1)
Rep. David Buri (R-2)

District 10

Sen. Mary Margaret Haugen (D)
Rep. Chris Strow (R-1)
Rep. Barbara Bailey (R-2)

District 11

Sen. Margarita Prentice (D)
Rep. Zack Hudgins (D-1)
Rep. Bob Hasegawa (D-2)

District 12

Sen. Linda Evans Parlette (R)
Rep. Cary Condotta (R-1)
Rep. Mike Armstrong (R-2)

District 13

Sen. Joyce C. Mulliken (R)
Rep. Janéa Holmquist (R-1)
Rep. Bill Hinkle (R-2)

District 14

Sen. Alex A. Deccio (R)
Rep. Mary K. Skinner (R-1)
Rep. Jim A. Clements (R-2)

District 15

Sen. Jim Honeyford (R)
Rep. Bruce Q. Chandler (R-1)
Rep. Daniel Newhouse (R-2)

District 16

Sen. Mike Hewitt (R)
Rep. Maureen Walsh (R-1)
Rep. Bill A. Grant (D-2)

District 17

Sen. Don Benton (R)
Rep. Jim Dunn (R-1)
Rep. Deb Wallace (D-2)

District 18

Sen. Joseph Zarelli (R)
Rep. Richard Curtis (R-1)
Rep. Ed Orcutt (R-2)

District 19

Sen. Mark L. Doumit (D)
Rep. Dean Takko (D-1)
Rep. Brian Blake (D-2)

District 20

Sen. Dan Swecker (R)
Rep. Richard C. DeBolt (R-1)
Rep. Gary C. Alexander (R-2)

District 21

Sen. Paull H. Shin (D)
Rep. Mary Helen Roberts (D-1)
Rep. Brian Sullivan (D-2)

District 22

Sen. Karen Fraser (D)
Rep. Brenda Williams (D-1)
Rep. Sam Hunt (D-2)

District 23

Sen. Phil Rockefeller (D)
Rep. Sherry Appleton (D-1)
Rep. Beverly A. Woods (R-2)

District 24

Sen. James E. Hargrove (D)
Rep. Jim G. Buck (R-1)
Rep. Lynn E. Kessler (D-2)

District 25

Sen. Jim Kastama (D)
Rep. Joyce McDonald (R-1)
Rep. Dawn Morell (R-2)

District 26

Sen. Bob Oke (R)
Rep. Patricia T. Lantz (D-1)
Rep. Derek Kilmer (D-2)

District 27

Sen. Debbie E. Regala (D)
Rep. Dennis Flannigan (D-1)
Rep. Jeannie Darneille (D-2)

District 28

Sen. Mike Carrell (R)
Rep. Gigi G. Talcott (R-1)
Rep. Tami Green (D-2)

District 29

Sen. Rosa Franklin (D)
Rep. Steve E. Conway (D-1)
Rep. Steve Kirby (D-2)

District 30

Sen. Tracey J. Eide (D)
Rep. Mark A. Miloscia (D-1)
Rep. Skip Priest (R-2)

Legislative Members by District

District 31

Sen. Pam Roach (R)
Rep. Dan Roach (R-1)
Rep. Jan Shabro (R-2)

District 32

Sen. Darlene Fairley (D)
Rep. Maralyn Chase (D-1)
Rep. Ruth L. Kagi (D-2)

District 33

Sen. Karen K. Keiser (D)
Rep. Shay K. Schual-Berke (D-1)
Rep. Dave Upthegrove (D-2)

District 34

Sen. Erik E. Poulsen (D)
Rep. Eileen L. Cody (D-1)
Rep. Joe McDermott (D-2)

District 35

Sen. Tim Sheldon (D)
Rep. Kathy M. Haigh (D-1)
Rep. William "Ike" A. Eickmeyer (D-2)

District 36

Sen. Jeanne Kohl-Welles (D)
Rep. Helen E. Sommers (D-1)
Rep. Mary Lou Dickerson (D-2)

District 37

Sen. Adam Kline (D)
Rep. Sharon Tomiko Santos (D-1)
Rep. Eric Pettigrew (D-2)

District 38

Sen. Jean Berkey (D)
Rep. John R. McCoy (D-1)
Rep. Mike Sells (D-2)

District 39

Sen. Val Stevens (R)
Rep. Dan Kristiansen (R-1)
Rep. Kirk Pearson (R-2)

District 40

Sen. Harriet A. Spanel (D)
Rep. Dave S. Quall (D-1)
Rep. Jeff R. Morris (D-2)

District 41

Sen. Brian Weinstein (D)
Rep. Fred Jarrett (R-1)
Rep. Judy Clibborn (D-2)

