

The background of the cover is a detailed aerial map of Olympia, Washington, showing streets, buildings, and parks. Overlaid on the right side of the map is a photograph of the Washington State Capitol building, focusing on its large, ornate dome and the portico with columns below it. The entire image has a teal color cast.

2011

Final Legislative Report

62nd Washington State Legislature

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**Sixty-Second
Washington State Legislature
2010 Second Special Session
2011 Regular Session
2011 First Special Session**

62nd Washington State Legislature



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Statistical Summary

2010 Second Special Session of the 61st Legislature

2011 Regular Session of the 62nd Legislature

2011 First Special Session of the 62nd Legislature

Bills Before Legislature	Introduced	Passed Legislature	Vetoed	Partially Vetoed	Enacted
<i>2010 Second Special Session (December 11 - December 11)</i>					
House	3	1	0	0	1
Senate	2	2	0	0	2
TOTALS	5	3	0	0	3
<i>2011 Regular Session (January 10 - April 22)</i>					
House	1108	225	0	19	225
Senate	953	153	1	6	152
TOTALS	2061	378	1	25	377
<i>2011 First Special Session (April 26-May 25)</i>					
House	18	27	0	3	27
Senate	12	23	0	8	23
TOTALS	30	50	0	11	50
Joint Memorials, Joint Resolutions and Concurrent Resolutions Before Legislature			Introduced	Filed with the Secretary of State	
<i>2010 Second Special Session (December 11 - December 11)</i>					
House			0		0
Senate			1		1
TOTALS			1		1
<i>2011 Regular Session (January 10 - April 22)</i>					
House			39		6
Senate			31		6
TOTALS			70		12
<i>2011 First Special Session (April 26-May 25)</i>					
House			1		1
Senate			3		3
TOTALS			4		4
Initiatives/Referendums					
<i>2010 Second Special Session (December 11 - December 11)</i>					
			0		0
<i>2011 Regular Session (January 10 - April 22)</i>					
			7		2
<i>2011 First Special Session (April 26-May 25)</i>					
			0		0
Gubernatorial Appointments			Referred	Confirmed	
<i>2010 Second Special Session (December 11 - December 11)</i>					
			0		0
<i>2011 Regular Session (January 10 - April 22)</i>					
			167		50
<i>2011 First Special Session (April 26-May 25)</i>					
			7		17

Historical - Bills Passed Legislature

Ten-Year Average				Actual			
	Odd Years	Even Years	Biennial	2010 2 nd Special	2011	2011 1 st Special	2011 Total
House Bills	285	173	458	1	225	27	252
Senate Bills	217	167	384	2	153	23	176
TOTALS	502	340	842	3	378	50	428

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I 1053

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Tax and fee increases imposed by the state.

By People of the State of Washington.

Background: In 1993 voters enacted Initiative 601. Among other things, Initiative 601 required a two-thirds vote of both houses of the Legislature to increase state revenue. The Legislature temporarily suspended the supermajority requirement from March 2002 through June 2003 and again from April 2005 through June 2006.

Initiative 960, enacted by the voters in 2007, restated this requirement for a supermajority legislative vote to increase taxes, and it also declared that under the state Constitution the Legislature may refer tax increases to the voters through the referendum bill process. In addition, Initiative 960 required prior legislative approval of any new or increased state fees. It also established publicity and cost projection requirements for legislation that raises taxes or increases fees, and it required advisory votes for legislation that raises taxes and does not appear on the ballot as a referendum bill or referendum measure.

In 2010 the Legislature suspended until July 1, 2011, the two-thirds vote requirement for state tax increases, and the requirement for advisory votes for tax increases. Provisions of Initiative 960 regarding publicity and cost projection requirements for tax and fee legislation, and prior legislative approval of new fees and fee increases, were not affected by the 2010 legislation.

Summary: Initiative 1053 reinstates and restates the statutory requirement that any action or combination of actions by the Legislature that raises state taxes must be approved by at least two-thirds legislative approval in both houses of the Legislature or by referral to the voters. The initiative also restates the requirement that new or increased state fees must be approved with majority legislative approval in both houses of the Legislature.

Effective: December 2, 2010

I 1107

C 2 L 11

Reversing certain 2010 amendments to state tax laws.

By People of the State of Washington.

Background: Carbonated Beverage Tax. In 1989 the Legislature enacted a tax on carbonated beverages and syrup used to produce carbonated beverages. The tax was effective July 1, 1989, and was originally set to expire on July 1, 1995. The tax was dedicated to the Violence Reduction and Drug Enforcement Account. (This account was eliminated in 2009.) In 1994 the voters modified the tax through the passage of Referendum Bill No. 43. The referendum allowed the carbonated beverage tax to expire as originally scheduled, but increased the tax rate for syrup

and eliminated the original expiration date for the syrup tax.

In 2010 the Legislature, through the enactment of Second Engrossed Substitute Senate Bill 6143 (2ESSB 6143), reestablished a tax on carbonated beverages, effective July 1, 2010, through June 30, 2013. The carbonated beverage tax is imposed on the sale of carbonated beverages at wholesale or retail in Washington. The tax does not apply to successive sales of previously taxed carbonated beverages. The legislation also provided an exemption for the first \$10 million of carbonated beverages sold in the state by a bottler.

Sales and Use Taxes on Bottled Water and Candy. Retail sales and use taxes are imposed by the state, most cities, and all counties. Retail sales taxes are imposed on retail sales of most articles of tangible personal property, digital products, and some services. If retail sales taxes were not collected when the property, digital products, or services were acquired by the user, then use taxes are applied to the value of most tangible personal property, digital products, and some services when used in this state. Use tax rates are the same as retail sales tax rates.

Washington specifically exempts "food and food ingredients" from state and local sales and use taxes. Therefore, any food product included within the definition of "food and food ingredients" is exempt from sales and use taxes. The term "food and food ingredients" is defined to mean substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. Prepared food, soft drinks, and dietary supplements are excluded from the definition and are therefore subject to sales and use taxes. In 2010 the Legislature, through the enactment of 2ESSB 6143, excluded candy and bottled water from the definition of "food and food ingredients," thereby extending state and local sales and use taxes to these items. The sales and use taxes on bottled water are temporary, with the exemption restored on July 1, 2013. The sales and use taxes on candy are permanent. The legislation includes certain narrow exemptions for bottled water. The legislation also includes a business and occupation (B&O) tax credit for candy manufacturers.

Tax Preferences for Manufacturers of Certain Agricultural Products. Washington law provides a preferential B&O tax rate for the business of slaughtering, breaking, or processing of perishable meat products and the wholesaling of such perishable meat products. In *Agrilink Foods, Inc. v. Dep't of Revenue*, 153 Wn.2d 392 (2005), the Washington Supreme Court held that the preferential B&O tax rate applies to the processing of perishable meat products into nonperishable finished products, such as canned food. In 2010 the Legislature, through the enactment of 2ESSB 6143, narrowed the exemption for slaughtering, breaking, or processing perishable meat products, or selling these perishable meat products at wholesale, by

requiring that the end product be either: a perishable meat product; a nonperishable meat product that is comprised primarily of animal carcass by weight or volume other than a canned meat product; or a meat by-product.

A B&O tax exemption is provided for manufacturing by canning, preserving, freezing, processing, or dehydrating fresh fruits or vegetables, and selling such products at wholesale by the manufacturer to purchasers who transport the goods out of state in the ordinary course of business. The exemption expires July 1, 2012, and is replaced by a preferential B&O tax rate. In 2010 the Legislature, through the enactment of 2ESSB 6143, narrowed these tax preferences for fruit and vegetable manufacturers by requiring that the end product be comprised either exclusively of fruits or vegetables, or any combination of fruits, vegetables, and certain other substances that, cumulatively, may not exceed the amount of fruits and vegetables contained in the product measured by weight or volume.

Summary: Carbonated Beverage Tax. The provisions of 2ESSB 6143 (2010) imposing a tax on the retail and wholesale sale of carbonated beverages are repealed. The \$10 million exemption for bottlers as well as the other provisions in 2ESSB 6143 (2010) relating to the carbonated beverage tax are also repealed.

Sales and Use Taxes on Bottled Water and Candy. The provisions of 2ESSB 6143 (2010) eliminating the sales and use tax exemption for candy and bottled water are repealed, i.e. the exemption is restored. The narrow exemptions for bottled water and the B&O tax credit for candy manufacturers are also repealed.

Tax Preferences for Manufacturers of Certain Agricultural Products. The provisions of 2ESSB 6143 (2010) narrowing the B&O tax preferences for processors of meat products and fruits and vegetables are repealed.

Effective: December 2, 2010

HB 1000
PARTIAL VETO
C 348 L 11

Concerning overseas and service voters.

By Representatives Hurst, Stanford, Blake, Finn, Ladenburg, Goodman, Appleton, Pearson and Moeller.

House Committee on State Government & Tribal Affairs
Senate Committee on Government Operations, Tribal Relations & Elections

Background: County auditors must mail ballots to all overseas and service voters at least 30 days before any primary, general election, or special election. Requests for ballots made by overseas or service voters after that day must be processed immediately by the auditor. Ballots must reach the county auditor before the results are certified in order for the votes to count. Certification must

occur no later than 15 days after a primary or special election and no later than 21 days after a general election.

The information on the ballot envelopes for overseas and service voters must contain specified information and instructions, including:

- the date of the signature on the ballot envelope is considered the date of mailing and the envelope must be signed by election day;
- the signed declaration on the envelope is the equivalent of voter registration;
- an overseas or service voter may fax a voted ballot and accompanying envelope if the voter agrees to waive secrecy;
- a ballot sent by fax will be counted if the original ballot documents are received before certification of the election;
- a voter may obtain a ballot via electronic mail, which the voter may return by mail; and
- instructions regarding the use of the electronic ballot must include the website address of the Office of the Secretary of State.

"Service voter" is defined as any voter of the state who is a member of the United States Armed Forces (USAF) either in active service or as a member of the military reserves, a student or faculty member of a United States military academy, a member of the Merchant Marines, or a member of a religious group or welfare agency officially serving with the USAF. "Overseas voter" is defined as any voter of the state outside the territorial limits of the United States.

Summary: Overseas and service voters are authorized to return electronic ballots by fax or electronic mail (e-mail).

County auditors must provide overseas and service voters with a secrecy cover sheet and instructions for returning the ballot and signed declaration by fax or e-mail.

A voted ballot and signed declaration returned by fax or e-mail must be received by 8:00 p.m. on the day of the election or primary.

County auditors must use established procedures to maintain ballot secrecy for those ballots returned by electronic means.

Procedures are established for a registered voter to receive a replacement ballot.

The voted ballots of service and overseas voters that are returned by mail must either be received by the county auditor by 8:00 p.m. on the day of the election or primary or be postmarked no later than the day of the election or primary.

In addition to a ballot and the requisite envelopes, a county auditor must send each voter a declaration that he/she must sign as well as instructions on how to obtain information about the election. By signing the declaration, the voter swears under penalty of perjury that he or she meets the qualifications to vote.

Votes on Final Passage:

House	95	0	
Senate	46	0	(Senate amended)
House	96	0	(House concurred)

Effective: July 22, 2011

Partial Veto Summary: The Governor vetoed section 2, amending an election statute to require county auditors to mail ballots to overseas and service voters at least 30 days before each special election and at least 45 days before each primary or general election. The bill required the statute, as amended, to take effect 90 days following the end of the legislative session. The reason for the veto is that another bill enacted during the 2011 legislative session, Second Engrossed Substitute Senate Bill 5171, contained the same amendment as that in section 2 of House Bill 1000, but with an effective date of January 1, 2012.

VETO MESSAGE ON HB 1000

May 16, 2011

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

Ladies and Gentlemen:

I am returning herewith, without my approval as to Section 2, House Bill 1000 entitled:

"AN ACT Relating to overseas and service voters."

I am vetoing Section 2 of House Bill 1000 because another bill I am signing today amends the same statute regarding the date ballots are mailed to military and overseas voters. Section 16 of Second Engrossed Substitute Senate Bill 5171 contains the same amendment to this statute. Each of these amendments to the statute takes effect on a different date. House Bill 1000 takes effect ninety days after the end of session, whereas Section 16 of Second Engrossed Substitute Senate Bill 5171 takes effect January 1, 2012. The Secretary of State has stated that the statutory amendment should take effect in 2012 to correspond with other election date changes in Second Engrossed Substitute Senate Bill 5171.

For this reason I have vetoed Section 2 of House Bill 1000.

With the exception of Section 2, House Bill 1000 is approved.

Respectfully submitted,



Christine O. Gregoire
Governor

SHB 1008

C 254 L 11

Changing provisions relating to membership on the Washington citizens' commission on salaries for elected officials.

By House Committee on State Government & Tribal Affairs (originally sponsored by Representatives Appleton and Hunt).

House Committee on State Government & Tribal Affairs
Senate Committee on Government Operations, Tribal Relations & Elections

Background: The Washington Citizens' Commission on Salaries for Elected Officials (Commission) is an

appointed body responsible for biennially creating a proposed schedule of salaries for specified state officials. The elected officials subject to the salary proposals of the Commission include:

- members of the Legislature;
- elected officials of the executive branch of state government; and
- judges of the Supreme Court, courts of appeals, superior courts, and district courts.

The Commission consists of 16 members appointed by the Governor pursuant to specified selection procedures involving the Secretary of State, the Speaker of the House of Representatives, and the President of the Senate. Nine members must be registered voters from each of the nine congressional districts in Washington. Seven members must be members of specified professions with experience in personnel management. Specified categories of individuals are ineligible for membership on the Commission, including:

- state officials;
- public employees;
- lobbyists; or
- immediate family members of a state official, public employee, or lobbyist.

"Immediate family" is defined by statute to mean the parents, spouse or domestic partner, siblings, children, or dependent relative of a state official, public employee, or lobbyist.

Summary: As it applies to public employees, the definition of "immediate family" is narrowed to include only the parent, spouse or domestic partner, sibling, child, or other dependent relative of the employee who is either living in the household of the employee or is financially dependent, in whole or in part, upon the earnings of the state employee.

Statutory provisions regarding the composition of the Commission are revised to allow the appointment of an additional member representing the forthcoming new congressional district.

Votes on Final Passage:

House	57	41	
Senate	47	1	(Senate amended)
House	54	42	(House concurred)

Effective: July 22, 2011

HB 1012
C 59 L 11

Authorizing four-year terms for planning commissioners.

By Representatives Angel, Haler, Klippert, Fagan, Rolfes and Fitzgibbon.

House Committee on Local Government
Senate Committee on Government Operations, Tribal Relations & Elections

Background: A city, town, or county may create a planning commission to provide its legislative authority with citizen review and recommendations on planning-related matters. While the local government entity has broad authority to define the role of its commission, planning commissions often have two distinct functions. First, they may prepare and revise the community's comprehensive plan and local land use regulations, such as the zoning or subdivision code. Second, they may review development proposals, such as site plans and subdivisions, and make recommendations to the local governing body.

Commission membership falls into two categories: ex officio and appointive. Ex officio members are members by virtue of the public office they hold and may not comprise more than one-third of commission membership. Appointive members are appointed by the mayor or chair of the municipality and confirmed by the legislative body. A member's term in office depends on his or her category of membership and the longevity of the commission:

1. The terms of office for ex officio members correspond with their tenures in elected office.
2. The terms of office for the first appointive members to a newly-established commission range from one to six years, to provide for the expiration of the fewest possible terms in one year.
3. The terms of office for appointive members to established commissions are six years.

Summary: A city, town, or county legislative authority may establish a four-year or a six-year term of office for appointive members of an established planning commission. Terms of office for the first appointive members to a newly-established planning commission will continue to range from one to six years.

Votes on Final Passage:

House	88	0
Senate	48	0

Effective: July 22, 2011

HB 1016
C 13 L 11

Changing restrictions on firearm noise suppressors.

By Representatives Blake, Condotta, Armstrong, Shea, Kretz, Klippert, McCune, Takko, Van De Wege, Dunshee, Probst, Llias, Miloscia, Finn, Hurst, Springer, Goodman, Rodne, Orcutt, Haigh, Dickerson, Taylor, Warnick, Hope, Dammeier, Kristiansen, Chandler, Ross, Sells and Upthegrove.

House Committee on Judiciary
Senate Committee on Judiciary

Background: Washington law does not regulate the possession of firearm suppressors. However, it is a gross misdemeanor crime in Washington for any person to use "any device or contrivance for suppressing the noise of any firearm."

Under federal law, the National Firearms Act (NFA) regulates the manufacture, importation, and transfer of firearm silencers and mufflers, as well as certain firearms, destructive devices, and other weapons. Items regulated under the NFA are referred to as NFA firearms. The NFA firearms must be registered in a database maintained by the Bureau of Alcohol, Tobacco, Firearms, and Explosives (BATFE). Only the manufacturer, importer, or maker of the NFA firearm may register it with the BATFE.

A person wishing to acquire a firearm silencer or other NFA firearm has to obtain a certification from the local chief law enforcement officer, undergo a background check, obtain prior approval for the transfer, and pay a \$200 tax on the transaction. Under the NFA, a person is allowed to make his or her own silencer or other NFA firearm by applying to the BATFE and meeting certain requirements. These requirements include: obtaining prior approval and registration of the item, obtaining a certification from the chief of the local law enforcement agency, undergoing a background check, and paying a \$200 tax on the item.

Federal law defines the term "firearm silencer or firearm muffler" as "any device for silencing, muffling, or diminishing the report of a portable firearm, including any combination of parts, designed or redesigned, and intended for the use in assembling or fabricating a firearm silencer or firearm muffler, and any part intended only for use in such assembly or fabrication."

Summary: The crime of using a contrivance or device for suppressing the noise of a firearm is amended to exempt the use of a suppressor that is legally registered and possessed in accordance with federal law.

Votes on Final Passage:

House	88	4
Senate	47	0

Effective: July 22, 2011

SHB 1024

C 123 L 11

Adding to the scenic and recreational highway system.

By House Committee on Transportation (originally sponsored by Representatives Fagan, Schmick, Armstrong, Clibborn, Lias, Frockt and Moeller).

House Committee on Transportation
Senate Committee on Transportation

Background: The Scenic and Recreational Highway System was created by statute in 1967. The process was modified in 1999 to improve Washington highways' competitiveness under the federal National Scenic Byways Program within the Transportation Equity Act for the 21st Century. A highway does not become part of the Scenic and Recreational Highway System unless approved by the Legislature.

Two sections of State Route 27 are designated as a scenic and recreational highway; no sections of State Route 278 are so designated.

Summary: One section of State Route 27 that is designated as a scenic and recreational highway is extended by approximately 20 miles to the vicinity of Rockford. In addition, about five miles of State Route 278 are designated as a scenic and recreational highway.

Votes on Final Passage:

House	92	0
Senate	49	0

Effective: July 22, 2011

ESHB 1026

C 255 L 11

Changing provisions relating to adverse possession claims.

By House Committee on Judiciary (originally sponsored by Representatives Rolfes, Orcutt, Carlyle, Blake, Angel and McCune).

House Committee on Judiciary
Senate Committee on Judiciary

Background: The doctrine of adverse possession allows a person who without permission physically possesses another's land to make a legal claim against the title holder in order to gain title to the property. For a person to make a successful claim, he or she must have sufficiently possessed the property for a set period of time and meet several additional conditions stemming both from common law and state statutes. Adverse possession claims often arise as a defense to actions for ejectment or to quiet title to a parcel.

Statutes of Limitations. Washington law generally requires plaintiffs or their predecessors to have possessed the land at issue for at least 10 years before an adverse

possession action is commenced. In certain situations, state statutes reduce the length of possession necessary. The "payment-of-taxes" statute allows an adverse possessor to gain title in only seven years if, in addition to meeting the usual common-law requirements, he or she has "color of title," has paid all taxes on the land for seven successive years, and has a "good faith" belief that he or she has title. The less-commonly used "connected-title" statute reduces the period to seven years for a possessor who has a title to the land traceable to a public deed.

Common-Law Elements. Judicial decisions generally require an adverse possession to be: (1) open and notorious, such that possession is visible and discoverable to the true owner; (2) actual and uninterrupted, requiring sufficient physical possession or use of the land over a continuous, specified length of time; (3) exclusive, or not shared with the true owner; and (4) hostile, or objectionable to the owner of the land considering the character of possession and locale of the property. Courts presume the holder of legal title to the land has possession, so the party claiming to have adversely possessed the property has the burden of establishing the existence of each element for the requisite period. In Washington, courts do not take account of the adverse possessor's good faith belief, or lack thereof, that he or she owns the land.

Costs and Fees. Adverse possession claimants generally are not required to pay defending parties' legal costs or attorneys' fees. When a landlocked property owner wants to acquire access through a private condemnation of a way of necessity, however, the owner must pay attorneys' fees incurred by the other parties, and for the value of the easement granted.

Summary: A party who prevails against the holder of recorded title at the time an adverse possession action is filed, or against a later purchaser of the title, may be required to reimburse that holder or purchaser for part or all of any taxes and assessments on the property that the losing party paid during the period of adverse possession. The court also may require the prevailing party to pay to the county treasurer part or all of any taxes and assessments levied on the property after the filing of the claim that are due and remain unpaid at the time of judgment. If the court orders payment or reimbursement of taxes and assessments, the court must decide how to allocate the taxes and assessment based on all the facts and in a way that appears equitable and just.

The court may award costs and reasonable attorneys' fees to the prevailing party in an action asserting title to real property by adverse possession if the court determines that an award is equitable and just.

This act applies to adverse possession actions filed on or after July 1, 2012.

EHB 1028

Votes on Final Passage:

House	95	1	
Senate	48	0	(Senate amended)
House			(House refused to concur)
Senate	47	0	(Senate amended)
House	96	1	(House concurred)

Effective: July 22, 2011

EHB 1028

C 14 L 11

Using state correctional facility populations to determine population thresholds for certain local government purposes.

By Representatives Schmick, Takko, Fagan, Springer, Kretz, Shea, Blake and McCune.

House Committee on Local Government
Senate Committee on Government Operations, Tribal Relations & Elections

Background: City Council Membership. The Optional Municipal Code (Code) specifically provides for two plans of government for noncharter code cities: the mayor-council plan and the council-manager plan. Under both plans, the Code limits the number of council members in a noncharter code city according to the population of that city.

For the purpose of determining population thresholds, the population of a code city is determined by reference to either the most recent state or federal census, or the population statistics compiled by the Office of Financial Management. State law is silent as to whether the inmates of a state correctional facility located within a code city or town may be counted as part of the population threshold determination.