District 42

Sen. Dale E. Brandland (R)
Rep. Doug J. Ericksen (R-1)
Rep. Kelli J. Linville (D-2)

District 43

Sen. Pat Thibaudeau (D)
Rep. Ed B. Murray (D-1)
Rep. Frank V. Chopp (D-2)

District 44

Sen. Dave A. Schmidt (R)
Rep. Hans Dunshee (D-1)
Rep. John R. Lovick (D-2)

District 45

Sen. Bill Finkbeiner (R)
Rep. Toby Nixon (R-1)
Rep. Larry Springer (D-2)

District 46

Sen. Ken Jacobsen (D)
Rep. Jim L. McIntire (D-1)
Rep. Phyllis Gutierrez Kenney (D-2)

District 47

Sen. Stephen L. Johnson (R)
Rep. Geoff Simpson (D-1)
Rep. Pat Sullivan (D-2)

District 48

Sen. Luke E. Esser (R)
Rep. Ross Hunter (D-1)
Rep. Rodney Tom (R-2)

District 49

Sen. Craig Pridemore (D)
Rep. Bill Fromhold (D-1)
Rep. Jim Moeller (D-2)

Standing Committee Assignments

Senate	Senate Financial	Senate Human Services	Senate Labor,
Agriculture & Rural	Institutions, Housing &	& Corrections	Commerce, Research &
<u>Economic Development</u>	<u>Consumer Protection</u>	James Hargrove, <i>Chair</i>	<u>Development</u>
Marilyn Rasmussen, <i>Chair</i>	Darlene Fairley, <i>Chair</i>	Debbie Regala, <i>V. Chair</i>	Jeanne Kohl-Welles, <i>Chair</i>
Paull Shin, <i>V. Chair</i>	Jean Berkey, <i>V. Chair</i>	Dale Brandland	Rosa Franklin, <i>V. Chair</i>
Jerome Delvin	Brad Benson	Mike Carrell	Lisa Brown
Ken Jacobsen	Don Benton	Rosemary McAuliffe	Alex Deccio
Bob Morton	Dale Brandland	Val Stevens	Mike Hewitt
Mark Schoesler	Jerome Delvin	Pat Thibaudeau	Jim Honeyford
Tim Sheldon	Rosa Franklin		Karen Keiser
	Karen Keiser	Senate International	Linda Evans Parlette
Senate Early Learning,	Margarita Prentice	<u>Trade & Economic</u>	Margarita Prentice
K-12 & Higher	Dave Schmidt	<u>Development</u>	
<u>Education</u>	Harriet Spanel	Paull Shin, <i>Chair</i>	Senate Natural
Rosemary McAuliffe, <i>Chair</i>		Tim Sheldon, <i>V. Chair</i>	Resources, Ocean &
Brian Weinstein, <i>V. Chair</i>	Senate Government	Mark Doumit	<u>Recreation</u>
Craig Pridemore, <i>V. Chair</i>	<u>Operations & Elections</u>	Tracey Eide	Ken Jacobsen, <i>Chair</i>
<i>(Higher Education)</i>	Jim Kastama, <i>Chair</i>	Cheryl Pflug	Mark Doumit, <i>V. Chair</i>
Don Benton	Jean Berkey, <i>V. Chair</i>	Pam Roach	Karen Fraser
Jean Berkey	Don Benton	Joseph Zarelli	James Hargrove
Mike Carrell	Darlene Fairley		Bob Morton
Jerome Delvin	Mary Margaret Haugen	<u>Senate Judiciary</u>	Bob Oke
Tracey Eide	Adam Kline	Adam Kline, <i>Chair</i>	Harriet Spanel
Jeanne Kohl-Welles	Bob McCaslin	Brian Weinstein, <i>V. Chair</i>	Val Stevens
Joyce Mulliken	Joyce Mulliken	Mike Carrell	Dan Swecker
Cheryl Pflug	Craig Pridemore	Luke Esser	
Marilyn Rasmussen	Pam Roach	James Hargrove	
Phil Rockefeller		Stephen Johnson	
Dave Schmidt	Senate Health &	Bob McCaslin	
Mark Schoesler	<u>Long-Term Care</u>	Marilyn Rasmussen	
Paull Shin	Karen Keiser, <i>Chair</i>	Pat Thibaudeau	
	Pat Thibaudeau, <i>V. Chair</i>		
	Alex Deccio		
	Brad Benson		
	Dale Brandland		
	Rosa Franklin		
	Stephen Johnson		
	Jim Kastama		
	Adam Kline		
	Linda Evans Parlette		
	Erik Poulsen		

Standing Committee Assignments

Senate Rules

Lt. Governor Brad Owen,
Chair
Rosa Franklin, *V. Chair*
Lisa Brown
Mark Doumit
Tracey Eide
Luke Esser
Bill Finkbeiner
Karen Fraser
Mary Margaret Haugen
Mike Hewitt
Jim Honeyford
Stephen Johnson
Adam Kline
Jeanne Kohl-Welles
Linda Evans Parlette
Debbie Regala
Harriet Spanel
Val Stevens
Pat Thibaudeau
Joseph Zarelli

Senate Transportation

Mary Margaret Haugen,
Chair
Ken Jacobsen, *V. Chair*
Erik Poulsen, *V. Chair*
Brad Benson
Tracey Eide
Luke Esser
Jim Kastama
Joyce Mulliken
Bob Oke
Harriet Spanel
Dan Swecker
Brian Weinstein

**Senate Water, Energy &
Environment**
Environment
Erik Poulsen, *Chair*
Phil Rockefeller, *V. Chair*
Karen Fraser
Mike Hewitt
Jim Honeyford
Bob Morton
Joyce Mulliken
Craig Pridemore
Debbie Regala

Senate Ways & Means

Margarita Prentice, *Chair*
Mark Doumit, *V. Chair*
Karen Fraser, *V. Chair*
(Capital Budget)
Dale Brandland
Darlene Fairley
Mike Hewitt
Kohl-Welles
Linda Evans Parlette
Cheryl Pflug
Craig Pridemore
Marilyn Rasmussen
Debbie Regala
Pam Roach
Phil Rockefeller
Mark Schoesler
Pat Thibaudeau
Joseph Zarelli

Standing Committee Assignments

House Appropriations

Helen Sommers, *Chair*
 Bill Fromhold, *V. Chair*
 Gary Alexander
 Glenn Anderson
 Mike Armstrong
 Barbara Baily
 David Buri
 James Clements
 Eileen Cody
 Steve Conway
 Jeannie Darneille
 Hans Dunshee
 Bill Grant
 Kathy Haigh
 Bill Hinkle
 Ross Hunter
 Ruth Kagi
 Phyllis Kenney
 Lynn Kessler
 Kelli Linville
 Joyce McDonald
 Joe McDermott
 Jim McIntire
 Mark Miloscia
 Kirk Pearson
 Skip Priest
 Shay Schual-Berke
 Gig Talcott
 Maureen Walsh

House Capital Budget

Hans Dunshee, *Chair*
 Timm Ormsby, *V. Chair*
 Brian Blake
 Maralyn Chase
 Don Cox
 Richard DeBolt
 William "Ike" Eickmeyer
 Mark Ericks
 Doug Ericksen
 Dennis Flannigan
 Tami Green
 Shirley Hankins
 Bob Hasegawa
 Janéa Holmquist
 Fred Jarrett
 Joel Kretz
 Dan Kristiansen
 Patricia Lantz
 Jim McCune
 Jim Moeller
 Dawn Morrell
 Daniel Newhouse
 Al O'Brien
 Dan Roach
 Shay Schual-Berke
 John Serben
 Larry Springer
 Chris Strow
 Dave Upthegrove

House Children & Family Services

Ruth Kagi, *Chair*
 Mary Helen Roberts, *V. Chair*
 Jeannie Darneille
 Mary Lou Dickerson
 Jim Dunn
 Larry Haler
 Bill Hinkle
 Eric Pettigrew
 Maureen Walsh

House Commerce & Labor

Steve Conway, *Chair*
 Alex Wood, *V. Chair*
 Cary Condotta
 Larry Crouse
 Zack Hudgins
 John McCoy
 Bob Sump

House Criminal Justice & Corrections

Al O'Brien, *Chair*
 Jeannie Darneille, *V. Chair*
 John Ahern
 Ruth Kagi
 Steve Kirby
 Kirk Pearson
 Chris Strow

House Economic Development, Agriculture & Trade

Kelli Linville, *Chair*
 Eric Pettigrew, *V. Chair*
 Brian Blake
 David Buri
 Maralyn Chase
 Judy Clibborn
 Cary Condotta
 Jim Dunn
 Bill Grant
 Larry Haler

Janéa Holmquist
 Phyllis Kenney
 Derek Kilmer
 Joel Kretz
 Dan Kristiansen
 John McCoy
 Dawn Morrell
 Daniel Newhouse
 Dave Quall
 Mary Skinner
 Chris Strow
 Pat Sullivan
 Deb Wallace

House Education

Dave Quall, *Chair*
 Pat Sullivan, *V. Chair*
 Glenn Anderson
 Richard Curtis
 Kathy Haigh
 Ross Hunter
 Joe McDermott
 Sharon Tomiko Santos
 Jan Shabro
 Gigi Talcott
 Rodney Tom