In a charter code city operating under the mayor-council or council-manager form of government, the number of council members is controlled by the charter, which may provide for an uneven number of council members not to exceed 11.

In a noncharter code city operating under either form of government, the number of council members varies according to population. A city with a population of fewer than 2,500 inhabitants is required to have five council members, and a city with a population of greater than 2,500 inhabitants is required to have seven council members. For a city with a fluctuating population, the following rules apply:

- If the population decreases from 2,500 or more inhabitants to fewer than 2,500, council membership remains at seven.
- If the population increases from fewer than 2,500 inhabitants to more than 2,500 inhabitants, the existing council may vote to increase council membership from five to seven.

- If the population increases to 5,000 or more inhabitants, council membership is required to increase from five to seven members.

Small City Pavement and Sidewalk Account. State law provides for the Small City Pavement and Sidewalk Account (Account) in the state treasury. Cities and towns with a population of fewer than 5,000 inhabitants are eligible to receive money from the Account for the maintenance, repair, and resurfacing of city and town streets. State law is silent as to whether the inmates of a state correctional facility located within a code city or town may be counted as part of the population threshold determination.

Summary: A code city or town with a mayor-council form or council-manager form of government may include or exclude the population of any state correctional facility within its jurisdiction in calculating the population thresholds pertinent to determining the requisite number of city council members.

A city or town may include or exclude the population of any state correctional facility within its jurisdiction in calculating the population thresholds relevant to determining its eligibility to obtain funding from the Account.

Votes on Final Passage:

House	87	5
Senate	47	0

Effective: July 22, 2011

HB 1031

C 182 L 11

Requiring the county auditor to send voters a security envelope that conceals the ballot.

By Representatives Armstrong, Orwall, Johnson, Crouse, Appleton, Condotta, Eddy, Clibborn, Haler, Ormsby, Nealey, Klippert, Miloscia, Fagan, Alexander, Taylor, Bailey, Angel, Finn, Warnick, Rodne, Orcutt, Walsh, Pearson, Green, McCoy, McCune, Schmick, Smith, Goodman, Asay, Ross, Blake, Short, Kagi, Hope, Takko, Kristiansen, Reykdal, Frockt, Ladenburg, Rolfes, Shea, Hunt, Hurst and Moeller.

House Committee on State Government & Tribal Affairs
Senate Committee on Government Operations, Tribal Relations & Elections

Background: When voting by mail, a voter receives a ballot, a security envelope, and a return envelope. The purpose of the security envelope is to provide secrecy of the ballot. Voters are instructed to place the ballot in the security envelope, and then to place the security envelope in the return envelope. The return envelope provides space for the voter to sign the oath to affirm and attest to the statements regarding the voter's qualifications.

Summary: A change is made to distinguish that the security envelope must "conceal" rather than "seal" the ballot.

Votes on Final Passage:

House 96 0
 Senate 41 7

Effective: July 22, 2011

SHB 1037

C 220 L 11

Placing restrictions on legal claims initiated by persons serving criminal sentences in correctional facilities.

By House Committee on Judiciary (originally sponsored by Representatives Ross, Johnson, Bailey, Upthegrove, Hurst, Armstrong, Walsh, Hinkle, Angel, Warnick, Schmick, Short, Klippert, Dammeier, McCune, Fagan, Nealey, Blake, Ladenburg, Kristiansen, Pearson, Tharinger and Moeller; by request of Attorney General).

House Committee on Judiciary
 House Committee on General Government
 Appropriations & Oversight
 Senate Committee on Human Services & Corrections

Background: Generally, a person must pay a filing fee to the court in order to commence a civil lawsuit. However, a person who is indigent may ask the court to proceed in an action "in forma pauperis." In forma pauperis, a Latin phrase meaning "in the form of a pauper," is a designation allowing a person who is indigent to maintain a court action without having to pay fees for filing the action.

In 1996 as one part of the federal Prison Litigation Reform Act (PLRA), the United States Congress enacted limitations on the ability of a prisoner who has brought a number of prior court actions that were found to be frivolous or without basis to bring subsequent actions in forma pauperis.

Under the PLRA, a prisoner who has had three or more cases dismissed as frivolous, malicious, or failing to state a claim for relief, may not proceed in forma pauperis in a civil action or appeal unless the prisoner is under imminent danger of serious physical injury. This provision of the PLRA is often referred to as the "three strikes" provision. "Prisoner" is defined as a person incarcerated or detained in any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms of parole, probation, pretrial release, or a diversionary program.

A frivolous action is one that cannot be supported by any rational argument on the law or facts. An action fails to state a claim for relief when it appears beyond doubt that the plaintiff can prove no set of facts consistent with the complaint that would entitle the plaintiff to relief.

Summary: Limitations are established on the ability of a person serving a criminal sentence in a federal, state, local, or private correctional facility (correctional inmate) to proceed in certain civil actions or appeals without payment of filing fees.

A court must deny a request from a correctional inmate to proceed without the payment of filing fees in a civil action or appeal against governmental entities or their officers, employees, or volunteers, if the court finds that the correctional inmate, while incarcerated or detained, has had three or more prior civil actions or appeals dismissed by a federal or state court on the grounds that they were frivolous or malicious. One of the three dismissals must have involved an action or appeal commenced on or after the effective date of the act.

This restriction on a correctional inmate's ability to proceed without paying filing fees does not apply to actions or appeals that, if successful, would affect the duration of the person's confinement, or to actions or appeals where the court finds that the correctional inmate is in imminent danger of serious physical injury.

Votes on Final Passage:

House 98 0
 Senate 49 0 (Senate amended)
 House (House refused to concur)
 Senate 47 0 (Senate receded)

Effective: July 22, 2011

HB 1040

C 183 L 11

Regarding the use of electronic signatures and notices.

By Representatives Pedersen, Armstrong, Kirby, Warnick, Kelley and Hunt; by request of Secretary of State.

House Committee on Judiciary
 Senate Committee on Judiciary

Background: Notices to Business Entities. The Corporations Division of the Office of the Secretary of State (OSOS) administers a variety of programs, including the licensing and registration of domestic corporations, foreign corporations doing business in the state, corporations sole, charitable organizations, and commercial fundraisers. Business entities licensed with the OSOS must file certain documents, such as their annual reports, with the OSOS. The OSOS must send notices to these business entities to renew their registrations and file their reports. These notices must be sent by postal mail.

Digital Signatures. The OSOS also administers the Electronic Authentication Act (EAA), which governs the use of digital signature technology in electronic transactions and creates a process for the OSOS to license entities that verify the authenticity of digital signatures. These entities are called certification authorities.

Digital signature technology is an encryption system used to protect the confidentiality of an electronic document and authenticate its source. The technology operates on the basis of digital keys or codes. These keys must be certified for their authenticity. Licensed certification authorities issue the certificates of authenticity.

ESHB 1041

Under the EAA, a unit of state or local government must become a subscriber to a certificate issued by a licensed certification authority if the governmental entity's signature is required to conduct official public business with electronic records.

Summary: Notices to Business Entities. The OSOS may send notices of registration renewals and notices to file annual or biennial reports to certain business entities using either postal or electronic mail, as elected by the business entity. Those business entities are charitable organizations and commercial fundraisers registered with the OSOS, domestic corporations, foreign corporations doing business in the state, and corporations sole. The option to receive the notice by electronic mail may be selected only when the OSOS makes the option available.

Digital Signatures. Governmental entities may, but are no longer required to, be subscribers to a certificate issued by a licensed certification authority.

Votes on Final Passage:

House	92	0	
Senate	47	0	(Senate amended)
House	97	0	(House concurred)

Effective: July 22, 2011

ESHB 1041

C 221 L 11

Including certain correctional employees and community corrections officers who have completed government-sponsored law enforcement firearms training to the lists of law enforcement personnel that are exempt from certain firearm restrictions.

By House Committee on Judiciary (originally sponsored by Representatives Green, Angel, Goodman, McCune, Kelley, Hope, Dammeier, Warnick, Blake, Hurst, Moeller and Upthegrove).

House Committee on Judiciary
Senate Committee on Judiciary

Background: State law regulates the possession, use, and transfer of firearms and other weapons under the Firearms and Dangerous Weapons law. Among other things, this law imposes restrictions on the carrying of certain firearms and prohibits possession of weapons in certain places.

A person is prohibited from carrying a concealed pistol in Washington unless the person has a valid concealed pistol license. In addition, there are restrictions on the carrying of pistols in vehicles. A person may not carry a loaded pistol in a vehicle unless the person has a concealed pistol license and either the pistol is on the person, the person is within the vehicle at all times the pistol is present, or the pistol is locked within the vehicle and concealed from view. An unloaded pistol kept in a

vehicle must be locked within the vehicle and concealed from view.

A number of exemptions are provided from the requirements relating to carrying concealed pistols and carrying pistols in a vehicle. Marshals, sheriffs, prison or jail wardens or their deputies, or other law enforcement officers of this state or another state are exempted, as are retired Washington law enforcement officers. Also exempted are federal officers and military members, persons engaged in various firearms manufacturing or dealing jobs, and persons engaged in various activities such as sport shooting, gun collecting, or outdoor recreation.

The Firearms and Dangerous Weapons law also prohibits possession of weapons in certain places. Weapons are prohibited in court facilities, taverns and bars, and restricted areas of jails and law enforcement facilities, public mental health facilities, and commercial airports. "Weapons" include firearms, explosives, spring-blade knives, daggers, dirks, sling shots, sand clubs, and metal knuckles. There is an exemption from these restrictions for law enforcement personnel, and for military and security personnel while engaged in official business.

Summary: Correctional personnel and community corrections officers who have completed government-sponsored law enforcement firearms training are exempt from restrictions on carrying a concealed pistol and carrying a pistol in a vehicle. The exemption applies only if the correctional employee or community corrections officer has had a background check through the National Instant Criminal Background Check System or an equivalent background check within the past five years. Correctional personnel and community corrections officers seeking this waiver are required to pay for any background check that is needed in order to exercise the waiver.

Correctional personnel and community corrections officers who have completed government-sponsored law enforcement firearms training also are exempt from restrictions on possession of weapons in court facilities and restricted areas of jails and law enforcement facilities, public mental health facilities, and commercial airports. Correctional personnel are not exempt from the restriction on possessing weapons in taverns and bars. The government-sponsored law enforcement firearms training must be training that is received as part of the job requirement and reference to such training does not constitute a mandate that it be provided by the correctional facility.

The state, local governments, and their officers, employees, and agents, are not liable for damages caused by the use or misuse of a firearm by off-duty correctional personnel or community corrections officers based on a claim of negligence in the provision of government-sponsored firearms training.

Votes on Final Passage:

House	84	13	
Senate	48	0	(Senate amended)
House	92	4	(House concurred)

Effective: July 22, 2011

SHB 1046

C 326 L 11

Concerning vehicle and vessel quick title.

By House Committee on Transportation (originally sponsored by Representatives Moeller, Condotta and Morris).

House Committee on Transportation
Senate Committee on Transportation

Background: Vehicle and vessel title changes in Washington can be made at a county auditor's office, or offices of other agents or subagents, or at the Department of Licensing (DOL). The applicant must fill out a Vehicle or Vessel Certificate of Ownership Application. Documentation and the required taxes and fees are collected at the location and sent to the DOL. Seven county auditors in Washington (Benton, Clark, Franklin, Kitsap, Pierce, Spokane, and Whatcom counties) prepare quick titles, which are titles that are processed by the counties and given to the applicant immediately.

Summary: A quick title is defined as a certificate of ownership printed at the time of application.

A \$50 fee is charged by the participating county auditor or other agent; \$25 is retained by the county treasurer in the same manner as other fees collected by the county auditor, and the remaining \$25 is deposited into the Motor Vehicle Fund for a vehicle and the General Fund for a vessel. If the fee is paid directly to the DOL, the entire fee of \$50 must be deposited into the Motor Vehicle Fund for a vehicle and into the General Fund for a vessel.

The application for a quick title may not be used to obtain the first title issued to a vehicle previously designated as a salvage vehicle.

The application for a quick title must be submitted by the owner or owner's representative to the DOL, participating county auditor, or other agent appointed by the DOL Director on a form furnished or approved by the DOL.

Subagents are allowed to perform quick title transactions providing that:

- the county auditor or agent is providing quick title services in the county in which the subagent is located for at least six months;
- the county auditor or other agent has selected the subagent to perform quick title services; and
- the DOL has instituted a process in which blank certificates of title can be inventoried.

All applications for a quick title must meet the requirements established by the DOL. The act applies to quick title transactions processed on and after January 1, 2012.

Votes on Final Passage:

House	58	40	
Senate	41	8	(Senate amended)
House			(House refused to concur)
Senate	39	9	(Senate amended)
House	70	26	(House concurred)

Effective: January 1, 2012

SHB 1048

C 60 L 11

Making technical corrections needed as a result of the recodification of campaign finance provisions.

By House Committee on State Government & Tribal Affairs (originally sponsored by Representative Hunt).

House Committee on State Government & Tribal Affairs
Senate Committee on Government Operations, Tribal Relations & Elections

Background: In 2010 a bill was enacted that reorganized and recodified laws pertaining to campaign finance disclosure and contributions. The recodified campaign finance laws become effective January 1, 2012.

Summary: Technical changes are made to various statutes to correct cross-references and double amendments resulting from changes to campaign finance disclosure laws and contributions. No policy changes are made.

Votes on Final Passage:

House	98	0
Senate	49	0

Effective: January 1, 2012

SHB 1051

C 327 L 11

Amending trusts and estates statutes.

By House Committee on Judiciary (originally sponsored by Representatives Pedersen, Rodne, Eddy, Goodman, Kelley and Moeller; by request of Washington State Bar Association).

House Committee on Judiciary
Senate Committee on Judiciary

Background: Trusts are a means of transferring property. A trust is created by a trustor, who gives the trustor's property to a trustee. The trustee holds legal title to the property, but only manages the property for the benefit of other individuals specified by the trustor (beneficiaries). The beneficiaries hold equitable title to the property, meaning the beneficiaries enjoy the property, but do not have control over the trustee or how the trustee manages the

legal title. Trusts may be made revocable or irrevocable by the trustor. Revocable living trusts are commonly used as an alternative to traditional wills as a way to pass property upon death.

Washington's laws of trusts and estates exist in both statute and common law. Washington statutes govern a range of trust issues, including the authority of trustees, trust administration, distribution of assets, liability issues, and the investment of trust funds. In 1999 the Trust and Estate Dispute Resolution Act was enacted, which updated and revised the laws on resolving trust disputes.

The National Conference of Commissioners on Uniform State Laws has proposed a Uniform Trust Code (UTC) for the purpose of providing a consistent and integrated framework of rules to deal with trusts. The Washington State Bar Association's Executive Committee of the Real Property, Probate and Trust Section appointed a task force to review the official version of the UTC and Washington's current trust laws. The task force recommended several amendments and additions to Washington's trust laws, including amending current sections and adopting new sections to change current law and adopting new sections to codify preexisting common law.

Summary: Changes are made to many aspects of trust and estate law, and several areas of preexisting common law are codified.

Trust Situs. The situs of a trust, or its location, is Washington if the trust instrument designates Washington as the situs and the trust has at least one connection to the state. A list of possible connections are set forth. If the trust instrument does not designate Washington as the situs, the trustee may register the trust in the state as long as the trust has a connection to the state. If there is no designation and the trustee does not register the trust, then the trust may qualify as a Washington trust in certain circumstances.

The transfer of the trust situs is permissible if the new jurisdiction has a connection to the trust. The trustee must provide beneficiaries with 60 days advance notice. If the beneficiaries do not object within that period, the trust situs may be transferred, and consent of the beneficiaries is no longer required.

Venue for Proceedings. Venue for court proceedings is in the county where the beneficiary resides, where the trustee resides or has a place of business, or where the real property of the trust is located. If the trust was created by a will, then venue can be in the county where the will was administered. Venue may be changed by request within four months of a notice of court proceedings. Venue must be changed to the county with the strongest connection to the trust, rather than being determined by the location of the trust situs or of the county where the letters testamentary were granted to a personal representative of an estate subject to a will.

Trustee's Duty to Give Notice. When a trust becomes irrevocable, the trustee must provide notice to all persons

with an interest in the trust regarding the existence of the trust and their right to request information. The trustee must continue to keep all interested persons reasonably informed about the administration of the trust and the material facts necessary for them to protect their interests.

Electronic transmission, or e-mail, is added as an acceptable delivery method for all required notices.

Statute of Limitations. A beneficiary's claims against a trustee for breach of trust must be commenced within three years from the date the beneficiary was sent a report that adequately disclosed the existence of a potential claim and informed the beneficiary of the time allowed for commencing a proceeding. The criteria for providing adequate disclosure are set forth. If the beneficiary did not receive adequate disclosure, then the proceeding must be commenced within three years from the earlier of: the discharge of the trustee; the termination of the beneficiary's interest in the trust; or the termination of the trust.

Certification of a Trust. When a person other than a beneficiary requests information regarding the trust, the trustee may provide the person a certification of trust containing information in accordance with the provided list.

Termination of a Trust. Before terminating a trust, a trustee may send notice to the beneficiaries of the proposed plan for termination and distribution of the remaining assets. After receiving notice of the plan, the beneficiary has 30 days to object to the distribution.

Virtual Representation. Virtual representation refers to circumstances where an individual can be represented by a decision-making process without the ability to participate. Virtual representation is extended to apply to notice to fiduciaries where the fiduciary estate is the interested party.

Damages for Breach. A trustee who commits a breach of trust is liable for the greater of the amount required to restore the value of the property or the profit the trustee made.

Correction of Mistakes. The courts may change the terms of a trust to conform to the trustor's intent if it is proved by clear, cogent, and convincing evidence that a mistake of fact or law affected both the trustor's intent and the terms of the trust. The courts may also change the terms to conform to the trustor's intent if the parties to a binding nonjudicial agreement agree that there is clear, cogent, and convincing evidence to the same effect.

Noncharitable Trusts Without Beneficiaries. Non-charitable trusts without ascertainable beneficiaries are enforceable as long as there is a valid purpose and the trust complies with the rule against perpetuities.

Revocable Living Trusts. A new chapter is created in the code to supplement trust laws for revocable living trusts. The chapter codifies the common law related to amending or revoking revocable living trusts and the limitations of actions on the validity of a revocable living trust.

A beneficiary may commence judicial proceedings to contest the validity of a revocable living trust within the earlier of 24 months after the trustor's death or four months after receiving notice of the trust.

Codifying Areas of Common Law. Several other areas of the common law on trusts and estates are codified and clarified, including the methods and requirements for creating a trust, trusts in other jurisdictions, the purposes of a trust, oral trusts, trustees' authority and duty of loyalty, the nonliability of third parties acting in good faith, and the cy pres doctrine.

Votes on Final Passage:

House	98	0	
Senate	48	0	(Senate amended)
House	96	0	(House concurred)

Effective: January 1, 2012

HB 1052
C 328 L 11

Addressing the authority of shareholders and boards of directors to take certain actions under the corporation act.

By Representatives Pedersen, Rodne, Eddy and Moeller; by request of Washington State Bar Association.

House Committee on Judiciary
Senate Committee on Judiciary

Background: The Washington Business Corporations Act (WBCA) provides requirements for the creation, organization, and operation of corporations and the relationship between shareholders, directors, and officers of the corporation. Many of the provisions of the WBCA provide default rules that may be altered or modified in the corporation's articles of incorporation or bylaws. The articles of incorporation and the bylaws are the governing documents for the corporation and set forth rules with respect to numerous organizational and operational issues.

Board of Directors, Shareholders, and Bylaws. The WBCA requires a corporation to have a board of directors unless the articles of incorporation dispense with the board of directors. All corporate powers must be exercised by or under the authority of the board of directors, and the business and affairs of the corporation must be managed under the direction of the board of directors, except as limited by the articles of incorporation. However, the WBCA authorizes shareholders to enter into unanimous shareholder agreements that may eliminate or restrict the power of the board of directors.

The bylaws of a corporation may contain any provision that is not in conflict with law or the articles of incorporation. The board of directors has authority to adopt, amend, or repeal bylaws, unless that power is specifically reserved for the shareholders under the articles of incorporation or the WBCA, or unless the shareholders in adopting or amending a bylaw specifically provide that the

particular bylaw may not be amended by the board of directors. Shareholders also have concurrent authority to amend or repeal bylaws, or adopt new bylaws.

Indemnification Rights. The WBCA contains a number of provisions requiring or allowing indemnification of directors, officers, employees, or agents of the corporation for expenses and liabilities they incur as a result of their positions with the corporation. Unless the articles of incorporation provide otherwise, a corporation must indemnify a director or officer for reasonable expenses incurred if the director or officer was wholly successful in the defense of a proceeding. A corporation has discretion to indemnify or advance expenses to a director for any liability or expenses incurred in a proceeding as long as certain standards of conduct are met. In addition, a corporation has broad discretion to indemnify and advance expenses to officers, employees, or agents of the corporation as provided in its articles of incorporation or bylaws, or through action of the board.

"Force the Vote" Agreements. A "force the vote" agreement is a provision in an agreement regarding a proposed corporate action that requires the board of directors to submit the proposed corporate action to a vote of the shareholders even if the board of directors determines later that it no longer recommends the action. "Force the vote" agreements are often used as deal protection devices in merger agreements. In 2008 the Committee on Corporate Laws of the American Bar Association Section on Business Law adopted amendments to the Model Business Corporations Act authorizing corporations to enter into agreements containing "force the vote" provisions.

Under the WBCA, there are a number of corporate actions that may be taken by the board of directors only upon approval of the shareholders. These include: (a) amendments to some provisions of the articles of incorporation; (b) mergers or share exchanges; (c) the sale of the assets of the corporation other than in the regular course of business; and (d) dissolution of the corporation.

With respect to all of these actions, the WBCA requires the board of directors to recommend adoption of the proposed action to the shareholders unless the board of directors determines that it should make no recommendation because of a conflict of interest or other special circumstances. It is not clear whether "force the vote" agreements are valid under these requirements in the WBCA.

Summary: Revisions are made to provisions of the WBCA governing the powers of the board of directors, content and adoption of bylaws, indemnification rights for directors, officers, employees, and agents, and authority of corporations to enter into "force the vote" agreements.

Board of Directors, Shareholders, and Bylaws. The authority of the board of directors is revised to explicitly state that the board of directors has exclusive authority as to the substantive decisions concerning management of the corporation's affairs.

Provisions governing the content of bylaws, and the authority of the board of directors and shareholders to adopt, amend, or repeal bylaws, are amended to specifically state that bylaws may not contain a provision that infringes upon the exclusive authority of the board of directors to make substantive decisions concerning the management of the corporation's business. In addition, these provisions are revised to reference the right of shareholders to alter these rules through unanimous shareholder agreements.

Indemnification Rights. A new provision is added to the WBCA governing the vesting of rights to indemnification or advancement of expenses for directors, officers, employees, or agents of a corporation. A right to indemnification or advancement of expenses that is provided in the articles of incorporation or the bylaws may not be eliminated or impaired after occurrence of the act or omission that is the basis of the proceeding for which indemnification or advancement of expenses is sought, unless the provision specifically authorizes elimination of the right after the act or omission occurs.

"Force the Vote" Agreements. A new provision is added authorizing a corporation to agree to submit a corporate action to a vote of the shareholders whether or not the board of directors determines after approving the corporate action that the board no longer recommends the action. Conforming amendments are made to provisions of the WBCA governing amendments to the articles of incorporation, plans of merger or share exchanges, the sale of assets other than in the regular course of business, and dissolution. For any of these corporate actions, the board of directors may submit the proposed action to the shareholders without recommending approval of the action if the corporation has agreed to submit the proposed action to the shareholders for approval.

Votes on Final Passage:

House	98	0
Senate	46	0

Effective: July 22, 2011

SHB 1053
PARTIAL VETO
C 329 L 11

Implementing recommendations from the Washington state bar association elder law section's executive committee report of the guardianship task force.

By House Committee on Judiciary (originally sponsored by Representatives Moeller, Kenney, Ladenburg, Appleton, Roberts, Darneille and Upthegrove; by request of Washington State Bar Association).

House Committee on Judiciary
House Committee on General Government
Appropriations & Oversight

Senate Committee on Judiciary

Background: Guardianship is a legal process through which a guardian is given the power to make decisions for a person who is determined to be "incapacitated" and therefore unable to take care of himself or herself. A person may be incapacitated if the individual is at a significant risk of financial harm because of an inability to manage his or her property or financial affairs or has a significant risk of personal harm because of an inability to provide for nutrition, health, housing, or physical safety.

Appointment of a Guardian. The court may establish a guardianship over the person, the person's estate, or both. The court may also establish a limited guardianship for persons who need protection or assistance because of an incapacity, but who are capable of managing some of their affairs. Any adult person residing in Washington may serve as a guardian unless the person is of unsound mind, has been convicted of a crime of moral turpitude, or is found unsuitable by the court. Professional guardians must be certified by the Certified Professional Guardian Board (Board) and must meet certain education, experience, and training requirements established by the Board.

Guardians or limited guardians must inform the court of a designated standby guardian to serve the incapacitated individual if the original guardian dies or becomes incapacitated. When a court appoints a standby guardian, the court must issue letters of guardianship authorizing the standby guardian to act on behalf of the incapacitated person. There is no explicit statutory requirement to issue letters of guardianship to guardians or limited guardians.

Intermediate and Final Reports. Guardians and limited guardians must file annual reports regarding the status of an incapacitated person's well-being. While guardians and limited guardians of estates typically must file accounts annually, the courts may schedule the filing requirement at intervals of up to 36 months if the value of the estate does not exceed more than twice the homestead exemption. Guardians of estates belonging to minors need not file accounts unless the guardian has withdrawal powers.

Upon the termination of a guardianship, guardians and limited guardians must file a final report and/or account within 30 days of the termination of the guardianship and petition the court for an order settling an account within 90 days of the termination.

Recommendations of the Washington State Bar Association. In 2007 the Elder Law Section of the Washington State Bar Association formed a task force to examine the performance of the guardianship system in Washington. The task force issued a final report containing recommendations for legislation.

Summary: The guardianship laws are amended in several areas, including requiring guardians and limited guardians to complete training, requiring courts to issue letters of guardianship and review accounts and reports filed by guardians and limited guardians, and creating deadlines

for certain guardianship proceedings. A filing fee is created for accounts of certain guardianship estates.

Guardianship Appointments. Guardians or lay guardians who are not certified professional guardians or financial institutions must complete any training made available by the Administrative Office of the Courts or the superior courts in the form of a video or webcast at no cost to guardians or limited guardians. An extension for or a good cause waiver of the completion of the training requirement may be granted to guardians who were appointed prior to the act's effective date and who already possess the requisite knowledge to serve as a guardian without completing training. A list of factors is provided for the court to consider when determining whether good cause exists to grant a waiver.

A guardian or limited guardian may not act on behalf of an incapacitated person without valid letters of guardianship. The court may issue letters of guardianship that are valid for a period of up to five years from the anniversary date of the appointment. A list of factors is provided for the court to consider when determining the time period for which the letters will be valid.

Within 90 days of a guardian's appointment:

- the superior court may set a hearing for review of the initial personal care plan;
- guardians and limited guardians must designate a standby guardian; and
- guardians and limited guardians are required to notify interested persons of their right to request special notice on the guardianship's proceedings.

Immediate Final Reports. The deadline for the annual account or report must be set within 90 days of the anniversary date of appointment, and the court must review it within 120 days of the anniversary date. The court may review and approve an account or report without conducting a hearing. All court orders approving accounts and reports must contain a guardianship summary, in the form set forth in the act.

If a guardian or limited guardian fails to file an account and/or report or fails to appear at a hearing, the court must enter an order for one or more of the following actions:

- entering an order to show cause and requiring the guardian to appear at a hearing. At the hearing the court may remove the guardian and appoint a successor guardian;
- directing the clerk to extend the letters of guardianship for good cause shown for an additional 90 days in order to permit the guardian to file his or her account or report;
- requiring the completion of training;
- appointing a guardian ad litem; or
- providing other relief as the court deems just and equitable.

Upon the termination of a guardianship, the guardian or limited guardian is required to file the final report or account and the petition for settling the account within 90 days. The deadline for the petition may be extended for good cause.

Filing Fee. A filing fee must be charged to an incapacitated person's estate when the guardian or limited guardian files a required account with the court. The amount of the fee is determined by a sliding scale based on the total net fair market value of the estate. There is no fee if the total net fair market value of the incapacitated person's estate is equal to or less than \$100,000. The court may waive the fee or reduce the fee amount if payment of the filing fee would result in substantial hardship.

Votes on Final Passage:

House	56	40	
Senate	49	0	(Senate amended)
House			(House refused to concur)
Senate	46	0	(Senate amended)
House	57	40	(House concurred)

Effective: July 22, 2011

Partial Veto Summary: The Governor vetoed the section creating the new filing fee for accounts of guardianship estates.

VETO MESSAGE ON SHB 1053

May 12, 2011

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 11, Substitute House Bill 1053 entitled:

"AN ACT Relating to the implementation of recommendations from the Washington state bar association elder law section's executive committee report of the guardianship task force."

Section 11 implements a fee schedule for filing of reports under RCW 11.92.040(2). The Judicial Branch has indicated support for the underlying bill, but opposition to the fee. Therefore, I am vetoing Section 11 and expect that the Judicial Branch agencies will implement the requirements of the bill within appropriated resources.

For this reason, I have vetoed Section 11 of Substitute House Bill 1053.

With the exception of Section 11, Substitute House Bill 1053 is approved.

Respectfully submitted,



Christine O. Gregoire
Governor

ESHB 1055

C 15 L 11

Regarding the streamlining of contractor appeals.

By House Committee on Labor & Workforce Development (originally sponsored by Representatives Hudgins, Green, McCoy, Eddy, Kenney and Reykdal; by request of Department of Labor & Industries).

House Committee on Labor & Workforce Development
Senate Committee on Labor, Commerce & Consumer Protection

Background: The Contractor Registration Act requires general and specialty contractors to register with the Department of Labor and Industries (Department). In addition to registering, contractors must follow requirements relating to advertising, bonds and insurance, and other matters.

The Department may issue a notice of infraction to an unregistered contractor for failure to register and to registered contractors for specified violations. Monetary penalties are set forth. A party has 20 days to contest a notice of infraction by filing a notice of appeal with the Department. Appeals are heard by an administrative law judge (ALJ) with the Office of Administrative Hearings. Generally, penalties must be paid within 30 days of a final determination by the ALJ.

If an unregistered contractor defaults in payment of a penalty, the Director of the Department may issue a notice of assessment. An unregistered contractor has 30 days to contest the penalty by requesting reconsideration or filing an appeal in court. Procedures are set forth for the Department to file a warrant in the amount of the assessment in superior court and to enforce the warrant in the same manner as a judgment.

Summary: The time period to appeal contractor infractions is changed from 20 to 30 days. The separate 30-day time period for an unregistered contractor to appeal a notice of assessment by requesting reconsideration or filing an appeal in court is eliminated. Instead, the notice of infraction serves as the notice of assessment for both unregistered and registered contractor violations. If a contractor does not appeal a notice of infraction within the 30-day appeal time period, the notice becomes final.

The procedures for filing and enforcing a warrant in court are made applicable to all penalties, not limited to penalties for unregistered contractors.

Votes on Final Passage:

House	97	0
Senate	46	0

Effective: July 22, 2011

SHB 1061

C 256 L 11

Concerning on-site wastewater treatment systems designer licensing.

By House Committee on General Government Appropriations & Oversight (originally sponsored by Representatives Green and Kelley).

House Committee on Business & Financial Services
House Committee on General Government
Appropriations & Oversight

Senate Committee on Environment, Water & Energy

Background: Licensing of On-site Wastewater System Designers. On-site wastewater system designers are licensed and regulated by the Board of Registration for Professional Engineers and Land Surveyors (Board). The licensing requirement was enacted in 1999. Previous to that, many local health agencies had licensed designers. The law allowed for designers licensed under a local ordinance to obtain a "practice permit" to continue practicing. All practice permits expired on June 30, 2003.

An "on-site wastewater treatment system" is an integrated system of components that convey, store, treat, and/or provide subsurface soil treatment and disposal of wastewater effluent on the property where it originates or on adjacent or other property and includes piping, treatment devices, other accessories, and soil underlying the disposal component of the initial and reserve areas, for on-site wastewater treatment under 3,500 gallons per day when not connected to a public sewer system.

"On-site wastewater design" means the development of plans, details, specifications, instructions, or inspections by application of specialized knowledge in analysis of soils, on-site wastewater treatment systems, disposal methods, and technologies to create an integrated system of collection, transport, distribution, treatment, and disposal of on-site wastewater.

License Requirements. A license to design on-site wastewater treatment systems is obtained by passing a written examination, having a high school diploma or its equivalent, and having either at least four years of experience, or two years of relevant college-level course work and two years of experience. Out-of-state experience in on-site design, inspection, and/or construction activities may satisfy the necessary experience requirements.

License Renewal. Licenses must be renewed annually. A license not renewed for two years is canceled, and the holder must reapply. To renew a license, the holder must pay a fee and satisfy continuing education requirements established by the Board.

Unprofessional Conduct. Activities which constitute unprofessional conduct are specified. Upon finding a violation, the Board may reprimand or fine a practice permit or license holder, or suspend, revoke, deny, or refuse to renew a license or permit. The work of licensed

designers must also comply with standards of practice adopted by the Board.

Local Health Inspector Certificates of Competency.

Employees of local health jurisdictions who inspect, review, or approve the design and construction of on-site systems must obtain a certificate of competency by passing the examination administered for licensing designers. A certificate of competency does not allow the holder to provide on-site wastewater treatment design services. Certificates may be renewed by payment of a fee and satisfaction of continuing education requirements.

Summary: References to practice permits for designing on-site wastewater treatment systems are removed. It is unprofessional conduct, for disciplinary purposes, if an applicant submits false, fraudulent, or misleading information in an application for licensure or certification. In addition to individuals acting on behalf of the Director of the Department of Licensing, individuals acting on behalf of the Board are also immune from liability in any civil action or criminal case for acts performed in the course of their duties.

Changes are made to the experience and education requirements for licensure as an on-site wastewater treatment system designer. Rather than allowing applicants to substitute two years of the experience requirements by completing two years of college-level work in specified subjects, applicants may either complete satisfactory college-level course work or successfully participate in a Board-approved internship program. The continuing education requirement for certificate holders is removed.

The reciprocity requirements are also modified. Certain people licensed from jurisdictions outside Washington to perform design services for site soil assessment, hydraulics, topographic delineations, use of specialized treatment processes and devices, microbiology, and construction practices of on-site wastewater treatment systems may be granted a license without examination.

Rather than requiring that the licenses be renewed annually, authority is granted to the Board to determine the renewal period for licenses and certificates. For determining renewal fees, the pool of licensees and certificate holders is combined with engineer and land surveyor licensees.

Local health jurisdictions and the Washington State Department of Health retain authority to:

- administer state and local regulations and codes for approval or disapproval of designs for on-site wastewater treatment systems;
- issue permits for construction;
- evaluate soils and site conditions for compliance with code requirements; and
- perform on-site wastewater treatment design work as authorized in state and local board of health rules.

Votes on Final Passage:

House	89	4
Senate	47	0

Effective: July 22, 2011

HB 1069

C 16 L 11

Regarding the disposition of unclaimed remains.

By Representatives Alexander and Moeller.

House Committee on Local Government
Senate Committee on Government Operations, Tribal Relations & Elections

Background: The county coroner entrusts the remains of individuals who die without plans and lack anyone to provide for the disposition of the remains to a funeral home. Entrustment of unclaimed remains is made on a rotational basis as established by the coroner in consultation with funeral home or mortuary representatives in the county (or counties) involved. The rotation plan must treat equally all funeral homes or mortuaries wishing to participate.

Summary: The county coroner or medical examiner, using the qualified bidding process, may establish a preferred funeral home for the disposition of unclaimed remains from individuals who die without plans and lack anyone to provide for the disposition of the body.

Votes on Final Passage:

House	97	0
Senate	47	0

Effective: July 22, 2011

ESHB 1071

C 257 L 11

Creating a complete streets grant program.

By House Committee on Transportation (originally sponsored by Representatives Moeller, Fitzgibbon and Frockt).

House Committee on Transportation
Senate Committee on Transportation

Background: Executive Order E 1028, adopted by the Washington Secretary of Transportation on November 24, 2003, directs the Washington State Department of Transportation (WSDOT) employees to implement a context sensitive solutions approach for all department projects. A context sensitive solutions approach means that the WSDOT employees working on projects and facilities should engage affected communities, assure the transportation objectives are clearly described and discussed with the local communities, recognize and address community and citizen concerns, and ensure the project is a safe facility for both the user and community.

The WSDOT's Office of Highways and Local Programs and the State Design Engineer are responsible for carrying out this Executive Order.

"Complete streets" refers to the practice of designing and operating streets so that safe access is provided to all users, including motorists, bicyclists, pedestrians, and transit users. With regard to city streets that are part of a state highway system, local communities have jurisdiction and responsibility for curb maintenance and improvements while the WSDOT is responsible for maintaining and preserving the street itself. The WSDOT may relinquish control of street maintenance to the local jurisdiction.

Summary: Complete Streets Grant Program. The Complete Streets Grant Program (Grant Program) is established in the WSDOT's Highways and Local Programs Division. The purpose of the Grant Program is to encourage local governments to adopt urban arterial retrofit street ordinances to provide safe access to all users including pedestrians, bicyclists, motorists, and public transportation users. When developing the Grant Program, the WSDOT is to include local governments, the Department of Archaeology and Historic Preservation, and other organizations and groups that are interested in the Grant Program. Projects that are eligible for grants must be from a local government that has adopted a jurisdiction-wide complete streets ordinance that plans for the needs of all users and is consistent with sound engineering principles and the project must be:

- a street retrofit project that includes the addition of, or significant repair to, facilities that provide street access with all users in mind including pedestrians, bicyclists, and public transportation users; or
- a retrofit project on city streets that are part of a state highway that includes the addition of, or significant repair to, facilities that provide street access with all users in mind.

Sound engineering principles are defined as peer-reviewed context sensitive solution guides, reports, and publications. The Complete Streets Grant Program Account (Account) is created in the state treasury. The WSDOT may solicit and receive gifts, grants, or endowments from private and other sources and deposit those funds into the Account. Moneys in the Account may only be spent after appropriation. The WSDOT must report annually to the transportation committees of the Legislature on the status of any grant projects funded by the grant program.

State Highways that Include City Streets. The WSDOT must consult with local jurisdictions in the design planning phases for new construction, reconstruction, or major street repair projects which include city streets that are part of a state highway and are initially planned or scoped after July 1, 2011. This consultation must include public outreach, meetings with stakeholders,

and identification of community goals and priorities. The WSDOT must consider the needs of all users by applying context sensitive design solutions consistent with peer-reviewed context sensitive solutions guides, reports, and publications. The WSDOT may use Grant Program funds for city streets that are part of a state highway.

Votes on Final Passage:

House	56	41	
Senate	29	19	(Senate amended)
House	53	43	(House concurred)

Effective: July 22, 2011

HB 1074

C 124 L 11

Changing qualifications for appointees to metropolitan water pollution abatement advisory committees.

By Representatives Takko, Angel, Springer, Uptegrove and Fitzgibbon.

House Committee on Local Government
Senate Committee on Government Operations, Tribal Relations & Elections

Background: State law authorizes any area of the state containing two or more cities, at least one of which has a population of 10,000 or more, to create a metropolitan municipal corporation to perform one or more of the following functions: metropolitan water pollution abatement; metropolitan water supply; metropolitan public transportation; metropolitan garbage disposal; metropolitan parks and parkways; and metropolitan comprehensive planning. The legislative body of a municipal corporation is a metropolitan council (council).

The council of a metropolitan corporation charged with performing water pollution abatement must form a metropolitan water pollution abatement advisory committee (advisory committee) to advise the council in matters related to the performance of the water pollution abatement function. Membership on the advisory committee must include an appointee from each component city and county that operates a sewer system and a member of the board of commissioners of each water-sewer district that operates a sewer system, any part of which lies within the metropolitan area.

Summary: The advisory committee of a metropolitan municipal corporation may include members appointed by the boards of commissioners of qualifying water-sewer districts in the metropolitan area who are not commissioners of those districts.

Votes on Final Passage:

House	88	0
Senate	49	0

Effective: July 22, 2011

SHB 1084
PARTIAL VETO
C 355 L 11

Creating the board on geographic names.

By House Committee on State Government & Tribal Affairs (originally sponsored by Representatives McCoy and Hunt).

House Committee on State Government & Tribal Affairs
Senate Committee on Natural Resources & Marine Waters

Background: State Board on Geographic Names. In 1983 the Washington State Board on Geographic Names (BGN) was established. The purpose of the BGN was to:

- establish a procedure for the retention and formal recognition of existing geographical names;
- standardize the procedures for naming or renaming geographical features within the state;
- identify a responsible agency to coordinate geographic names among local, state, and federal agencies;
- avoid duplication of names for similar features; and
- retain the significance, spelling, and color of names associated with the early history of Washington.

Membership on the BGN included: the State Librarian, or a designee; the Commissioner of Public Lands (Commissioner), or a designee; the chairperson of the Washington State Heritage Council; and four members of the general public appointed by the Commissioner.

Specifically, the BGN was authorized to:

- establish the official names for the lakes, mountains, streams, places, towns, and other geographic features within the state;
- assign names to lakes, mountains, streams, places, towns, and other geographic features for which no single generally accepted name has been in use;
- cooperate with other public entities to establish, change and/or determine appropriate names in order to avoid duplication of place names within the state;
- serve as the state's liaison with the United States Board on Geographic Names; and
- issue a list of names approved by the BGN.

The BGN members who were not public employees were compensated by the Department of Natural Resources (DNR) in the amount of \$50 for attending official meetings, plus travel expenses. Members of the BGN who were public employees were compensated for travel expenses by the agency that the person represented.

The BGN was eliminated in 2010.

Board of Natural Resources. The Board of Natural Resources (BNR) was established in 1986. The BNR performs duties relating to appraisal, appeal, approval, and hearing functions provided by law and establishes policies to ensure that acquisition, management, and disposition of lands and resources are based on sound principles

designed to achieve the maximum effective development and use of such lands and resources. In addition, the BNR also constitutes the Board of Appraisers and the Commission on Harbor Lines.

Membership includes: the Governor, or a designee; the Superintendent of Public Instruction; the Commissioner; the director of the University of Washington School of Forest Resources; the dean of the Washington State University College of Agricultural, Human, and Natural Resources Sciences; and a representative of those counties that contain state forest lands acquired or transferred pursuant to mineral interests.

Summary: The BGN is reestablished as a constituted board of the BNR and has the same duties as the original BGN.

The BGN must establish a Committee on Geographic Names (Committee) to assist the BGN in its duties and to provide broader contextual, public, and tribal participation in the naming of geographic features in the state. Membership on the Committee includes: the State Librarian, or a designee; the Commissioner, or a designee; the director of the Department of Archaeology and Historic Preservation, or a designee; a representative of the Washington state tribes; and three members of the public, selected by the Commissioner. The Commissioner is the chairperson for the Committee.

The Committee must hold at least two meetings each year, and may hold special meetings as called by the chairperson. The Committee is required to establish rules of conduct in carrying out its duties.

The Committee must cooperate with the United States Board on Geographic Names, and must make reports and recommendations to the BGN following each meeting. Recommendations regarding adoption of names may only be made following consideration at two committee meetings.

The BGN must consider the recommendations made by the Committee for adoption of names and must either adopt the name as recommended or refer the matter back to the Committee for further review. Names adopted by the BGN must be published in the Washington State Register.

Secretarial and administrative support for the BGN is provided by the DNR.

If specific funding for the Committee is not provided in the state omnibus operating appropriations act, the act is null and void.

Votes on Final Passage:

House	58	40	
Senate	32	16	(Senate amended)
House	60	37	(House concurred)

Effective: July 22, 2011

Partial Veto Summary: The Governor vetoed the section that contained a null and void clause.

VETO MESSAGE ON SHB 1084

May 16, 2011

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

Ladies and Gentlemen:

I am returning herewith, without my approval as to Section 7, Substitute House Bill 1084 entitled:

"AN ACT Relating to creating the board on geographic names."

Substitute House Bill 1084 recognizes the need for a board on geographic names. Section 7 would declare this act null and void if funding were not provided specifically for the purposes of this act in the omnibus appropriations act. Funding for this activity is less than \$50,000 per biennium and may not appear as a line item in the omnibus appropriations act.

For this reason I have vetoed Section 7 of Substitute House Bill 1084.

With the exception of Section 7, Substitute House Bill 1084 is approved.