Standing Committee Assignments

House Finance

Jim McIntire, *Chair*
 Ross Hunter, *V. Chair*
 John Ahern
 Steve Conway
 Doug Ericksen
 Bob Hasegawa
 Ed Orcutt
 Dan Roach
 Sharon Tomiko Santos

House Financial

Institutions & Insurance

Steve Kirby, *Chair*
 Mark Ericks, *V. Chair*
 Daniel Newhouse
 Al O'Brien
 Dan Roach
 Sharon Tomiko Santos
 John Serben
 Geoff Simpson
 Chris Strow
 Rodney Tom
 Brendan Williams

House Health Care

Eileen Cody, *Chair*
 Tom Campbell, *V. Chair*
 Dawn Morrell, *V. Chair*
 Gary Alexander
 Sherry Appleton
 Barbara Bailey
 Judy Clibborn
 Cary Condotta
 Richard Curtis
 Tami Green
 Bill Hinkle
 Patricia Lantz
 Jim Moeller
 Shay Schual-Berke
 Mary Skinner

House Higher Education

Phyllis Kenney, *Chair*
 Mike Sells, *V. Chair*
 David Buri
 Don Cox
 Jim Dunn
 Bill Fromhold
 Bob Hasegawa
 Fred Jarrett
 Timm Ormsby
 Skip Preist
 Mary Helen Roberts
 Jay Rodne
 Helen Sommers

House Hood Canal,

Select Committee

William "Ike" Eickmeyer,
Chair
 John McCoy, *V. Chair*
 Sherry Appleton
 Maralyn Chase
 Kirk Pearson
 Bob Sump
 Maureen Walsh

House Housing

Mark Miloscia, *Chair*
 Larry Springer, *V. Chair*
 Jim Dunn
 Janéa Holmquist
 Jim McCune
 Timm Ormsby
 Eric Pettigrew
 Lynn Schindler
 Mike Sells

House Judiciary

Patricia Lantz, *Chair*
 Dennis Flannigan, *V. Chair*
 Brendan Williams, *V. Chair*
 Tom Campbell
 Steve Kirby
 Skip Priest
 Jay Rodne
 John Serben
 Larry Springer
 Alex Wood

House Juvenile Justice & Family Law

Mary Lou Dickerson,
Chair
 Jim Moeller, *V. Chair*
 Larry Crouse
 John Lovick
 Jim McCune
 Joyce McDonald
 Mary Helen Roberts

House Local

Government Geoff
 Simpson, *Chair*
 Judy Clibborn, *V. Chair*
 John Ahern
 Lynn Schindler
 Brian Sullivan
 Dean Takko
 Beverly Woods

House Natural

Resources, Ecology & Parks

Brian Sullivan, *Chair*
 Dave Upthegrove, *V. Chair*
 Brian Blake
 Jim Buck
 Richard DeBolt
 Mary Lou Dickerson
 William "Ike" Eickmeyer
 Sam Hunt
 Joel Kretz
 Ed Orcutt
 Brendan Williams

House Rules

Frank Chopp, *Chair*
 Bruce Chandler, *V. Chair*
 Glenn Anderson
 Mike Armstrong
 Brian Blake
 Judy Clibborn
 Doug Ericksen
 Dennis Flannigan
 Bill Grant
 Zack Hudgins
 Sam Hunt
 Lynn Kessler
 John Lovick
 Joyce McDonald
 Dawn Morrell
 Jan Shabro
 Rodney Tom

Standing Committee Assignments

House State Government

Kathy Haigh, *Chair*
Tami Green, *V. Chair*
James Clements
Sam Hunt
Joe McDermott
Mark Miloscia
Toby Nixon
Lynn Schindler
Bob Sump

House Technology, Energy & Communications

Jeff Morris, *Chair*
Derek Kilmer, *V. Chair*
Larry Crouse
Mark Ericks
Larry Haler
Zack Hudgins
Toby Nixon
Pat Sullivan
Bob Sump
Dean Takko
Deb Wallace

House Transportation

Ed Murray, *Chair*
Deb Wallace, *V. Chair*
Sherry Appleton
Jim Buck
Tom Campbell
Richard Curtis
Mary Lou Dickerson
Doug Ericksen
Dennis Flannigan
Shirley Hankins
Zack Hudgins
Fred Jarrett
Derek Kilmer
John Lovick
Jeff Morris
Toby Nixon
Jay Rodne
Lynn Schindler
Mike Sells
Jan Shabro
Geoff Simpson
Mary Skinner
Brian Sullivan
Dean Takko
Dave Upthegrove
Alex Wood
Beverly Woods