Respectfully submitted,



Christine O. Gregoire
Governor

ESHB 1086

PARTIAL VETO

C 5 L 11

Making 2009-2011 supplemental operating appropriations.

By House Committee on Ways & Means (originally sponsored by Representatives Hunter, Alexander and Darneille; by request of Governor Gregoire).

House Committee on Ways & Means
Senate Committee on Ways & Means

Background: The state government operates on a fiscal biennium that begins July 1 of each odd-numbered year. The 2009-11 State Omnibus Operating Appropriations Act (Operating Budget), as amended by the 2010 Supplemental Operating Budget (Engrossed Second Substitute Bill 6444, Chapter 37, Laws of 2010, First Special Session) and House Bill 3225 (Chapter 1, Laws of 2010, Second Special Session), appropriated \$30.5 billion from the State General Fund and two other accounts, together referred to as the State Near General Fund. The total budgeted amount, which includes state and federal funds, is \$60.2 billion.

Summary: Appropriations are modified for the 2009-11 biennium. State Near General Fund appropriations are reduced by \$242.2 million, while the total budgeted amount is reduced by \$284.3 million.

Votes on Final Passage:

House	55	43	
Senate	38	9	(Senate amended)
House			(House refused to concur)

Conference Committee

Senate	37	10
House	55	41

Effective: February 18, 2011

Partial Veto Summary: The Governor vetoed provisions related to a prohibition on the Department of Information Services to spend funds to equip the State Data Center, a 3 percent salary reduction for many non-represented state employees, savings from reducing executive branch communications staff, savings from management efficiencies in the Department of Social and Health Services, and savings from restrictions on dual language pay.

VETO MESSAGE ON ESHB 1086

February 18, 2011

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

Ladies and Gentlemen:

First, I extend my appreciation for the collaborative and bipartisan effort that has culminated in this early action supplemental operating budget. I fully recognize the difficult choices that you made in a short period of time.

I asked the Legislature to consider an early target date for passage of state General Fund reductions due to concerns about the feasibility of implementing major service alterations this late in the biennium. With the passage of Engrossed Substitute House Bill 1086, we still face challenges about the timing of program cuts, especially for reductions predicated on a March 1 implementation date. I will continue to monitor the situation as agencies move forward with budget implementation, and keep you informed of issues that require additional consideration.

As you wait for final caseload, enrollment and revenue forecasts for this biennium, I encourage your attention to those budget adjustments and the small number of additions I included in my December budget proposal. As one example, the entire \$30 million cut in information technology (IT) in the enacted 2009-11 budget cannot be achieved. Given the multiple administrative cuts already specified in the budget, this IT cut will likely lead to unintended service reductions at such agencies as the Department of Social and Health Services and Department of Corrections.

As I sign this appropriations bill, the 2011 legislative session is a little more than one-third complete. Many issues of critical importance to our state must still be addressed. I commit to working with you to craft a timely and responsible budget for the 2011-13 biennium.

This is the time to set strategies in place that can be implemented and accomplish projected savings for now and the future. Because some budget revisions do not meet that criteria, I am returning, without my approval as to Sections 123(5), 707, 708, 709, and 710, Engrossed Substitute House Bill 1086 entitled:

"AN ACT Relating to fiscal matters."

Section 123(5), page 32, Department of Information Services, Prohibition on Expenditures to Equip the State Data Center

Budget language prohibits the Department of Information Services from spending any funds for the purchase or installation of equipment for the new State Data Center. This prohibition will not save any money, and will significantly delay Data Center operation and budget savings made possible by the consolidation of existing data centers. While I agree with the intent to create more time for legislative involvement, this collaboration can take place without a restriction on the equipment necessary to make the Data Center operational within its original budget.

For these reasons, I have vetoed Section 123(5).

Section 707, page 211, 3 Percent Pay Reduction

This budget would cut the pay of many non-represented state employees by 3 percent beginning April 1, for a savings of \$3.4 million in the state General Fund. While my 2011-13 budget proposal includes an employee pay cut, the early implementation date in this bill is not achievable and would have unintended consequences.

First, there is insufficient time for the necessary changes to be made to the state's payroll system to meet the April 1 implementation date. In addition, while I believe that sacrifices by state employees, in addition to many others, are essential during these tough times, I also believe that compensation reductions should be made fairly and compassionately. The Legislature's cut does not provide exceptions for workers who are paid the least and would have the most difficulty in absorbing this reduction to their paychecks. Hundreds of employees making less than \$30,000 a year would be affected by this pay cut while the pay of some higher-salaried employees would be unchanged.

Lastly, a salary reduction should also recognize actions already taken. Thousands of state employees are already bringing home smaller paychecks as a result of temporary layoffs required by Engrossed Substitute Senate Bill 6503 enacted last year. Many of these employees will be temporarily laid off for one day each in April and June of this year. Many also will have a layoff day in May. This budget does not distinguish between employees who are subject to temporary layoffs during this time period and those who are not.

For these reasons, I have vetoed Section 707.

Section 708, page 211-212, Communications Staff Savings

The budget requires agencies to achieve \$1.0 million of savings through reductions in communications functions in the executive branch. The communications staff of the legislative and judicial branches would not be affected. Communications staff provide information to the public, media, and legislators, which advances the goal of transparency in government. Given the importance of the work performed by these employees, ranging from providing information on real-time traffic to public health concerns to unemployment insurance and licensed child care facilities and the budget, it is difficult to see how the public would be served through the sudden and dramatic elimination of these staff.

Marketing functions generate revenue in the State Lottery, state liquor stores, and correctional industries, and stimulate economic development through promotion of tourism and agricultural products. We will continue our efforts to create efficiencies such as abolishing non-essential reports, but the savings target is not achievable in the last three months of the biennium.

For these reasons, I have vetoed Section 708.

Section 709, page 212, Management Efficiencies in the Department of Social and Health Services

This section requires the Department of Social and Health Services to achieve state General Fund savings of \$1.7 million by reducing management staffing and administration in addition to achieving other efficiencies. In reality, the reduction is closer to twice that amount because many of these positions are partially supported by federal or other fund sources. The department has already instituted significant administrative and other reductions, including the elimination of 147 centralized administrative staff, which represents a 27 percent reduction. Additional administrative reductions have been made in every DSHS program. With the previously mentioned information technology cuts, these proposed reductions would jeopardize the department's ability to implement the program changes required in the budget.

Therefore, I have vetoed Section 709.

Section 710, page 212, Dual Language Pay Reductions

This section restricts dual language pay, which is provided to some employees who are fluent in more than one language and use their language skills in the performance of their duties. The reduction exceeds anticipated expenditures for this purpose in the remainder of the biennium. Further, dual language assignment pay is included in the collective bargaining agreements that cover all but a fraction of these employees, which means that this reduction

cannot be implemented.

For these reasons, I have vetoed Section 710.

With the exception of Sections 123(5), 707, 708, 709, and 710, Engrossed Substitute House Bill 1086 is approved.

Respectfully submitted,



Christine O. Gregoire
Governor

2ESHB 1087

PARTIAL VETO

C 50 L 11 E1

Making 2009-2011 and 2011-2013 fiscal biennia operating appropriations.

By House Committee on Ways & Means (originally sponsored by Representatives Hunter, Alexander and Darneille; by request of Governor Gregoire).

House Committee on Ways & Means
Senate Committee on Ways & Means

Background: The state government operates on a fiscal biennium that begins on July 1 of each odd-numbered year. Supplemental budgets frequently are enacted in each of the following two years after adoption of the biennial budget (each odd-numbered year). Appropriations are made in the biennial and supplemental budgets for the operation of state government and its various agencies and institutions, as well as for K-12 public schools.

The 2009-11 State Omnibus Operating Appropriations Act (Operating Budget), as amended by the 2010 Supplemental Operating Budget (Engrossed Second Substitute House Bill 6444, Chapter 37, Laws of 2010, First Special Session), House Bill 3225 (Chapter 1, Laws of 2010, Second Special Session), and Engrossed Substitute House Bill 1086 (Chapter 5, Laws of 2011), appropriated \$30.2 billion from the State General Fund and two other accounts, together referred to as State Near General Fund. The total budgeted amount, which includes state and federal funds, is \$59.9 billion.

Summary: State Near General Fund appropriations for the 2009-11 biennium are increased by \$29.4 million; the total budget is increased by \$109.4 million.

The State Near General Fund appropriations for the 2011-13 biennium total \$32 billion. The total budget (all funds) is \$62.1 billion.

Votes on Final Passage:

House	53	43	
Senate	34	13	(Senate amended)

First Special Session

House	54	42
Senate	34	13

Effective: June 15, 2011
June 30, 2011 (Section 951)

Partial Veto Summary: The Governor vetoed a number of provisions, resulting in a reduction in State General Fund appropriations of approximately \$3.2 million. (See veto message.)

VETO MESSAGE ON 2ESHB 1087

June 15, 2011

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 123(4); 125, page 14, line 28; 127(11); 129(4); 129(5); 129(6); 129(8); 129(9); 129(10); 134(4); 139(3); 139(4); 144(1); 144(2); 201(5); 202(8); 202(11); 205(1)(j); 205(2)(c); 205(2)(d); 206(16); 206(17); 207(9); 209(1); 213, page 68, line 12; 213(16); 213(17); 213(34); 213(38); 213(47); 213(48); 217(3); 218(2)(a); 219(11); 219(14); 219(17); 220(1)(b); 220(2)(a); 220(3)(a); 221, page 96, lines 8-14; 301, page 98, lines 8-11; 302(9); 302(10); 303(4); 307(12); 308(10); 310, page 110, lines 25-28; 312; 401(3); 401(4); 501(1)(a)(iv); 501(1)(i); 601(6)(c); 605(3); 610(3); 610(9); 613(2)(b); 613(4); 617(7); 617(11); 716; 721(2); 724; 805, page 192, lines 35-37, and page 193, line 1-18; 925; 934; 935; 978, Second Engrossed Substitute House Bill 1087 entitled:

"AN ACT Relating to fiscal matters."

I have vetoed the following appropriation items because of concerns with policy or technical issues relating to the legislative provisions:

Section 123(4), page 14, State Auditor's Office, Fraud Ombudsman

The State Auditor is provided funding for the work of the fraud ombudsman, whose office was to be created through passage of Engrossed Substitute Senate Bill 5921 (relating to social services). Because I have vetoed the creation of the fraud ombudsman's office within the State Auditor's Office, I have also vetoed Section 123(4).

Section 125, page 14, line 28, Attorney General's Office, Medicaid Fraud Penalty Account

Section 213, page 68, line 12, Health Care Authority, Medicaid Fraud Penalty Account

These appropriations, which were to be used to fund the Attorney General's Fraud Investigation Unit, are from a non-existent account. The budget assumed passage of Engrossed Substitute Senate Bill 5960 (relating to Medicaid fraud), which did not pass. As a result, the Attorney General's Office and Health Care Authority will need to use other sources of funding until an appropriate fund source can be identified in the 2012 supplemental budget. Because this account does not exist, I have vetoed Section 125, page 14, line 28, and Section 213, page 68, line 12.

Section 127(11), page 19, Department of Commerce, Public Works Assistance Account Savings

The administrative savings attributed to the Public Works Assistance Account is from the implementation of Substitute Senate Bill 5844 (local government infrastructure), which did not pass. The Department should be afforded flexibility in how it achieves its budget reductions. For this reason, I have vetoed Section 127(11).

Section 129(4), page 23, Office of Financial Management, Collective Bargaining for Health Insurance

The requirement to propose employee contributions to health insurance on a sliding scale is incompatible with Washington's collective bargaining statutes, which limit bargaining on health insurance to the amount of the employer contribution. It is also problematic to consider single elements of collective bargaining in isolation. The existing statute recognizes this by having the Governor negotiate the agreements in their totality, with input from the Joint Committee on Employment Relations. Further, sliding scale contributions would present implementation challenges. For these reasons, I have vetoed Section 129(4).

Section 129(5), page 23, Office of Financial Management, Direct Deposit Feasibility Study

This proviso requires the Office of Financial Management (OFM) to conduct a feasibility study on the implications of mandating direct payroll deposit for state employees, and to report to the legislative fiscal committees by December 1, 2011. OFM has already researched the feasibility of mandating direct deposit for all state employees. As a part of this research, stakeholders were contacted and concerns were raised regarding the impact of such a mandate. Since the majority of state employees voluntarily use direct deposit, the amount of effort required to make this change would outweigh the possible savings. For this reason, I have vetoed Section 129(5).

Section 129(6), page 24, Office of Financial Management, Study to Use Digital Signatures for Employment Actions

This proviso requires OFM to conduct a feasibility study on the potential impacts of a system that would allow digital signatures for the purpose of employment activities. OFM is responsible for coordinating an unprecedented level of organizational and governmental service changes in the 2011-13 biennium. It does not have the capacity to perform this study with existing resources. For this reason, I have vetoed Section 129(6).

Section 129(8), page 24, Office of Financial Management, Washington State Quality Award Training

Section 129(9), page 24, Office of Financial Management, Washington State Quality Award Assessment

Section 129(10), page 24, Office of Financial Management, Priorities of Government Program Information

Section 925, page 204, Office of Financial Management, Employee Performance Management Training Tracking and Performance Management

Section 129(8) provides \$100,000 State General Fund for OFM to contract with the Washington State Quality Award for training, outreach, and assessments for public agencies and public agency vendors. Section 129(9) directs the Government Management and Accountability Performance (GMAP) program to develop, in coordination with the Washington State Quality

Award, a plan for all state agencies to complete a Washington State Quality Award or Baldrige full assessment by June 30, 2013. Section 129(10) requires the Priorities of Government program to include in its report the Washington State Quality Award assessment score for agencies. Section 925 adds requirements related to the Washington State Quality Award and Baldrige assessments and the tracking of employee performance management training. Given the unprecedented level of 2011-13 budget reductions, I believe our existing GMAP process is more cost-effective. For these reasons, I have vetoed Section 129(8), Section 129(9), Section 129(10), and Section 925.

Section 139(3) and (4), pages 27-28, Consolidated Technology Services Agency, Consolidated State Data Center

These provisos set forth a number of conditions that must be met prior to equipping and operating the new state data center. These restrictions will significantly impede the ability of state agencies to use this asset. We are in the process of implementing all of these conditions (appointing a new Chief Information Officer; adopting technical standards for shared services; developing competitive rates for data center services; and developing a detailed implementation plan). However, work to design and equip the data center network and infrastructure must proceed to maintain the current schedule to migrate state agency data centers to the new consolidated data center. For this reason, I have vetoed Section 139(3) and Section 139(4).

Section 201(5), page 35, Department of Social and Health Services, Food Procurement Cost Information

Section 219(14), pages 91-92, Department of Health, Food Procurement Cost Information

Section 220(1)(b), page 93, Department of Corrections, Food Procurement Cost Information

Section 221, page 96, lines 8-14, Department of Services for the Blind, Food Procurement Cost Information

These provisos direct these agencies to compile and submit food procurement costs to the Department of Health. No funding was provided to collect or analyze this data. Given the amount of administrative reductions to be incurred by these departments,

additional unfunded requirements cannot be completed. For this reason, I have vetoed Section 201(5), Section 219(14), Section 220(1)(b), and Section 221, page 96, lines 8-14.

Section 202(8), pages 38-39, Department of Social and Health Services -- Children and Family Services, Foster Care Reduction Workgroup

In 2010, the Office of Financial Management, Department of Social and Health Services (DSHS), and Washington State Caseload Forecast Council developed a plan to reinvest resources from foster care savings and presented it to the Governor and the Legislature.

Section 202(8) instructs DSHS to establish a workgroup to duplicate the work that has already been performed. In addition, no resources were provided to complete this task. For these reasons, I have vetoed Section 202(8).

Section 202(11), page 39, Department of Social and Health Services -- Children and Family Services, Administrative Reductions
Section 205(2)(c), page 54, Department of Social and Health Services -- Developmental Disabilities, Administrative Reductions
Section 207(9), page 64, Department of Social and Health Services -- Economic Services, Administrative Reductions

Whenever possible, state agencies reduce administrative expenses before reducing services. The Department has made significant progress in finding ways to improve services to Washington residents while reducing costs. However, given the significant reductions in administrative activities made in the past few years, additional reductions cannot be limited to administrative reductions and will likely impact services. For this reason, I have vetoed Section 202(11), Section 205(2)(c), and Section 207(9).

Section 205(1)(j), page 53, Department of Social and Health Services -- Developmental Disabilities, Community First Choice Option

This proviso requires the Department to determine whether it would be cost-efficient for the state to exercise a 1915(k) Medicaid waiver and submit a plan to the Legislature during the next legislative session. I am directing the Department to conduct this review and move forward with implementing the waiver if the finding demonstrates that it is cost-efficient, instead of waiting for the subsequent legislative session. For this reason, I have vetoed Section 205(1)(j).

Section 205(2)(d), page 54, Department of Social and Health Services -- Developmental Disabilities, Frances Haddon Morgan Center and Yakima Valley School

This proviso directs that no resident shall be moved from these residential habilitation centers unless and until the Department has the "appropriate and suitable" community option and services available as specified in the client's individual habilitation plan. The terms "appropriate and suitable" are subjective and would be difficult to implement. I am directing the Department to keep the wellbeing of the residents at the forefront as these moves take place. For this reason, I have vetoed Section 205(2)(d).

Section 206(17), page 61, Department of Social and Health Services -- Aging and Adult Services, Community First Choice Option

The Department must determine whether it would be cost-efficient for the state to exercise a 1915(k) Medicaid waiver, and submit a plan to the Legislature in the next legislative session. I am directing the Department to conduct this review and move forward with implementing the waiver if the finding demonstrates that it is cost-efficient, instead of waiting for the subsequent legislative session. For this reason, I have vetoed Section 206(17).

Section 209(1), page 66, Department of Social and Health Services -- Vocational Rehabilitation, Serving Lifeline Clients

This proviso, which applies to the entire 2011-13 biennium, directs the Department to serve Lifeline clients; however, the Lifeline program terminates on October 31, 2011. I am, however, directing the Department to make every effort to continue to serve clients receiving public assistance, within the requirements of the federal Rehabilitation Act of 1973. For this reason, I have vetoed Section 209(1).

Section 213(16), pages 74-75, Health Care Authority, Disability Lifeline Managed Care

The reference to Disability Lifeline is no longer valid because

the Disability Lifeline program no longer exists effective November 2011. I am directing the Health Care Authority to contract managed care services in a way that maximizes patient outcomes in the most cost effective manner. For this reason, I have vetoed Section 213(16).

Section 213(17), page 75, Health Care Authority, Impact Evaluation for Disability Lifeline

The Health Care Authority is directed to evaluate the impact of a managed care delivery system on state costs and outcomes for Lifeline medical clients. No funding was provided for this evaluation. For this reason, I have vetoed Section 213(17).

Section 213(34), page 79, Health Care Authority, Power Wheelchairs

The state must meet the medical necessity test as a condition of operating a Medicaid program. This proviso creates a confusing situation by prohibiting the current limitation of power wheelchairs to clients in school or work. As a cost savings step, reducing power wheelchairs is preferable to many other service reduction options. The state should be allowed to establish a benefit design that meets federal standards without overly prescriptive budget provisos. For these reasons, I have vetoed Section 213(34).

Section 213(38), page 80, Health Care Authority, Federally Qualified Health Clinics

This proviso directs payments to federally qualified health centers and rural health clinics. On lines 22-23, the proviso references the incorrect years, which would result in deeper reductions than is intended. I am, however, directing the Health Care Authority to implement the reductions in accordance with the appropriation amounts. For this reason, I have vetoed Section 213(38).

Section 213(47), page 82, Health Care Authority, State Pharmacists Contract

The agency is directed to contract with an organization that will use state pharmacists to provide medication therapy management services to lower costs and improve patient compliance. No other state Medicaid program in the country has implemented this program and achieved savings. For this reason, I have vetoed Section 213(47).

Section 213(48), page 82, Health Care Authority, Report on Not-For-Profit Disproportionate Share Hospitals

This proviso requires the agency to evaluate community benefit information provided by disproportionate share hospitals and report to the Legislature with an assessment of improved measures for charity care efforts. No resources were provided to conduct this evaluation. For this reason, I have vetoed Section 213(48).

Section 218(2)(a), page 87, Department of Veterans Affairs, Identify and Assist General Assistance Unemployable Clients

The General Assistance Unemployable program no longer exists. I am directing the Department of Social and Health Services and the Department of Veterans Affairs to continue working collaboratively to help public assistance clients access veterans' benefits for which they qualify. For this reason, I have vetoed Section 218(2)(a).

Section 220(2)(a), page 93, Department of Corrections -- Priority of Personnel Reductions

Section 220(3)(a), page 94, Department of Corrections -- Priority of Personnel Reductions

The Department continues to look for administrative and other reductions that minimize impact on custody staff and correctional industries. However, given the significant expenditure reductions made in the past few years, it is critical that the Department has flexibility in how it achieves its budget reductions. For this reason, I have vetoed Section 220(2)(a) and Section 220(3)(a).

Natural Resource Agency Consolidation

Several appropriations in Second Engrossed Substitute House Bill 1087 assume the passage of Engrossed Second Substitute Senate Bill 5669 (Consolidating natural resources agencies and programs); however, this bill did not pass. Appropriation bill language signals a legislative intent to shift Fiscal Year 2013 funding among agencies to reflect the new organizational structure created in Engrossed Second Substitute Senate Bill 5669. These discrepancies will need to be reconciled during the 2012 legislative session. Initial steps can be taken now through some vetoes of

unnneeded consolidation-related provisos that contain duplicative information or technical errors. For these reasons, I have vetoed the following sections:

Section 301, page 98, lines 8-11, Columbia River Gorge Commission

Section 302(9), page 101, Department of Ecology

Section 302(10), page 101, Department of Ecology

Section 310, page 110, lines 25-28, Washington Pollution Liability Insurance Program

Section 303(4), page 102, State Parks and Recreation Commission, Land Purchase

The Commission is prohibited from expending state monies to purchase or acquire lands other than those called for in Senate Bill 5467 (capital budget) or House Bill 1497 (capital budget). A technical problem is created by the fact that the House bill cited is only one of the two capital budget bills that passed the Legislature. For this reason, I have vetoed Section 303(4).

Section 307(12), page 107, Department of Fish and Wildlife, Purchase of Lands

This proviso restricts the Department from expending state monies to purchase or acquire additional lands other than those called for in Senate Bill 5467 (capital budget) or House Bill 1497 (capital budget). The House bill cited is only one of the two capital budget bills that passed the Legislature. For this reason, I have vetoed Section 307(12).

Section 308(10), pages 109-110, Department of Natural Resources, Marine Rents Committee

This proviso directs the Department to convene a marine rents review committee in order to explore ways to refine and improve the method for calculating rents for marinas occupying state-owned aquatic lands. A report and recommendations are due to the Legislature by December 1, 2011. Since no funding was provided to complete this report, I have vetoed Section 308(10). I am however, asking the Commissioner of Public Lands to review past studies on this subject, discuss the issue with all affected stakeholders and prepare legislation for next session.

Section 312, pages 111-112, Department of Agriculture, Department of Ecology, and State Conservation Commission - Livestock Operations Review

Three agencies are required to conduct a process to review the impact of livestock operations on water quality, and to make recommendations by December 31, 2011. In March, these agencies committed to conducting a review process similar to this one; however, this proviso expands that process without an increase in funding. For this reason, I have vetoed Section 312. I am directing these agencies to continue the process they committed to during the legislative session.

Section 401(4), pages 113-114, Department of Licensing, House Bill 2017 - Master License Service (MLS) Transfer

This proviso prohibits the Department of Revenue from reimbursing the Department of Licensing for costs related to transferring the Master License Service program after July 1, 2011. This restriction limits the agencies' ability to facilitate a seamless transfer of the program, as required by Substitute House Bill 2017. For this reason, I have vetoed Section 401(4). However, I am directing the Department of Licensing to expedite the transfer in order to minimize the work and costs that will be incurred in the next biennium.

Section 501(1)(a)(iv), page 117, Superintendent of Public Instruction, Electronic Certification System

The Office of the Superintendent of Public Instruction and the Office of Financial Management are required "to work to allocate sufficient funding from the federal grant funds for the state's P-20 longitudinal data system, to the extent allowable, for the purpose of developing and implementing a new electronic certification system." The P-20 grant links student education data across time and databases, from early childhood to career, by funding data technology projects at ten state agencies. As drafted, this proviso places construction of the electronic certification system ahead in the funding priority line, in front of all other projects. Additionally, the electronic certification system can be built with fees authorized in Engrossed Substitute House Bill 1449, a funding source not avail-

able for the other projects. For this reason, I have vetoed Section 501(1)(a)(iv). However, I am directing OFM to explore the use of grant funds for the system's construction, if funds are available and consistent with the administration of other projects in the P-20 program.

Section 601(6)(c), page 155, Higher Education, Salary Increases from Other Sources

This proviso authorizes salary increases from sources other than the State General Fund for instructional and research faculty at the state's universities and The Evergreen State College. This authority conflicts with Engrossed Substitute Senate Bill 5860, which freezes state government salaries unless agencies or institutions demonstrate difficulty in retaining qualified employees. For this reason, I have vetoed Section 601(6)(c).

Section 605(3), page 160, State Board for Community and Technical Colleges, Administrative Efficiencies

The State Board for Community and Technical Colleges is directed to achieve \$7 million in savings through efficiencies, including consolidation of college districts and administrative and governance functions. The State Board will achieve the required savings, but the proviso is overly prescriptive. For this reason, I have vetoed Section 605(3).

Section 610(9), page 167, The Evergreen State College, Controlled Substances Study

This proviso directs the Washington State Institute for Public Policy to study the costs and benefits to state and local governments and the citizens of Washington from implementation of the state's policies on "controlled substances, excluding alcohol, tobacco and pharmaceuticals." The reality is that these are controlled substances under federal law. It is unwise to spend taxpayer dollars on a study that cannot address the fundamental issues in this policy area. Therefore, I have vetoed Section 610(9).

Section 613(2)(b), page 168, Higher Education Coordinating Board -- Financial Aid and Grant Programs, State Need Grant Scholarships for Private College Students

This proviso limits State Need Grant award in Fiscal Year 2012 for private college students to the level of students attending public regional universities. This would reduce Need Grant awards to levels below current practice. This proviso was included in the bill as a result of a technical drafting error. Appropriations in the budget are not based on this unintended restriction. For this reason, I have vetoed Section 613(2)(b).

Section 613(4), page 169, Higher Education Coordinating Board, Financial Aid and Grant Programs -- Gaining Early Awareness and Readiness for Undergraduate Programs Project

This proviso would restrict the use of funding in an appropriation from the Education Legacy Trust Account. This apparently is a technical bill drafting error, because no such appropriation exists in this section. Therefore, I have vetoed Section 613(4).

Section 617(7), page 173, Department of Early Learning, Eligibility for Working Connections Child Care

This proviso prohibits the Department of Early Learning from making rules that reduce the income eligibility criteria of the Working Connections Child Care program to below the current level of 175 percent of the federal poverty level. Such a limitation infringes on my authority to manage the WorkFirst program, which includes the Working Connections Child Care program. For this reason, I have vetoed Section 617(7).

Section 617(11), page 173, Department of Early Learning, Child Care Copayment Structure

This proviso directs the Department of Early Learning to implement a child care copayment structure that gradually increases the copayments of parents in the Working Connection Child Care program based on income and other factors. Additionally, the proviso includes multiple directives about how the copayment structure should be developed. The Department of Early Learning is already beginning work on potential child care copayment structures that smooth out the tiers in the current model. The parameters of this proviso unnecessarily limit the agency's options. For this reason, I have vetoed Section 617(11).

Section 716, pages 182-184, Office of Financial Management, Agency Reallocation and Realignment Commission

Section 716 creates the Agency Reallocation and Realignment Commission with responsibilities for examining current state operations and organization, and making proposals to reduce expenditures and eliminate duplication and overlapping services. The sum of \$100,000 in State General Fund dollars is provided for this purpose. During the Priorities of Government activity conducted during the summer of 2010, I appointed an external stakeholder team that performed similar responsibilities envisioned for this commission. Several of the public's suggestions, including the merger of central service functions, were proposed in my budget and enacted by the Legislature. Since we already have mechanisms to perform many of the same responsibilities without additional expense, this commission is not needed. For these reasons, I have vetoed Section 716.

Section 805, page 192, lines 35-37, and page 193, lines 1-18, State Treasurer, Conditions on Life Sciences Discovery Fund

These provisos place seven conditions on the Life Sciences Discovery Fund (LSDF). With the exception of subsection I these conditions decrease its autonomy and overall efficacy. For this reason, I have vetoed Section 805, page 192, lines 35-37; and page 193, lines 1-18.

Section 934, page 212, Amending the State Civil Service Law, RCW 41.06.022

Section 935, pages 212-218, Amending the State Civil Service Law, RCW 41.06.070

Section 934 makes two changes to the current civil service law for the duration of the 2011-13 biennium: (1) Any manager whose position is eliminated and who transfers to a different position shall be compensated at a level no higher than commensurate with the new position, and (2) No manager whose position is eliminated shall have reversion rights to classified position unless the employee was employed in the position, or a substantially equivalent one, within three years prior to the effective date of this act. Section 935 requires that any exempt employee whose position is eliminated and who transfers to a different position shall be compensated at a level no higher than commensurate with the new position. It is inappropriate to unilaterally and retroactively change the terms of employment for employees who have served with sufficient excellence to be promoted to leadership positions. Revoking guarantees made when these employees accepted offers to serve in management positions is simply unwarranted. In addition, the language is written in such a way that it would be applied unevenly to employees in equivalent situations, based on the presumed specific budget reduction that might apply in a given case. This approach would also make it distinctly more difficult for state agencies to promote from within the ranks of their employees. For these reasons, I have vetoed Sections 934 and 935.

Section 978, page 271, Reports on Ensuing Biennium Impact of Budget Proposals

While I am supportive of the intent to provide ensuing biennium impact statements on legislative and executive budget proposals, this language originated as separate legislation and is more appropriately implemented as a change to statute, not as part of an appropriations bill that expires in two years. Furthermore, the information required for both the State General Fund and other funds is far more detailed than necessary for a statewide budget outlook. For these reasons, I have vetoed Section 978.

A number of appropriations in Second Engrossed Substitute House Bill 1087 are contingent upon passage of separate legislation, with legislative direction that the appropriations will lapse if the bills are not enacted. The following vetoes relate to bills that did not pass:

Section 134(4), page 26, Department of Retirement Systems, Substitute Senate Bill 5846 (Retired public employees)

Section 144(1), page 29, Liquor Control Board, House Bill 2043 or Senate Bill 5916 (Liquor related products)

Section 144(2), page 29, Liquor Control Board, House Bill 2043 or Senate Bill 5917 (Co-located contract stores)

Section 206(16), page 61, Department of Social and Health Services, Engrossed Second Substitute House Bill 1901 (Reshaping the delivery of the long-term care system)

Section 217(3), page 86, Department of Labor and Industries,

Engrossed Second Substitute House Bill 1701 (Contractor misclassification)

Section 219(11), page 91, Department of Health, Substitute House Bill 1468 (Public water system permits)

Section 219(17), page 92, Department of Health, Substitute Senate Bill 5542 (Cigar lounge and tobacconist shop special license)

Section 401(3), page 113, Department of Licensing, Substitute House Bill 1205 (Court reporter licensing)

Section 501(1)(i), pages 118-119, Office of the Superintendent of Public Instruction, House Bill 2111 (Implementing Quality Education Council recommendations)

Section 610(3), page 165, The Evergreen State College, Engrossed Second Substitute House Bill 1443 (Continuing education reforms)

Section 721(2), page 186, Transportation agencies, Senate Bill 5920 (Limiting annual increase amounts)

Section 724, page 187, Substitute Senate Bill 5846 (Health benefit subsidies)

For these reasons, I have vetoed Sections 134(4); 144(1); 144(2); 206(16); 217(3); 219(11); 219(17); 401(3); 501(1)(i); 610(3); 721(2); and 724.

With the exception of Sections 123(4); 125, page 14, line 28; 127(11); 129(4); 129(5); 129(6); 129(8); 129(9); 129(10); 134(4); 139(3); 139(4); 144(1); 144(2); 201(5); 202(8); 202(11); 205(1)(j); 205(2)(c); 205(2)(d); 206(16); 206(17); 207(9); 209(1); 213, page 68, line 12; 213(16); 213(17); 213(34); 213(38); 213(47); 213(48); 217(3); 218(2)(a); 219(11); 219(14); 219(17); 220(1)(b); 220(2)(a); 220(3)(a); 221, page 96, lines 8-14; 301, page 98, lines 8-11; 302(9); 302(10); 303(4); 307(12); 308(10); 310, page 110, lines 25-28; 312; 401(3); 401(4); 501(1)(a)(iv); 501(1)(i); 601(6)(c); 605(3); 610(3); 610(9); 613(2)(b); 613(4); 617(7); 617(11); 716; 721(2); 724; 805, page 192, lines 35-37, and page 193, line 1-18; 925; 934; 935; 978, Second Engrossed Substitute House Bill 1087 is approved.

Respectfully submitted,



Christine O. Gregoire
Governor

SHB 1089
PARTIAL VETO
C 356 L 11

Regarding instructional materials provided in a specialized format.

By House Committee on Higher Education (originally sponsored by Representative McCoy).

House Committee on Higher Education
Senate Committee on Higher Education & Workforce Development

Background: Upon request by a public or private institution of higher education acting on behalf of a student with a print access disability, a publisher of instructional materials must, unless technically unable, provide the institution any instructional material in an electronic format mutually agreed upon by the publisher and the institution. This includes computer files or electronic versions of printed instructional materials, video materials captioned or accompanied by transcriptions of spoken text, and audio materials accompanied by transcriptions.

These must be provided in a timely manner and at no additional cost to the institution.

A request from an institution to a publisher for materials in a specialized format must be in writing and include the institution's certification that:

- the student has a print access disability preventing the student from utilizing the standard format material;
- the material is for the student's use in connection with a course in which the student is enrolled; and
- the student or the institution has purchased the material in its standard format prior to requesting the specialized format.

A publisher may require that requests for specialized format materials also include a statement signed by the student promising that the material will be used solely for the student's own purposes and that the student will not copy or duplicate the material for use by others. An institution that allows students to use specialized format instructional material must take precautions to ensure students do not copy or distribute the material in violation of federal copyright laws.

An institutions may also arrange on its own for the transcription or translation of standard format materials and may share the specialized formats created with other students who have print access disabilities, including students at other institutions. Each institution must establish guidelines for implementation and administration of requests for, and use of, instructional materials in specialized formats.

The Americans with Disabilities Act (ADA) is a federal law whose purpose is to provide a clear and comprehensive national mandate for the elimination of discrimination against persons with disabilities.

Summary: The Legislature finds that the knowledge, skill, and ability to succeed both academically and later in a chosen profession are accumulated through many sources, including instructional materials. Generally, an institution that provides a specialized format version of instructional material may not require that the student return the specialized format version.

There is a limited exception to this prohibition on requiring the return of the specialized format version when the institution has: (1) determined that it is not required to allow the student to retain the material under the ADA or other applicable laws; and (2) translated or transcribed the material into the specialized format at its own expense and the cost to reproduce a copy of the translation or transcription is greater than \$100.

Votes on Final Passage:

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

Effective: July 22, 2011

Partial Veto Summary: The Governor vetoed the intent section which found that the knowledge, skill, and ability to succeed in a chosen profession are accumulated through many sources, including instructional materials, and stated that it was the intent of the Legislature to ensure that students be permitted to retain specialized format versions of instructional materials if they so desired.

VETO MESSAGE ON SHB 1089

May 16, 2011

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

Ladies and Gentlemen:

I am returning herewith, without my approval as to Section 1, Substitute House Bill 1089 entitled:

"AN ACT Relating to instructional materials provided in a specialized format version."

I am vetoing the intent section, Section 1 of the bill, because it is broader than the substantive language in the bill. Vetoing the intent section may avoid confusion and does not impede implementation of the bill.

For this reason I have vetoed Section 1 of Substitute House Bill 1089.

With the exception of Section 1, Substitute House Bill 1089 is approved.

Respectfully submitted,

Christine O. Gregoire
Governor

EHB 1091

C 4 L 11

Modifying the unemployment insurance program.

By Representatives Sells, Reykdal and Kenney; by request of Governor Gregoire.

House Committee on Labor & Workforce Development

Background: The unemployment compensation system is designed and intended to provide partial wage replacement for workers who are unemployed through no fault of their own. Most covered employers pay contributions (taxes) to finance benefits. Eligible unemployed workers receive benefits based on their earnings in their base year. The Employment Security Department (Department) administers this system.

1. Taxes.

An employer's taxes are based on the tax rate assigned to the employer and the taxable wage base. The tax rate includes an experience rated factor, a social cost factor, and, when the balance in the Unemployment Insurance Trust Fund (Trust Fund) meets certain conditions, a solvency surcharge. (There is currently no solvency surcharge.)

The experience rated factor (or "array calculation factor") is based on the employer's rate class. An employer is assigned to one of 40 rate classes depending on the

employer's layoff experience. For rate classes one and 40, the rates are 0.00 percent and 5.40 percent. For rate classes two through 39, the rates range from 0.11 percent to 5.30 percent.

The social cost factor is a percentage of costs not directly charged to an employer. First, a flat rate is calculated as the difference between benefits paid and taxes paid, divided by total taxable payroll. The flat rate is adjusted for months of benefits in the Trust Fund. (For rate year 2010, the flat rate was 1.22 percent. For rate year 2011, the flat rate is calculated to be 1.70 percent.) Then, multipliers are used to calculate graduated rates. For rate classes one through 11, the multipliers range from 78 percent to 118 percent. For rate classes 12 through 40, the multiplier is 120 percent.

The tax rate is the sum of the experience rated factor and the social cost factor, and may not exceed 6.0 percent. The tax rate is capped at 5.4 percent for certain seasonal industries (agricultural crops, livestock, agricultural services, food and seafood processing, fishing, and cold storage).

2. Benefits.

a. Benefit amounts. An individual's weekly benefit amount is 3.85 percent of the average of the individual's wages in the two quarters of the base year in which wages were highest. Under certain circumstances, an alternative method may be used to establish a base year.

The maximum amount payable weekly is 63 percent of the state average weekly wage. The minimum amount payable weekly is 15 percent of the average weekly wage. As of July 1, 2010, the maximum amount is \$570 and the minimum amount is \$135.

The maximum amount of regular benefits payable in an individual's benefit year is the lesser of 26 times the individual's weekly benefit amount or one-third of the individual's base year wages. (This amount is commonly expressed in terms of duration. In those terms, the maximum duration of regular benefits is 26 weeks.)

b. Modernization incentive payment. As part of the federal American Recovery and Reinvestment Act of 2009 (ARRA), the United States Congress approved up to \$7 billion in special transfers or "modernization incentive payments" to states with unemployment insurance laws that meet certain requirements.

One-third of the payment is contingent on state law providing for an alternative base year. Washington has already received the one-third payment (approximately \$49 million).

Two-thirds of the payment is contingent on state law providing for at least two of the following:

- No disqualification from benefits for voluntarily quitting employment for compelling family reasons.
- No denial of benefits to part-time workers seeking only part-time work.
- Continuation of weekly benefits for exhaustees in state-approved training.

- Dependents' allowances of at least \$15 per dependent per week.

Washington has not yet qualified to receive the remaining two-thirds payment (approximately \$98 million).

The deadline by which states must apply to receive the payment is August 22, 2011.

c. Training benefits. The training benefits program allows an eligible individual to receive additional benefits while he or she is in retraining. The following individuals who are unemployed may be eligible to receive training benefits: dislocated workers; low-wage workers; military personnel and National Guard members; and persons who are disabled.

A dislocated worker is defined as an individual who: (1) has been terminated or received a notice of termination from employment; (2) is unlikely to return to employment in his or her principal occupation or previous industry because of a diminishing demand for his or her skills; and (3) is eligible for or has exhausted benefits.

The individual must submit a training plan to the Department within 90 days of the individual's notification of the program's requirements and must enter the approved training program within 120 days (unless these deadlines are waived for good cause). The individual must be enrolled in training on a full-time basis (except when a disability precludes such enrollment).

The training must target a high demand occupation and may include vocational training or courses needed as a prerequisite to that training. The training may not include courses primarily intended for completion of a baccalaureate degree.

An individual may qualify for this program only once every five years. The Department must verify that an individual is eligible to work in the United States before the individual receives training benefits.

The maximum amount of training benefits payable in an individual's benefit year is 52 times the individual's weekly benefit amount (less weeks of regular benefits and extended benefits paid).

The weekly benefit amount is the same as the amount the individual receives as regular benefits. The amount is reduced if the individual receives any "remuneration" in the week. The reduction is based on a statutory formula (75 percent of the amount of the remuneration in excess of \$5).

Training benefits are subject to available funding from the Trust Fund. Funding is capped at \$20 million for each fiscal year. Any funds not obligated in one fiscal year may be carried forward to the next fiscal year. Training benefits are not charged to the experience rating accounts of employers.

For an individual who is in the training benefits program, training benefits are payable for up to two years beyond the end of the benefit year of the regular claim.

d. Extended benefits. During periods of high unemployment, the extended benefits program may provide additional weeks of benefits to individuals who have exhausted other benefits. The indicators of high unemployment are based on the current unemployment rate and how it compares to unemployment rates during a two-year look-back period. The federal Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (the 2010 Act) authorizes states, through 2011, to use a three-year look-back period in place of the two-year look-back period.

One indicator used to determine whether extended benefits are payable is based on the seasonally adjusted total unemployment rate (SATUR). If the SATUR is at least 6.5 percent for the most recent three months and at least 110 percent of the SATUR for the same period in either of the two preceding calendar years, extended benefits are payable. (Based on this indicator, up to 13 weeks of extended benefits were payable beginning in February 2009. Another indicator made up to seven additional weeks of extended benefits payable beginning in May 2009, for a total of up to 20 weeks.)

The federal government and the state usually split the cost of extended benefits. The federal government began paying the full cost of extended benefits pursuant to the ARRA, and will continue doing so through 2011 pursuant to the 2010 Act.

For an individual who is eligible for emergency unemployment compensation, the eligibility period for extended benefits is defined as the period consisting of the week ending February 28, 2009, through the week ending May 29, 2010. The 2010 Act authorizes states to continue to permit an individual to qualify for extended benefits after exhausting emergency unemployment compensation, and provides for the eligibility period to continue through 2011.

Summary: 1. Taxes.

The formulas used to calculate the social cost factor are changed for rate year 2011 and thereafter.

For rate classes one through 20, the flat rate is capped. If there are more than 10 months of benefits in the Unemployment Insurance Trust Fund (Trust Fund), the cap is 1.22 percent. If there are 10 months of benefits or less in the Trust Fund, the cap is 1.22 percent or 150 percent of the previous year's flat rate, whichever is greater. Also, the multipliers used to calculate the graduated rates are reduced. The range is 40 percent to 116 percent of the flat rate (instead of from 78 percent to 120 percent).

For rate classes 21 through 40, the flat rate is capped in the same manner as for other rate classes. The graduated rate continues to be 120 percent of the flat rate.

2. Benefits.

a. Temporary benefit increase. An additional \$25 is added to an individual's weekly benefit amount. Corresponding increases are made to the maximum

amount of regular benefits payable (maximum duration), the maximum amount payable weekly, and the minimum amount payable weekly.

The temporary benefit increase is applicable to claims with an effective date on or after March 6, 2011, and before November 6, 2011. Except for individuals receiving extended unemployment compensation or extended benefits, the temporary benefit increase is not added in any week after the total amount of temporary benefit increases for all weeks equals \$68 million. Weeks of emergency unemployment compensation and extended benefits are not considered in calculating the total amount.

During the two-year period consisting of Fiscal Years 2012 and 2013, a total amount equal to the total amount of temporary benefit increases is requisitioned first from the Trust Fund, if the remaining modernization incentive payment is credited to the Trust Fund.

The temporary benefit increase is not charged to the experience rating accounts of employers, and is not considered when calculating the social cost factor rate. It also does not count when determining eligibility for Apple Health for Kids, the Basic Health Plan, and Working Connections Child Care.

b. Training benefits. The training benefits program is modified for claims on or after July 1, 2012.

The definition of "dislocated worker" is expanded. A dislocated worker is an individual who: (1) has been involuntarily and indefinitely separated from employment as a result of a permanent reduction of operations at the individual's place of employment, or has separated from a declining occupation; and (2) is eligible for or has exhausted benefits.

For dislocated workers, certain deadlines and requirements are eliminated. These are: the 90-day application deadline and the 120-day enrollment deadline; the full-time enrollment requirement; and the five-year limitation on qualifying for training benefits. The requirement that the Employment Security Department (Department) verify employment eligibility is continued.

The maximum amount of training benefits payable is modified. The maximum amount is reduced only by weeks of regular benefits (instead of regular benefits and extended benefits).

The reduction to an individual's weekly benefit amount for any remuneration in the week is changed. The reduction is 50 percent (instead of 75 percent) of the remuneration in excess of \$5.

The cap on funding for training benefits is modified. Funding continues to be limited to \$20 million per fiscal year, in addition to any funds carried forward from previous fiscal years. However, if available funding is equal to or less than \$5 million, training benefits are not obligated for low-wage workers, military personnel and National Guard members, and persons who are disabled. If funds are exhausted, training benefits are obligated to

dislocated workers only, and available funding for the following year is reduced by a corresponding amount.

Upon approval of an individual's training benefits plan, regular benefits are not charged to the experience rating accounts of employers.

The Department is required to include the following in annual program reports:

- assessments of employment outcomes;
- an analysis of whether training leads to employment in high-demand occupations, whether degrees or certificates are required to obtain employment, and the number of participants who take courses in basic language, reading, or writing skills;
- an analysis of the type of work participants were engaged in prior to unemployment, and whether they return to their previous employer within two years, or are employed in a field for which they were retrained;
- a projection of program costs for the next fiscal year; and
- an analysis of the total funds obligated for training benefits and the net balance remaining to be obligated.

The Joint Legislative Audit and Review Committee (JLARC) is required to review and evaluate the training benefits program in three years and every five years thereafter, as well as in any year in which the Department suspends obligation of training benefit funds or total expenditures exceed \$25 million. The JLARC must:

- assess whether the program complies with legislative intent, is effective, and operates in a manner which results in optimum performance; and
- make recommendations on program improvements.

After a JLARC review is completed, legislative committees must hold public hearings and consider changes.

c. Extended benefits. The look-back period for indicators of high unemployment used to determine whether extended benefits are payable is changed for 2011. A three-year look-back period may be used instead of the two-year look-back period.

The period during which training benefits are payable is extended. For individuals who are eligible for extended benefits because of the three-year look-back period, training benefits are payable for up to three years beyond the end of the benefit year of the regular claim.

The eligibility period for extended benefits is also extended through 2011. The eligibility period consists of the week ending February 28, 2009, and applies as provided under the federal Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, as it existed on December 17, 2010, or a subsequent date provided by the Department by rule.

3. Other.

The Commissioner of the Department is given authority and discretion to make determinations to remedy any conflicts with federal requirements.

Votes on Final Passage:

House	98	0
Senate	41	4

Effective: February 11, 2011
July 1, 2012 (Sections 7-15)

SHB 1103

C 368 L 11

Modifying the use of television viewers in motor vehicles.

By House Committee on Transportation (originally sponsored by Representatives Kristiansen, Morris and Armstrong).

House Committee on Transportation
Senate Committee on Transportation

Background: In Washington, equipment that is capable of receiving a television broadcast in a motor vehicle may not be located forward of the back of the driver's seat or be visible to the driver while operating a motor vehicle.

Summary: The requirement is removed that equipment capable of receiving a television broadcast be located behind the driver's seat. Instead, no person is allowed to operate a motor vehicle with equipment capable of receiving a television broadcast when the moving images are visible to the driver while the motor vehicle is on a public road. An exemption is provided for live video of the motor vehicle backing up.

Votes on Final Passage:

House	90	3	
Senate	48	0	(Senate amended)
House	97	0	(House concurred)

Effective: July 22, 2011

SHB 1105

C 61 L 11

Addressing child fatality review in child welfare cases.

By House Committee on Early Learning & Human Services (originally sponsored by Representatives Kagi, Walsh, Kenney, Maxwell and Roberts; by request of Department of Social and Health Services).

House Committee on Early Learning & Human Services
Senate Committee on Human Services & Corrections

Background: Child Fatality Reviews. State law requires the Department of Social and Health Services (DSHS) to conduct a child fatality review of an unexpected death of a child who, within the last 12 months, had been in the custody of, or receiving services from, the DSHS. At the

conclusion of the review, the DSHS must issue a report on the results within 180 days after the date of the child's death. The Governor may extend the due date. The DSHS must distribute the report of the child fatality review to the appropriate legislative committees and post all reports of the review to a public website maintained by the DSHS. In the case of a near fatality, the DSHS may conduct a review; it is not mandatory.

The Office of the Family and Children's Ombudsman.

The Office of the Family and Children's Ombudsman (OFCO) was created in 1996 to protect children and parents from harmful agency action or inaction, and to make agency officials and state policy makers aware of system-wide issues in the child protection and child welfare system. The OFCO is part of the Governor's Office and operates independently from the DSHS and other state agencies, acting as a neutral fact-finder, not as an advocate. The OFCO's responsibilities include investigating complaints related to child protective services or child welfare services, monitoring the procedures used by the DSHS in delivering family and children's services, and providing information about the rights and responsibilities of individuals receiving family and children's services and the procedures for providing those services. To perform these duties, the OFCO has authority:

- to interview children in state care;
- to access, inspect, and copy all records, information, or documents in the DSHS's possession that the OFCO considers necessary to conduct an investigation; and
- to have unrestricted online access to the case and management information system operated by the DSHS.

The OFCO is required to issue an annual report to the Legislature on the implementation of the recommendations from reviews of child fatalities.

The DSHS must notify the OFCO:

- in the event of a near fatality of a child who is, or was within the past 12 months, in the care of or receiving services from the DSHS; and
- whenever a referral of child abuse or neglect constitutes the third founded referral on the same child or family within a 12-month period.

Autopsy Report. Reports of autopsies or postmortem examinations are confidential and are released only by statutory authority. The Secretary of the DSHS is not authorized to receive a report of an autopsy for purposes of conducting a required child fatality review.

Summary: Child Fatality Reviews. The DSHS must conduct a child fatality review when a fatality of a child is suspected of being caused by abuse or neglect. The DSHS must consult with the OFCO to determine if a review should be conducted if it is not clear whether a child's death was the result of child abuse or neglect. The DSHS

must assure that persons assigned to a child fatality review team have no previous involvement in the child's case.

A child fatality review report is subject to public disclosure and must be posted on the public website. The DSHS is expressly authorized to redact confidential information contained in a review report according to existing state and federal laws protecting the privacy of victims of child abuse and neglect, including laws regarding the confidentiality of postmortem and autopsy reports.

Near Child Fatality Reviews. In the event of a near fatality of a child, the DSHS must promptly notify the OFCO. The DSHS may conduct a review at its discretion or at the request of the OFCO.

Access to Files. The DSHS and the fatality review team must have access to all records and files from a supervising agency that provided services to the child while under contract with the DSHS.

Civil or Administrative Proceedings. A child fatality or near fatality review is subject to discovery in a civil or administrative proceeding. However, any use or admission into evidence is limited as follows:

- Employees of the DSHS may not be questioned in a civil or administrative proceeding relating to the work of the child fatality review team, the incident under review, the employee's statements, thoughts, or impressions or those of the review team members or others who provided information to the review team.
- A witness may not be examined regarding his or her interactions with the child fatality or near fatality review, including whether the person was interviewed during the review, questions asked during the review, and answers provided by the person.
- Documents prepared for a review team are inadmissible in a civil or administrative proceeding. Documents that existed before use or consideration by the review team or that were created independently of a fatality or near fatality review may still be admissible. The limitation also does not apply to licensing or disciplinary proceedings relating to the DSHS's efforts to revoke or suspend a license based on allegations of misconduct or unprofessional conduct connected with a near fatality or a fatality being reviewed.

Autopsy Report. The Secretary of the DSHS is authorized to receive a report of an autopsy for purposes of conducting a required child fatality review. The information in the autopsy is part of the confidential information that must be redacted when the report is released as a result of a public disclosure request.

Votes on Final Passage:

House	97	0
Senate	49	0

Effective: July 22, 2011

HB 1106

C 184 L 11

Authorizing disposal of property within the Seashore Conservation Area to resolve boundary disputes.

By Representatives Takko, Orcutt and Blake; by request of Parks and Recreation Commission.

House Committee on Environment

Senate Committee on Natural Resources & Marine Waters

Background: The Seashore Conservation Area (Seashore) was established in 1967, dedicating the public beaches on the Pacific Ocean to public recreation. The State Parks and Recreation Commission (Commission) is authorized to oversee the Seashore under principles established in statute. Except for specific authorized purposes, land within the Seashore may not be sold or leased. The Commission may exchange land within the Seashore to settle property disputes.

The Parkland Acquisition Account is an appropriated account to be used solely for the purchase or acquisition of property by the Commission for use as state park property, as directed by the Legislature.

Summary: The Commission may directly dispose of up to five contiguous acres of land within the Seashore, without public auction, to resolve trespass, property ownership disputes, and boundary adjustments with adjacent property owners. Land may be disposed of only after appraisal and for at least fair market value. The transaction must also be in the best interest of the state.

All proceeds from land disposal within the Seashore must be paid into the Parkland Acquisition Account for reinvestment in land located inside or within one mile of the Seashore.

Votes on Final Passage:

House	96	1
Senate	45	0

Effective: July 22, 2011

SHB 1127

C 222 L 11

Addressing bargaining with certified exclusive bargaining representatives.

By House Committee on Labor & Workforce Development (originally sponsored by Representatives Moeller and Sells).

House Committee on Labor & Workforce Development
Senate Committee on Labor, Commerce & Consumer Protection

Background: Under the Public Employees' Collective Bargaining Act (Act), local government and certain other public employees have the right to organize and designate collective bargaining representatives. In the event that a

covered employer and a bargaining representative disagree as to the selection of a bargaining representative, the Public Employment Relations Commission (Commission) must be invited to intervene. State law and Commission rules designate procedures for the Commission's intervention. The Commission may conduct an election to ascertain the exclusive bargaining representative. If a prospective bargaining representative shows written proof of at least 30 percent representation of the employees within the unit, the Commission must hold an election.

In each application for certification as an exclusive bargaining representative the Commission must decide the appropriate unit for collective bargaining. In determining, modifying, or combining a bargaining unit, the Commission is required to consider: the duties, skills, and working conditions of the employees; the history of collective bargaining by the employees and their bargaining representatives; the extent of organization among the employees; and the desire of the employees.

Unfair labor practices for covered employers and bargaining representatives are enumerated in the Act. The Commission is directed to prevent unfair labor practices and issue appropriate remedial orders. It is an unfair labor practice for a covered employer to:

- interfere with, restrain, or coerce public employees in the exercise of their rights;
- control, dominate, or interfere with a bargaining representative;
- discriminate against a public employee who has filed an unfair labor practice charge; or
- refuse to engage in collective bargaining.

Summary: In the event that a covered employer and a bargaining representative disagree as to the merger of two or more bargaining units in the employer's workforce that are represented by the same bargaining representative, the Commission must be invited to intervene.

It is an unfair labor practice for a covered employer to refuse to bargain with the certified exclusive bargaining representative.

Votes on Final Passage:

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

Effective: July 22, 2011

2SHB 1128

C 330 L 11

Providing support for eligible foster youth up to age twenty-one.

By House Committee on Ways & Means (originally sponsored by Representatives Roberts, Carlyle, Kagi, Walsh, Orwall, Goodman, Reykdal, Kenney, Maxwell, Appleton, Hunt and Pettigrew).

House Committee on Early Learning & Human Services
House Committee on Ways & Means
Senate Committee on Human Services & Corrections

Background: Title IV-E Funding. Title IV-E of the Social Security Act authorizes federal funds for states to provide foster care for children under an approved state plan. To be eligible for Title IV-E funding, a child must meet the eligibility requirements, including requirements regarding age, whether there has been a deprivation of parental support or care, and whether there has been a judicial determination that remaining in the home would be contrary to the child's welfare. Federal funding is provided for foster children who are enrolled in high school or a GED program until age 19.

Definition of Juveniles. For purposes of juvenile court, the terms "juvenile," "youth," and "child" are synonymous under Washington law. With some exceptions, a juvenile is any individual under the age of 18 years.

Foster Care to 21. For at least the past two decades, the Department of Social and Health Services (DSHS), has been authorized to provide continued foster care or group care for youth between the ages of 18 and 21 years in order to support the youths' completion of high school or vocational school programs. In 2005 legislation was enacted authorizing the DSHS to provide continuing foster care or group care for youth between the ages of 18 and 21 years who are enrolled in post-secondary education or training programs. The practice of providing continuing foster care past age 18 for post-secondary and related purposes is commonly referred to as Foster Care to 21.

The enacting legislation for Washington's Foster Care to 21 program provides that, beginning in 2006, the DSHS is authorized to allow 50 youth to remain in foster care after reaching age 18. In addition to the first 50 youth, an additional 50 youth could also enter the program in 2007 and 2008. In 2010 there were 83 slots available. As of January 2011, 66 youth were enrolled in the program.

The Fostering Connections to Success and Increasing Adoptions Act of 2008. In October 2008 the U.S. Congress approved, and the President signed, the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Act). The legislation includes a variety of provisions, both mandatory and permissive, intended to reform aspects of child welfare programs. Some of the changes took effect immediately and others are phased in over a period of years. The mandatory provisions in the Act include the following:

- developing health care oversight and coordination plans for children in foster care;
- requiring due diligence in identifying and notifying adult relatives of children placed in foster care;
- ensuring school-age children in foster care are enrolled in school and requiring school stability issues to be addressed in children's case plans;
- negotiating in good faith with Indian tribes seeking to develop their own foster care program using federal moneys;
- notifying prospective adoptive parents of federal adoption tax credits; and
- requiring children's case plans to include a transition plan for youth aging out of foster care.

The DSHS has determined it can, for the time being, implement the mandatory provisions without a change in state law. One of the key changes permitted by the Act includes allowing states to use foster care funds to provide Foster Care to 21 placement services to youth engaged in a broader array of qualifying activities. The federal funding attached to this provision became available October 1, 2010.

Foster Care to 21 and Other Transitional Supports. In 2009 Engrossed Second Substitute House Bill 1961 was enacted clarifying the Foster Care to 21 statute to allow continued enrollment in the program, subject to the availability of appropriated funding. Under that bill, eligibility to remain in foster care or group care continued until the youth turned 21 years old if he or she adhered to program rules and remained enrolled in a post-secondary program.

Beginning October 1, 2010, the type of activities necessary to qualify for Foster Care to 21 was expanded to reflect the activities eligible for use of federal funds. The DSHS is authorized to provide continued foster care or group care up to age 21, within amounts appropriated for this specific purpose, for youth who are:

- enrolled and participating in a post-secondary program;
- participating in a program to promote, or reduce barriers, to employment;
- working 80 or more hours per month; or
- incapable of participating in school, work, or other activities due to a medical condition supported with regularly updated information.

In lieu of Foster Care to 21 placement services and within amounts appropriated for this specific purpose, the DSHS may provide adoption support or relative guardianship benefits on behalf of youth who achieved permanency through adoption or a guardianship after age 16 and who are engaged in one of the activities listed above. Eligibility for continued support or subsidy payments continues until the youth reaches age 21.

Summary: Definition of Juveniles. In addition to individuals under 18 years of age, a juvenile, child, or youth is an individual age 18 to 21 who is eligible to receive

extended foster care services. Once the youth turns 21, he or she is no longer eligible to receive extended foster care services. Those who are determined to be a "juvenile," "child," or "youth" as a result of receiving extended foster care services are not considered to be a "child" under any other statute or for any other purpose.

Extended Foster Care Services/Court Jurisdiction.

Extended foster care services are defined as residential and other support services that the DSHS is authorized to provide to foster children. They include the following: placement in licensed, relative or otherwise approved care; supervised independent living settings; assistance in meeting basic needs; independent living services; medical assistance; and counseling or treatment.

When a child or youth in foster care reaches age 18, his or her parent or guardian is dismissed from the dependency proceeding. The dependency court must postpone the dismissal of the dependency petition in its entirety for six months after a child in foster care turns 18. This six month postponement allows the youth who is eligible for extended foster care services time to request those services after turning 18. At the end of the six-month period, if the youth has not requested extended foster care services, the court must dismiss the dependency. After the youth turns 18 and before the youth requests the DSHS to provide extended foster care services, the DSHS is not required to supervise the youth's dependency. As long as the youth continues to agree to participate in extended foster care services, he or she is under the care and placement authority of the DSHS. The court must dismiss the dependency at the request of the youth who has turned 18 or when the youth is no longer eligible to receive extended foster care services.

The requirement to conduct six month review hearings on the case plan for and the delivery of services applies to youth receiving extended foster care services and should be applied in a developmentally appropriate manner. At the hearing, the court must also consider the following:

- whether the youth is safe in his or her placement;
- whether the youth continues to be eligible for extended foster care services;
- whether the current placement is developmentally appropriate for the youth;
- whether the youth is developing independent living skills; and
- whether the youth is making progress towards transitioning to full independence and the projected date for achieving such transition.

The court must appoint counsel to represent youth who continue in a dependency after his or her 18th birthday.

Foster Care to 21. The statutory provisions regarding the Foster Care to 21 program are recodified into a

separate section, distinct from the statutory provisions regarding extended foster care services.

Votes on Final Passage:

House	75	22	
Senate	46	0	(Senate amended)
House	79	17	(House concurred)

Effective: July 22, 2011

HB 1129

C 17 L 11

Including a bicycle and pedestrian traffic safety curriculum in certain traffic schools and safety courses.

By Representatives Klippert, Liias, Billig, Rolfes, Fitzgibbon, Reykdal, Ryu, Finn and Moscoso.

House Committee on Transportation
Senate Committee on Transportation

Background: In Washington, individuals may defer one moving and one non-moving traffic violation every seven years. As a condition of this deferral, a court may impose such conditions as the court finds appropriate, which often includes attendance at a driver improvement school or traffic school. If the individual meets all of the required conditions and has not committed another infraction, the court may dismiss the infraction at the end of the deferral period.

The Department of Licensing (DOL) is responsible for overseeing the commercial driver training school program. The DOL is also responsible for providing the driver training school curriculum to each applicant for an instructor or driver training school permit. In addition to information on the safe, lawful, and responsible operation of motor vehicles, the curriculum must include information regarding the intermediate driver's license restrictions and sanctions, the effects of alcohol and drug use on motor vehicle operators, and the importance of safely sharing the road with bicycles, pedestrians, and motorcycles.

Summary: Jurisdictions that conduct traffic schools in connection with a condition of a deferral, sentence, or penalty for a traffic infraction or a traffic-related criminal offense are required to utilize the curriculum for driving safely among bicyclists and pedestrians approved by the DOL. This addition to the traffic school curriculum does not require that more than 30 minutes be spent on the curriculum.

Votes on Final Passage:

House	92	0
Senate	46	1

Effective: July 22, 2011

HB 1131
C 17 L 11 E1

Regarding student achievement fund allocations.

By Representative Haigh; by request of Office of Financial Management.

House Committee on Education Appropriations & Oversight

House Committee on Ways & Means
Senate Committee on Ways & Means

Background: Initiative 728 (I-728), approved by the voters in November 2000, created the Student Achievement Fund and dedicated certain state revenues to support various school reform activities in public schools.

The allowable uses for I-728 funding include:

- reductions in K-4 class size;
- selected class size reduction in grades 5-12;
- extended learning opportunities for students;
- investments in educators and their professional development;
- early assistance for children who need pre-kindergarten support; and
- providing improvement or additions to facilities to support class size reductions.

The funding sources for the Student Achievement Fund have been modified several times by the Legislature. Beginning in 2001, portions of state property tax and state lottery revenues were dedicated to the Student Achievement Fund. Beginning in 2004, I-728 directed that the state property tax contribution to the Student Achievement Fund was to increase to \$450 per student full-time equivalent (FTE) and that lottery revenues would be deposited in the School Construction Fund. The 2003 Legislature revised the property tax per student contributed to the Student Achievement Fund to \$254 for 2004, \$300 for 2005, \$375 for 2006, \$450 for 2007, and an amount adjusted annually for inflation thereafter. By law, \$278 of the per pupil allocations must be supported with state property tax revenues, with the remainder supported by the Education Legacy Trust Account, which is supported by cigarette taxes and the estate tax.

Each year, school districts must submit a plan to the Office of Superintendent of Public Instruction outlining plans for the expenditure of I-728 revenues. Additionally, before every May 1, school boards must hold a public hearing on the proposed use of the new money. During the 2007-08 school year, about 52 percent of the funding was used for class size reduction, about 20 percent was used for professional development, about 10 percent was used for extended learning programs, and the remainder was used for a variety of initiatives such as early childhood programs and facilities improvements.

During the 2009 legislative session, the Student Achievement Fund was brought into the State General Fund and accordingly was renamed the Student Achieve-

ment Program. The 2009-11 base budget included a \$131 per student allocation in the 2009-10 school year, which was funded by \$200 million in federal funding from the American Recovery and Reinvestment Act. No funding was provided in the 2010-11 school year.

Chapter 541, Laws of 2009 (Substitute House Bill 2356) made 2009-11 allocations from the Student Achievement Program subject to appropriations in the state omnibus operating appropriations act (operating budget), and further, required per student allocations to return to their original value adjusted for inflation, had they not been suspended during the 2009-11 biennium. In the 2011-12 school year, that allocation would be approximately \$476 per eligible student FTE.

Summary: Per student allocations from the Student Achievement Program in 2011-13 are made subject to appropriations in the operating budget. Additionally, the requirement is eliminated to fund per student funded rates beginning in the 2011-12 school year that are equal to what they would be if rates had not been reduced during the 2009-11 biennium. (Based on November economic forecast data, the per student rate would be about \$476 per eligible student beginning September 1, 2011.)

Votes on Final Passage:

First Special Session

House	71	25
Senate	27	17

Effective: July 1, 2011

2SHB 1132
C 18 L 11 E1

Regarding reducing compensation for educational and academic employees.

By House Committee on Ways & Means (originally sponsored by Representative Haigh; by request of Office of Financial Management).

House Committee on Education Appropriations & Oversight

House Committee on Ways & Means
Senate Committee on Ways & Means

Background: Initiative 732. Initiative 732 (I-732) was approved by the voters in the November 2000 general election. It requires the state to provide an annual Cost-of-Living Adjustment (COLA) for K-12 teachers and other public school employees, as well as community college and technical college academic employees and classified employees at technical colleges. The COLA is based on the Seattle-area Consumer Price Index (CPI) from the most recently completed calendar year.

In 2003 after the Washington Supreme Court ruled in *McGowan v. State* regarding interpretation of the state's funding obligation, the statute was enacted to specify that

the state must provide funding for cost-of-living increases for K-12 state-funded formula staff units only.

Legislation was enacted to suspend I-732 for the 2003-05 biennium. Therefore, no COLAs were provided for the 2003-04 or 2004-05 school years. However, a salary adjustment was provided that biennium for state formula certificated instructional staff in their first seven years of service.

Legislation again suspended I-732 for the 2009-11 biennium. In addition, Chapter 573, Laws of 2009 (Substitute House Bill 2363) specified that the suspended COLAs in the 2009-11 biennium would be made up in the ensuing biennia. Specifically, statute requires that salary rates must be adjusted such that, by the end of the 2014-15 school year, base salaries used in state allocation formulas are, at a minimum, what they would have otherwise been if COLAs had not been suspended during the 2009-11 biennium.

Initiative 732 COLA adjustments assumed in the 2009-11 maintenance level budget are 4.2 percent for the 2009-10 school year, and 0.6 percent for the 2010-11 school year. According to the November 2011 forecast from the Economic Revenue and Forecasting Council, the Seattle CPI is 0.4 percent for calendar year 2010 (applicable to school year 2011-12) and 1.9 percent for calendar year 2011 (applicable to school year 2012-13).

National Board for Professional Teaching Standards Program. The National Board for Professional Teaching Standards (NBPTS) provides an opportunity for teachers to seek an advanced teaching credential by undertaking a rigorous application process. Once earned, the certification is valid for 10 years. The application process requires candidates to complete 10 assessments that are reviewed by trained educators. The assessments include four portfolio entries that feature teaching practice and six constructed response exercises that assess subject knowledge. The NBPTS program was created in 1987 after several important research reports documented emerging needs for outcomes-based professional development in the teaching profession. The NBPTS program is framed around five core principles which shape the requirements of certification. They include:

1. Teachers are committed to students and their learning.
2. Teachers know the subjects they teach and how to teach those subjects to students.
3. Teachers are responsible for managing and monitoring student learning.
4. Teachers think systematically about their practice and learn from experience.
5. Teachers are members of learning communities.

Washington is in its 10th year of participation in the program. In 2000 Washington had 71 NBPTS-certified teachers. The Office of the Superintendent of Public Instruction (OSPI) projects 5,247 in the 2010-11 school year,

and nearly 1,450 in 2010-11 candidates in process with portfolios due March 31, 2011.

Additionally, the OSPI offers a conditional loan that funds \$2,000 of the \$2,500 fee for beginning the process of the NBPTS certification. The loan is competitive and must be repaid once a candidate achieves certification and receives a bonus. The conditional loan was accepted by just under 1,000 candidates in school year 2009-10, and 800 candidates in 2010-11.

The maintenance-level budget for fiscal year 2011 assumes 5,022 teachers will receive the NBPTS base bonuses of \$5,090 per teacher the 2010-11 school year, while 1,353 teachers will receive additional \$5,000 NBPTS bonuses for teaching in high poverty schools.

Certificated Instructional Staff Salary Schedule. The state allocates funding to school districts for certificated instructional staff (CIS) based on a salary schedule that is established each year in the state omnibus operating appropriations act (operating budget) and is subject to conditions and limitations contained in the operating budget. Previous salary schedules have contained "increments," under which the schedule includes increased salary allocations for CIS staff as they gain additional years of experience or educational credits. Educational credits are eligible for inclusion in the salary schedule if they meet criteria specified in statute.

Summary: Initiative 732 COLAs are suspended for the 2011-12 and 2012-13 school years for both K-12 and applicable higher education employees. Additionally, bonuses for teachers certified under the NBPTS program are subject to appropriations in the operating budget for the 2011-12 and 2012-13 school years.

Votes on Final Passage:

First Special Session

House	64	32
Senate	28	16

Effective: July 1, 2011

SHB 1133

C 223 L 11

Requiring massage practitioners to include their license numbers on advertising and display a copy of their license or make it available upon request.

By House Committee on Health Care & Wellness (originally sponsored by Representatives Jinkins, Goodman, Warnick, Rodne, Ladenburg and Maxwell).

House Committee on Health Care & Wellness
House Committee on Health & Human Services
Appropriations & Oversight
Senate Committee on Health & Long-Term Care

Background: A massage practitioner is an individual licensed to provide massage therapy, which is a health care service involving the external manipulation or pressure of

soft tissue for therapeutic purposes. Massage therapy includes techniques such as tapping, compressions, friction, Swedish gymnastics or movements, gliding, kneading, shaking, and facial or connective tissue stretching. Massage therapists are licensed by the Department of Health.

A massage therapist is required to print his or her license number in display advertisements.

Summary: A massage practitioner's name and license number must conspicuously appear on all of the massage practitioner's advertisements. A massage practitioner must also display his or her license conspicuously in his or her principal place of business. If the practitioner does not have a principal place of business or conducts business in any other location, he or she must have a copy of his or her license available for inspection while performing any activities related to massage therapy.

Votes on Final Passage:

House	92	3
Senate	49	0

Effective: July 22, 2011

SHB 1135

C 224 L 11

Regarding refrigerants for motor vehicles.

By House Committee on Environment (originally sponsored by Representatives Finn, Armstrong and Upthegrove).

House Committee on Environment
Senate Committee on Environment, Water & Energy

Background: Federal Significant New Alternatives Policy. The Significant New Alternatives Policy (SNAP) program is the United States Environmental Protection Agency's (EPA) program to evaluate and regulate substitutes for ozone-depleting chemicals that are being phased out under the federal Clean Air Act. Pursuant to its authority under the SNAP program, the EPA has published a list of safe alternative motor vehicle air conditioning substances that are non ozone-depleting chemicals.

Motor Vehicle Air Conditioning Equipment. Washington law prohibits air conditioning equipment from containing any refrigerant that is toxic or flammable, unless the refrigerant is included in the list published by the EPA as a safe alternative motor vehicle air conditioning substitute for chlorofluorocarbon-12. Air conditioning equipment is defined in statute.

A person may not sell, equip, or operate on any highway any motor vehicle with air conditioning equipment unless it complies with state law.

The Washington State Patrol (WSP) may adopt and enforce safety requirements and regulations (applicable to motor vehicle air conditioning equipment) consistent with

the current recommended practice or standard approved by the Society of Automotive Engineers.

The Department of Ecology. Under the federal Clean Air Act, 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. Legislation was enacted adopting California motor vehicle emissions standards and authorizing the Department of Ecology (DOE) to adopt rules to implement these standards.

Summary: Air conditioning equipment may not contain any refrigerant that is toxic or flammable, unless the refrigerant is allowed under motor vehicle emission standards rules adopted by the DOE (instead of the list published by the EPA for safe alternative motor vehicle air conditioning substitutes for chlorofluorocarbon-12).

Provisions related to selling or operating a motor vehicle with air conditioning equipment are modified and limited to new motor vehicles.

The provision allowing the WSP to adopt safety requirements and regulations applicable to motor vehicle air conditioning equipment is removed.

Votes on Final Passage:

House	93	4	
Senate	44	4	(Senate amended)
House	92	5	(House concurred)

Effective: July 22, 2011

SHB 1136

C 225 L 11

Creating volunteer firefighter special license plates.

By House Committee on Transportation (originally sponsored by Representatives Eddy, Armstrong, Morris, Kristiansen, Chandler, Pearson and Kenney).

House Committee on Transportation
Senate Committee on Transportation

Background: The Department of Licensing (DOL) issues special vehicle license plates that may be used in lieu of standard plates. A governmental or nonprofit sponsoring organization seeking to sponsor a special plate either submits an application to the DOL or requests legislation to create the special plate.

For special license plates that are enacted by statute, a sponsoring organization must, within 30 days of enactment, submit prepayment of all start-up costs to the DOL. If the sponsoring organization is not able to meet the prepayment requirement, revenues generated from the sale of the special license plate are first used to pay off any costs associated with establishing the new plate. The sponsoring organization must also provide a proposed license plate design to the DOL. Additionally, the sponsoring organization must submit an annual financial report

to the DOL detailing actual revenues generated from the sale of the special license plate.

There is a moratorium on the issuance of new special license plates until June 30, 2011.

Summary: The volunteer firefighter special license plate is created, which would depict a symbol, description, or artwork that recognizes volunteer firefighters. In addition to all fees and taxes required to be paid upon application for a vehicle registration, a fee of \$40 would be charged for a volunteer firefighter special license plate and a \$30 renewal fee would be charged for renewal of a volunteer firefighter special license plate. The DOL must apply all fees collected from the volunteer firefighters special license plate towards administration and collection expenses incurred by the DOL.

An applicant for the initial volunteer firefighter special license plate must be a volunteer firefighter for at least one year or have been a volunteer firefighter for at least 10 years, and must have documentation of service from the appropriate fire service district. The volunteer firefighter special license plate must be surrendered if the volunteer firefighter leaves firefighting before 10 years of service has been completed. If the volunteer firefighter stays in service for at least 10 years and then leaves, the license plate will be retained by the former volunteer firefighter, and the person will continue to pay the future registration renewals. A qualifying firefighter may have no more than one set of plates per vehicle and a maximum of two sets per applicant for their personal vehicles. If the volunteer firefighter is convicted of a felony, the license plate must be surrendered upon conviction.

The DOL is required to annually report the status of the volunteer firefighter special license plate to the Joint Transportation Committee. The volunteer firefighter special license plate is exempt from the temporary moratorium on special license plates.

Votes on Final Passage:

House	94	0	
Senate	46	2	(Senate amended)
House	96	0	(House concurred)

Effective: January 1, 2012

SHB 1145
C 164 L 11

Establishing mail theft provisions.

By House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Overstreet, Hurst, Klippert, Hinkle, Angel, Ross, Nealey, Warnick, Kirby, Short, Fagan, Hunt, Kelley, Eddy, Bailey, Kenney, McCune and Condotta; by request of Attorney General).

House Committee on Public Safety & Emergency Preparedness

House Committee on General Government Appropriations & Oversight

Senate Committee on Judiciary

Background: Washington's theft statute punishes a person based upon the value of the property stolen. A person commits theft if he or she:

- wrongfully obtains or exerts unauthorized control over the property or services of another with intent to deprive him or her of the property or services;
- by color or aid of deception, obtains control over the property or services of another with the intent to deprive him or her of the property or services; or
- appropriates lost or misdelivered property or services of another with intent to deprive him or her of the property or services.

A person commits Possession of Stolen Property if he or she knowingly receives, retains, possesses, conceals, or disposes of stolen property knowing that it has been stolen and withholds or appropriates the property to the use of any person other than the true owner.

Washington's criminal statute does not have a specific crime relating to Mail Theft or Possession of Stolen Mail.

Generally, federal law governs most postal crimes. Under the federal statute, a person is guilty of Obstruction of Mail if he or she takes any letter, postal card, or package out of any post office or any authorized depository for mail matter, or from any letter or mail carrier, or takes mail which has been in any post office or authorized depository, or in the custody of any letter or mail carrier, before it has been delivered to the person to whom it was directed, with the intent to obstruct the correspondence, to pry into the business or secrets of another, or to open, secrete, embezzle, or destroy the mail. The penalty is up to five years of imprisonment, up to \$250,000 fine, or both imprisonment and a fine.

Summary: Mail Theft. A person is guilty of Mail Theft if he or she: (1) commits theft of mail addressed to three or more different mailboxes; and (2) commits theft of a minimum of 10 separate pieces of stolen mail. Each set of 10 separate pieces of stolen mail addressed to three or more different mailboxes constitutes a separate and distinct crime and may be punished accordingly. Mail Theft is an unranked class C felony offense (carrying a maximum sentence of up to 12 months in jail).

Possession of Stolen Mail. A person is guilty of Possession of Stolen Mail if he or she: (1) possesses stolen mail addressed to three or more different mailboxes; and (2) possesses a minimum of 10 separate pieces of stolen mail. "Possesses stolen mail" means to knowingly receive, retain, possess, conceal, or dispose of stolen mail knowing that it has been stolen, and to withhold or appropriate the use of it to any person other than the true owner or the person to whom it is addressed. The fact that the

person who stole the mail has not been convicted, apprehended, or identified is not a defense to the charge of possessing stolen mail. Each set of 10 separate pieces of stolen mail addressed to three or more different mailboxes constitutes a separate and distinct crime and may be punished accordingly. Possession of Stolen Mail is an unranked class C felony offense.

If a person commits any other crime in the commission of Mail Theft or Possession of Stolen Mail, that person may be prosecuted for the additional crimes.

"Mail" is defined as any letter, postal card, package, bag, or other item that is addressed to a specific address for delivery by the United States Postal Service or any commercial carrier performing the function of delivering similar items to residences or businesses, provided the mail: (1) is addressed to a specific name of an individual person or with a family name or specific company, business or corporation name on the outside of the item of mail or on the contents inside; and (2) is not addressed to any general unnamed occupant or resident of the address without an identifiable person or company, business, or corporation on the outside or the inside of the item; and

- has been left for collection or delivery in a letter box, mailbox, mail receptacle, or other authorized depository for mail, given to a mail carrier, or left with any private business that provides mailboxes or mail addresses for customers or when left in a similar location for collection or delivery by any commercial carrier;
- is in transit with a postal service, mail carrier, letter carrier, commercial carrier, or is at or in a postal vehicle, postal station, mailbox, postal airplane, transit station, or similar location of a commercial carrier; or
- has been delivered to the intended address, but has not been received by the intended addressee.

Mail does not include magazines, catalogs, direct mail inserts, newsletters, advertising circulars, or any mail that is considered third class mail by the United States Postal Service for purposes of a Mail Theft or Possession of Stolen Mail offense.

"Mailbox" includes any authorized depository or receptacle of mail for the United States Postal Service or authorized depository for a commercial carrier that provides services to the general public, including any address to which mail is or can be addressed, or a place where the United States Postal Service or equivalent commercial carrier delivers mail to its addressee.

"Received by the intended addressee" means that the addressee, owner of the delivery mailbox, or authorized agent has removed the delivered mail from its delivery mailbox.

Votes on Final Passage:

House	95	3	
Senate	49	0	(Senate amended)
House	95	1	(House concurred)

Effective: July 22, 2011

SHB 1148

C 147 L 11

Concerning the establishment of a license limitation program for the harvest and delivery of spot shrimp originating from coastal or offshore waters into the state.

By House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Blake and Kretz).

House Committee on Agriculture & Natural Resources
House Committee on General Government
Appropriations & Oversight

Senate Committee on Natural Resources & Marine Waters

Background: The Washington Department of Fish and Wildlife (WDFW) is authorized to conduct experimental or trial emerging commercial fisheries. An emerging commercial fishery allows for the commercial taking of a newly classified fish, a formally classified fish with a new gear type, or a formally classified fish in a new geographic area. Trial emerging fisheries allow for an unlimited number of participants. Experimental emerging fisheries allow the WDFW to limit the number of authorized participants. Fisheries with a limited number of allowable participants are called limited-entry fisheries.

An emerging fishery was created for coastal spot shrimp in 1999. The Director of the WDFW (Director) is authorized to issue a total of 15 experimental permits for an annual fishery that is open March 15 through September 15. During the annual time window, fishery participants are permitted to harvest up to a total of 200,000 pounds of spot shrimp in combined catch using a maximum of 500 shrimp pots per participant. Experimental fishery participants are prohibited from an incidental catch of any salmon, bottomfish species, or more than 50 pounds of other shrimp species. Octopus and squid incidental catch are permissible.

Spot shrimp (also known as *Pandalus platyceros*) is the largest species of shrimp found on the west coast of North America and can be found in subtidal rocky and sandy habitats from San Diego, California to waters off of Unalaska Island, Alaska. Spot shrimp are reddish with longitudinal white stripes on the carapace and a distinctive white spot on the sides of the first and fifth abdominal segments.

Summary: A new limited-entry commercial fishery license is created. This new license, the Washington-coastal spot shrimp pot fishery license (spot shrimp license), allows the holder to use spot shrimp pot gear to

fish for spot shrimp, possess spot shrimp, and arrive at port with spot shrimp. The annual fee for the new license is \$185 for residents and \$295 for non-residents. Each spot shrimp license holder must designate a corresponding vessel meeting designated size requirements that is owned or operated by the license holder to use in the fishery.

The spot shrimp license is a limited-entry license that must be renewed prior to the end of each calendar year to remain active. Only participants in the 2010 coastal spot shrimp experimental emerging commercial fishery, and transferees from a 2010 fishery participant, may purchase an initial spot shrimp license. Initial spot shrimp license holders are eligible to transfer their license beginning in the year 2012.

Although the initial offering of spot shrimp licenses is limited to participants in the 2010 emerging fishery, the Director may, after the 2012 session, extend offers to additional participants. Participant expansion may only occur after taking into consideration the population status of the resource, the market for spot shrimp, and the number of harvesters actively engaged in state and tribal spot shrimp fisheries. However, the total number of spot shrimp licenses offered by the WDFW may not exceed eight.

Possession of a spot shrimp license does not confer any right of compensation should the fishery be closed by the Legislature. License possession also does not guarantee that the Fish and Wildlife Commission (Commission) will open a spot shrimp fishery in any given year.

The WDFW must present a report to the Legislature in 2016 regarding the spot shrimp fishery. The report must include any recommendations to change the fishery and a summary of the impacts of removing spot shrimp from the marine ecosystem.

Votes on Final Passage:

House	98	0
Senate	46	0

Effective: July 22, 2011

HB 1150

C 18 L 11

Extending the time in which a small business may correct a violation without a penalty.

By Representatives Smith, Probst, Schmick, Warnick, Dahlquist, Hunt, Ross, Pearson, Dammeier, Kenney, Rodne, Kagi, Hargrove, Harris, Nealey, Short, Liias, Orcutt, Finn, Kelley, Takko, Taylor, Maxwell, Bailey, Reykdal, Upthegrove, Billig, Kristiansen, Frockt, Carlyle, Blake, Springer, Angel, Hurst, McCune, Rolfes, Condotta and Klippert.

House Committee on State Government & Tribal Affairs
House Committee on Ways & Means

Senate Committee on Government Operations, Tribal Relations & Elections

Background: Under legislation enacted in 2010, before an agency may impose a fine, civil penalty, or administrative sanction on a small business for a violation of a law or rule, the agency must provide the small business with a copy of the law or rule being violated. The agency must also allow the small business at least two business days to correct the violation. If no correction is possible or the agency is acting in response to a complaint made by a third party who would be disadvantaged by an opportunity to correct, the opportunity to correct does not apply.

Exceptions to the opportunity to correct may be made if:

- an agency head determines that the effect of the violation presents a direct danger to the public health, results in a loss of income or benefits to an employee, poses a potentially significant threat to human health or the environment, or causes serious harm to the public interest;
- the violation involves a knowing or willful violation;
- the violation relates to taxes, a regulated entity's financial filings, or an insurance rate or form filing;
- the opportunity for correction conflicts with federal law or program requirements, conditions for receipt of federal funds, or requirements for eligibility of employers for federal unemployment tax credits; or
- the small business previously violated a substantially similar requirement or the owner or operator of the small business previously violated a substantially similar requirement as owner or operator of a different small business.

A "small business" is a business with 250 or fewer employees or an annual gross revenue of less than \$7 million.

Summary: The two business days that an agency must provide to a small business to correct a violation before imposing a fine, civil penalty, or administrative sanction is extended to seven calendar days.

Votes on Final Passage:

House	96	0
Senate	47	0

Effective: July 22, 2011

2SHB 1153

C 125 L 11

Concerning costs for the collection of DNA samples.

By House Committee on General Government Appropriations & Oversight (originally sponsored by Representatives Ladenburg, Walsh, Hurst, Goodman, Kagi, Rodne and Jinkins).

House Committee on Public Safety & Emergency Preparedness
House Committee on General Government Appropriations & Oversight
Senate Committee on Judiciary

Background: The Washington State Patrol operates and maintains a deoxyribonucleic acid (DNA) identification system. The purposes of the system are to assist with criminal investigations and identify human remains and missing persons. Unless a sample has already been collected, biological samples must be collected from any person (adult or juvenile) convicted of a felony, any person who is required to register as a sex or kidnapping offender, and any person convicted of the following misdemeanors and gross misdemeanors:

- Assault in the fourth degree with sexual motivation;
- Communication with a Minor for Immoral Purposes;
- Custodial Sexual Misconduct in the second degree;
- Failure to Register as a Sex or Kidnapping Offender;
- Patronizing a Prostitute;
- Harassment;
- Stalking;
- Sexual Misconduct with a Minor in the second degree; and
- Violation of a sexual assault protection order.

Jails, the Department of Corrections, and the Department of Social and Health Services collect samples from offenders incarcerated in their respective facilities. Police and sheriff's departments collect samples from offenders who do not serve a term of incarceration.

When a sentence is imposed under the Sentencing Reform Act for a felony offense, the court must levy a \$100 fee for any crime that requires collection of a DNA sample. The fee constitutes a legal financial obligation payable after all other legal financial obligations included in the sentence have been satisfied. A legal financial obligation is money ordered by the superior court for obligations including victim restitution, crime victims' compensation, court costs, costs of defense, fines, and any other financial obligation assessed as a result of a felony conviction.

Eighty percent of the fee is deposited in the state DNA Database Account, and 20 percent is transmitted to the agency responsible for collection of the biological sample.

Summary: Sentences imposed for crimes that by law require collection of a DNA sample must include a \$100 fee. Thus the fee must be included in sentences not only

for felonies committed by adults, but also for the specified gross misdemeanors and misdemeanors and for offenses committed by juveniles.

When the DNA sample collection fee is imposed as a consequence of a felony conviction, it is payable after all other legal financial obligations have been paid. When the fee is imposed as a consequence of a misdemeanor or gross misdemeanor conviction, it is payable in the same manner as other assessments.

Votes on Final Passage:

House	96	2
Senate	47	1

Effective: July 22, 2011

2SHB 1163

C 185 L 11

Creating a work group on preventing bullying, intimidation, and harassment and increasing student knowledge on mental health and youth suicide.

By House Committee on Education Appropriations & Oversight (originally sponsored by Representatives Lias, Johnson, Maxwell, Santos, Sullivan, Walsh, Orwall, Moeller, Van De Wege, Pedersen, McCoy, Ladenburg, Goodman, Hunt, Jinkins, Reykdal, Ormsby, Sells, Frockt, Upthegrove, Kagi, Blake, Fitzgibbon, Kenney, Stanford, Ryu, Miloscia, Carlyle, Pettigrew, Moscoso, Probst, Seaquist, Finn, Roberts, Appleton, Billig, Hasegawa, Clibborn, Hurst, Hudgins, Jacks, Dunshee, Green, Tharinger, Darneille and Rolfes).

House Committee on Education
House Committee on Education Appropriations & Oversight
Senate Committee on Early Learning & K-12 Education
Senate Committee on Ways & Means

Background: *Harassment, Intimidation, and Bullying.* Since 2003 school districts have been required to maintain a district policy prohibiting harassment, intimidation, and bullying of any student. The Office of the Superintendent of Public Instruction (OSPI) developed a model prevention policy and training materials to assist school districts.

In 2010 legislation was enacted requiring the OSPI to revise and update the model policy, create a model procedure, and adopt rules regarding communication to parents, students, and employees. The 2010 law requires school districts to amend their policies by August 1, 2011, to, at a minimum, incorporate the new OSPI policy and procedure. School districts must also designate a primary contact person in the district for their policies and procedures. The Office of the Education Ombudsman (OEO) is designated as the lead agency to provide resources and tools to parents and families about anti-harassment policies and strategies.

The OSPI convened a workgroup of stakeholders to assist in developing the new model policy and procedure. In November 2010 the OSPI conveyed the new policy and procedures to the Education Committees of the Legislature, and included the following additional recommendations from the workgroup:

1. A continuing state-level anti-bullying workgroup is needed to advise the Legislature on the next steps in addressing bullying.
2. Training is needed for all school staff and should be required where resources permit.
3. School districts should periodically analyze their data on harassment, intimidation, and bullying and remediate where there are high incidents of bullying.
4. Funding should be provided to assist districts with training, data collection, best practices, and additional personnel to monitor areas with low supervision.

Health and Fitness Standards. The OSPI has developed learning standards for health and fitness that require students to gain knowledge and skills in:

- movement, physical fitness, and nutrition;
- dimensions of health, stages of growth and development, reduced health risks, and promotion of safe living;
- analysis and evaluation of the impact of real-life influences on health; and
- analysis of personal information to develop an individualized fitness plan.

School districts make curriculum decisions and determine what materials are used to provide health and fitness instruction. School districts must have classroom-based assessments or other strategies in place for elementary, middle, and high school to assure that students have an opportunity to learn the health and fitness standards.

Parents of students who have been bullied or harassed often testify that their children become depressed and sometimes suicidal as a result of their experiences.

Summary: The OSPI and the OEO must convene a school bullying and harassment prevention workgroup to develop, recommend, and implement strategies to improve school climate and create respectful learning environments in public schools. The Superintendent of Public Instruction or a designee serves as Chair. Organizations to be represented in the workgroup are specified.

The workgroup must:

- consider whether additional disaggregated data on incidents of bullying and harassment should be collected and make recommendations to the OSPI on data collection;
- examine procedures for anonymous reporting of incidents;
- identify curriculum and best practices for improving school climate; incorporating instruction about

mental health, youth suicide prevention, and prevention of bullying and harassment; and training staff and students in de-escalation techniques;

- recommend best practices for informing and involving parents;
- recommend training for school district primary contacts;
- recommend pre-service training for educators;
- examine and recommend policies for discipline of students and staff; and
- in collaboration with the State Board for Community and Technical Colleges (SBCTC), examine and recommend policies to protect K-12 students attending community and technical colleges from bullying and harassment.

A biennial report is required beginning December 1, 2011, until the workgroup expires January 1, 2016.

The SBCTC and the Higher Education Coordinating Board must compile and analyze college and university policies and procedures regarding harassment, intimidation, and bullying prevention. Each must submit a report to the Education and Higher Education Committees of the Legislature with recommendations for improvement by December 1, 2011. The report must also include recommendations about disaggregated data, training for personnel who are primary contacts regarding policies, and policies for disciplining students and staff who harass, intimidate, or bully.

Beginning July 1, 2012, issues of mental health and suicide prevention education are included in health and fitness learning standards for purposes of classroom based assessments. The OSPI is directed to work with other agencies to develop pilot projects to assist schools in implementing youth suicide prevention activities.

Votes on Final Passage:

House	76	21	
Senate	41	6	(Senate amended)
House	73	23	(House concurred)

Effective: July 22, 2011

July 1, 2012 (Section 5)

SHB 1169

C 126 L 11

Regarding noxious weed lists.

By House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Haigh, Chandler, Blake, Kristiansen, Taylor, Rivers, Finn and Shea).

House Committee on Agriculture & Natural Resources
Senate Committee on Agriculture & Rural Economic Development

Background: A noxious weed is a plant that, when established, is highly destructive, competitive, or difficult to control. The state maintains an active list of noxious weeds present in Washington and categorizes the plants on the list into one of three categories. These categories are designated as Class A, Class B, and Class C.

Class A weeds are those noxious weeds that are not native to Washington and are of limited distribution or are unrecorded in Washington yet could cause a serious threat if established. Class B weeds are non-native plants that are of limited distribution in a region of the state but could cause a serious threat in that region. Class C weeds are all other noxious weeds.

Noxious weeds are identified and listed by the State Noxious Weed Control Board (Board). The Board is required to adopt a statewide noxious weed list at least once a year following a public hearing. Once a state noxious weed list is adopted, county noxious weed control boards must select weeds identified on the state list for inclusion on the local noxious weed list for that county. Each county is empowered to have a noxious weed control board within its jurisdiction.

Once a weed is included on a county's weed list, certain responsibilities apply to landowners within that county. Landowners are responsible for eradicating all Class A weeds as well as controlling the spread of Class B and Class C weeds listed on the county list. The enforcement of violations of these duties is the responsibility of the county weed boards.

Summary: The Board is directed to adopt rules regarding how the Board will select species for listing on the noxious weed list. Included in these rules must be criteria for the listing of species that have been previously rejected for listing by the Board. The listing must include a requirement that additional scientific data be presented to the Board regarding the invasive or noxious qualities of the plant in question, along with information about the plant's economic benefits.

County noxious weed control boards are still permitted to conduct education, outreach, or other assistance regarding plant species not included, or eligible for inclusion, on the state noxious weed list if the county determines that a plant species causes a localized risk or concern.

Votes on Final Passage:

House	90	7
Senate	45	3

Effective: July 22, 2011

SHB 1170

C 148 L 11

Concerning triage facilities.

By House Committee on Judiciary (originally sponsored by Representatives Roberts, Hope, Dickerson, Dammeier, Green, Rolfes, Haigh, Appleton, Walsh, Ormsby, Darneille and Kenney).

House Committee on Judiciary
Senate Committee on Human Services & Corrections

Background: The Involuntary Treatment Act provides requirements and procedures for the detention and civil commitment of persons with mental disorders. Generally, a person may be involuntarily detained for mental health assessment or treatment only under court order. However, in emergency circumstances, persons may be detained without a court order.

Emergency Detention. A person may be taken into custody and detained in an evaluation and treatment facility for up to 72 hours without a court order under emergency circumstances when the person, as a result of a mental disorder, presents an imminent likelihood of serious harm or is in imminent danger because of being gravely disabled.

Law Enforcement Detention Authority. Law enforcement officers have authority under certain circumstances to take into custody and deliver a person with a mental disorder to a facility for short-term detention and evaluation.

When a peace officer has reasonable cause to believe a person is suffering from a mental disorder and presents an imminent likelihood of serious harm or is in imminent danger because of being gravely disabled, the officer may take the person into custody and deliver the person to a crisis stabilization unit, evaluation and treatment facility, or emergency department of a local hospital. A person brought to one of these facilities by a peace officer may be held for up to 12 hours, as long as the person is evaluated within three hours of arrival.

When a police officer has reasonable cause to believe that an individual known to have a mental disorder has committed a non-felony crime that is not a serious offense, the officer may take the individual to a crisis stabilization unit, refer the individual to a mental health professional for evaluation under the mental health commitment statutes, or release the individual upon agreement to voluntary participation in outpatient treatment. If the individual is taken to a crisis stabilization unit, the person may be detained for up to 12 hours if the person is evaluated within the first three hours of arrival.

Crisis Stabilization Units. In 2007 legislation was enacted creating crisis stabilization units as a type of facility to which law enforcement officers could take individuals suffering from mental disorders for up to 12-hour detention. A crisis stabilization unit is defined as a short-term facility for individuals who are experiencing an acute crisis and who need to be assessed, diagnosed, and provided short-term treatment. The Department of Social and Health Services (DSHS) certifies and establishes minimum standards for crisis stabilization units.

Summary: "Triage facilities" are added to the types of facilities to which a law enforcement officer may take an individual who is suffering from a mental disorder and who either presents an imminent likelihood of serious harm, is in imminent danger because of being gravely disabled, or has committed a non-felony offense that is not a serious offense. A person delivered to a triage facility that operates as an involuntary facility must be evaluated within three hours of arrival and may be held for up to 12 hours.

"Triage facility" is defined as a short-term facility licensed by the Department of Health (DOH) and certified by the DSHS that is designed to assess and stabilize an individual or determine the need for involuntary commitment of an individual. Triage facilities may be structured as voluntary or involuntary placement facilities, and must meet DOH residential treatment facility standards.

The DSHS is directed to certify triage facilities and must work with the Washington Association of Counties and the Washington Association of Sheriffs and Police Chiefs in developing rules on certification standards for triage facilities. The rules may not require triage facilities to provide 24-hour nursing.

Facilities operating as triage facilities as defined in the act, whether or not they are certified by the DSHS, as of the effective date of the act are not required to relicense or recertify under any new rules governing licensure or certification of triage facilities.

Votes on Final Passage:

House	98	0	
Senate	48	0	(Senate amended)
House	97	0	(House concurred)

Effective: April 22, 2011

EHB 1171

C 127 L 11

Concerning high capacity transportation system plan components and review.

By Representatives Rolfes, Armstrong, Liias, Billig, Angel, Finn, Appleton, Seaquist and Reykdal.

House Committee on Transportation
Senate Committee on Transportation

Background: In the central Puget Sound region, high capacity transportation (HCT) systems may be established and financed by a regional transit authority (Sound Transit) and potentially by certain other transit agencies. Outside the central Puget Sound region, HCT systems may be established by certain transit agencies only in Clark, Spokane, Thurston, Whatcom, and Yakima counties.

High capacity transportation service means a system of public transportation services within an urbanized region operating principally on exclusive rights of way, and the supporting services and facilities necessary to implement the system, including interim express services and high occupancy vehicle lanes, which, taken as a whole, provides a substantially higher level of passenger capacity, speed, and service frequency than traditional public transportation systems operating principally in general purpose roadways.

Transit agencies authorized to provide HCT service may seek to finance the system and service with the following voter-approved revenue measures:

- an employer tax of up to \$2 per month per employee;
- rental car sales and use tax not to exceed 2.172 percent; and
- sales and use tax not to exceed 0.9 percent.

To assure development of an effective HCT system, the local transit agency must establish a system and financing plan, and must provide for public involvement. In addition, an expert review panel must be appointed to provide independent technical review for development of any plan which is to be funded in whole or part by HCT voter-approved taxes. The state's role in HCT planning is to facilitate cooperative state and local planning efforts, and to provide system and project planning review and monitoring in cooperation with the expert review panel.

In general, most transit agencies, like public transportation benefit areas and county transportation authorities, are authorized to impose a sales and use tax of up to 0.9 percent with voter approval for the purpose of funding public transportation services.

Summary: The planning process required of local authorities seeking to implement a HCT system is limited to system plans that include a rail fixed guideway component or a bus rapid transit component that is planned by a regional transit authority. The requirement that an expert review panel be appointed to provide independent technical review of the plan is also limited to those system plans.

Votes on Final Passage:

House	54	44
Senate	40	6

Effective: July 22, 2011

SHB 1172

C 62 L 11

Concerning beer and wine tasting at farmers markets.

By House Committee on State Government & Tribal Affairs (originally sponsored by Representatives Kenney, Hasegawa, Maxwell, Finn, Ryu, Reykdal and Upthegrove).

House Committee on State Government & Tribal Affairs
Senate Committee on Labor, Commerce & Consumer Protection

Background: Wineries and microbreweries may obtain an endorsement from the Liquor Control Board (Board) to sell their products for off-premises consumption at qualifying farmers markets. Farmers markets must meet certain criteria and receive authorization from the Board to allow beer or wine sales.

Sampling of beer and wine is permitted in some circumstances. Beer and/or wine specialty shops may serve samples of two ounces or less to a customer. Legislation enacted in 2010 allows certain grocery stores to conduct tastings with an endorsement issued by the Board. Wineries and microbreweries may also serve samples. A farmers market endorsement to a winery or microbrewery license, however, does not authorize tasting at a farmers market.

Persons who serve alcohol for on-premises consumption on licensed retail premises must obtain a Mandatory Alcohol Server Training (MAST) permit.

Liquor licensees are subject to penalty, including license suspension, for violations of the law. The Board may vacate a suspension if the licensee pays a monetary penalty. By rule, the Board has classified some violations, such as the sale or service of liquor to a minor, as public safety violations. For a first public safety violation, a licensee receives a five-day suspension or may receive a \$500 penalty in lieu of suspension under some circumstances.

An Alcohol Impact Area (AIA) is a geographic area, designated by a local government and recognized by resolution of the Board, that is adversely affected by chronic public inebriation or illegal activity associated with alcohol sales or consumption. The Board may place restrictions on licensees located in an AIA.

Summary: The Board is directed to establish a pilot project for beer and wine tasting at farmers markets. The pilot project is for 10 farmers markets with at least six days of tastings at each location between September 1, 2011, and November 1, 2012. Only one winery or microbrewery may offer samples at a farmers market per day.

Farmers markets chosen to participate in the pilot project must be authorized, as of January 1, 2011, for winery sales and must also be authorized for microbrewery sales, as of January 1, 2011, if a microbrewery is providing samples. Wineries and microbreweries offering

samples must hold an endorsement to sell at farmers markets on May 1, 2011. In selecting farmers markets, the Board must consult with statewide organizations of farmers markets and make an effort to select farmers markets throughout the state.

A number of conditions for sampling must be met:

- Samples must be two ounces or less, up to a total of four ounces per customer per day, and no more than one sample of any single brand and type may be provided to a customer per day.
- Customers must remain at the designated stall, booth, or other designated location while sampling beer or wine.
- A winery or microbrewery may advertise sampling only at its designated location at the farmers market.
- A winery or microbrewery must have food available or be adjacent to a vendor offering prepared food.

Winery and microbrewery licensees and employees who are involved in sampling activities must hold a MAST permit.

If a winery or microbrewery commits a public safety violation in conjunction with tasting activities, the Board may suspend the winery or microbrewery's farmers market endorsement for up to two years. If mitigating circumstances exist, the Board may offer a monetary penalty in lieu of suspension during a settlement conference.

The Board may prohibit sampling at a farmers market within an AIA if the Board finds that tasting at the farmers market is having an adverse effect on the reduction of chronic public inebriation in the area.

The Board may establish additional requirements for the pilot project to ensure that persons under 21 years of age and apparently intoxicated persons cannot possess or consume alcohol.

The Board must report to the appropriate committees of the Legislature on the pilot project by December 1, 2012. The act expires on December 1, 2012.

Votes on Final Passage:

House	77	21
Senate	37	12

Effective: July 22, 2011

ESHB 1175
PARTIAL VETO
 C 367 L 11

Making transportation appropriations for the 2009-2011 and 2011-2013 fiscal biennia.

By House Committee on Transportation (originally sponsored by Representatives Clibborn, Armstrong, Liias and Billig; by request of Governor Gregoire).

House 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 appropriations act (transportation budget) adopted by the Legislature in odd-numbered years. The Transportation Budget provides appropriations to the major transportation agencies including: the Washington State Department of Transportation (WSDOT); the Washington State Patrol; the Department of Licensing; the Washington Traffic Safety Commission; the Transportation Improvement Board; the County Road Administration Board; and the Freight Mobility Strategic Investment Board. The transportation budget also provides appropriations out of transportation funds to many smaller agencies with transportation functions.

Summary: Appropriations are made for state transportation agencies and programs for the 2011-13 fiscal biennium. Adjustments are made to the appropriations for certain agencies and programs for the 2009-11 fiscal biennium.

Votes on Final Passage:

House	89	6	
Senate	39	9	(Senate amended)
House	87	9	(House concurred)

Effective: May 16, 2011

July 1, 2011 (Sections 703, 704, 716, and 719)

Partial Veto Summary: For the 2011-13 Transportation Budget, the Governor vetoed 22 provisions as the result of policy differences, technical matters, or other reasons. Of the provisions vetoed, 14 are related directly to the WSDOT's Ferry Operating and Capital programs or indirectly to the ferry programs via studies, the Marine Employees' Commission, or other agency oversight. While most of the vetoes do not impact appropriations, two have the net effect of reducing appropriations by \$479,000.

For the 2009-11 Supplemental Operating Budget, the Governor vetoed a provision relating to a reduction in spending in the WSDOT Rail Operating program attributable to Amtrak credits. Amtrak miscalculated the extent of the credit. The veto restores the 2010 appropriation amount, an increase of \$7.5 million.

See the veto message for specific items.

VETO MESSAGE ON ESHB 1175

May 16, 2011

The Honorable Speaker and Members

The House of Representatives of the State of Washington

Ladies and Gentlemen:

Thank you for your work on the supplemental and 2011-13 transportation budgets. I am returning, without my approval as to Sections 103(3), 103(4), 204(2), 205(3), 208(11), 210(4), 210(6), 221(3), 221(4), 221(7), 221(8), 221(9), 221(18), 305(6), 306(4), 308(6), 308(10), 308(12), 610, 706, 714, 722, and 817, Engrossed Substitute House Bill 1175 entitled:

"AN ACT Relating to making transportation appropriations for the 2009-2011 and 2011-2013 fiscal biennia."

Section 103(3), pages 3-4, Office of Financial Management, Predesign Requirements for Washington State Ferries

This proviso requires the Office of Financial Management (OFM) to review and modify the Department of Transportation's (WSDOT) predesign requirements for state ferry vessel and terminal projects so that they continue to meet legal mandates without unduly burdening WSDOT. OFM is committed to working with the legislative transportation committees and stakeholders during the interim to assess and re-write the predesign manual for all appropriate transportation facilities, not just for ferry terminals and vessels. For this reason, I have vetoed Section 103(3).

Section 103(4), page 4, Office of Financial Management, List of Ferry Demands to Bargain

This proviso requires the Office of Financial Management to provide the legislative transportation committees, on a quarterly basis, a list of all demands to bargain with respect to unions representing marine employees. While I support sharing this information with the Legislature, it should not be limited to only one sector of employees. Therefore, I am directing OFM to provide information on all demands to bargain received by the Labor Relations Office to the legislative transportation committees and the Joint Committee on Employment Relations, as appropriate. For this reason, I have vetoed Section 103(4).

Section 204(2), page 8, Joint Transportation Committee, Study of Management Organizational Structure of Ferries Division

This proviso provides funding to the Joint Transportation Committee (JTC) to conduct a study of the management organizational structure of the Department of Transportation Ferries Division. The ferry system has been studied extensively. The transportation budget passed in 2009 directed twelve studies or reports, and six more were added in the 2010 budget. The JTC recently completed a three-year series of finance studies related to ferries. The most recent study was conducted last year by the national Passenger Vessel Association (PVA) at my request and provided recommendations now being implemented by the Ferries Division. This report noted that the level of oversight for Washington State Ferries is greater than the five ferry systems represented on the PVA panel that performed the study. "This constant responding, educating and reacting are tremendously costly and this expenditure could be better utilized elsewhere." For these reasons, I have vetoed Section 204(2).

Section 205(3), page 10, Transportation Commission, Survey of Transportation Users

This proviso ties the appropriation for a survey of transportation users to the passage of Substitute Senate Bill 5128, which did not pass. It is important to conduct a statistically valid survey to identify the transportation priorities the public would like to target for future investments. In order to preserve the funding necessary for this survey, I have vetoed Section 205(3).

Section 208(11), page 15, Department of Licensing, Commercial Drivers

Funding is provided to implement provisions of Engrossed House Bill 1229 (related to commercial drivers) from the Highway Safety Account-State. However, this proviso incorrectly identifies the funds as Motor Vehicle Account-Federal instead of Highway

Safety Account-State. For this reason, I have vetoed Section 208(11).

Section 210(4), pages 17-18, Department of Transportation, Time, Leave and Labor System

This proviso directs the Department of Transportation to report quarterly on its progress on the development of a time, leave, and labor distribution system. While this is a high priority for WSDOT, it is an important need of all state agencies. That is why I proposed that this project be developed as an enterprise solution by the Office of Financial Management in partnership with the Department of Personnel and WSDOT, with WSDOT being the pilot site to implement what will become an enterprise-wide application. Because it is important to clearly set out the state's commitment to an enterprise solution for business process systems improvements, I am vetoing this section and directing that the project commence as a partnership of state agencies with OFM leadership. For these reasons, I have vetoed Section 210(4).

Section 210(6), page 18, Department of Transportation, 511 Traveler Information System Improvements

This proviso directs the Department of Transportation to make enhancements to the 511 traveler information system, as well as to develop or purchase software to allow public transportation users to determine the public transportation options available to them. The private sector is providing similar services for travelers, often at no cost to consumers. During this time of limited state resources, it is unnecessary to dedicate scarce state resources to areas being addressed by the private sector. Furthermore, no funding was provided to accomplish these actions. For these reasons, I have vetoed Section 210(6).

Section 221(3), pages 31-32, Department of Transportation, Ferry Performance Metrics

This section requires the Department of Transportation to develop a set of performance metrics for the Ferries Division and make recommendations to the 2012 Legislature on which measurements should be incorporated into the transportation appropriations act. My Government Management Accountability and Performance (GMAP) program already requires WSDOT to include ferry performance measures as part of its quarterly reports. WSDOT is further enhancing its use of performance metrics, which was one of the recommendations of the Passenger Vessel Association study I directed last year. WSDOT will continue reporting its progress and we will share those updates with the Legislature. For these reasons, I have vetoed Section 221(3).

Section 221(4), page 32, Department of Transportation, Ferries Division Process Changes

This section requires the Department of Transportation Ferries Division to continue to identify and implement route-by-route on-time performance changes. At the same time, it directs WSDOT to consider slowing down vessels to save fuel. It is unclear how the Ferries Division should improve on-time performance while slowing down vessels. WSDOT remains committed to a safe and reliable ferry system, as evidenced by the 94% of sailings arriving within ten minutes of the scheduled sailing time in 2010. For these reasons, I have vetoed Section 221(4).

Section 221(7), page 32, Department of Transportation, Fiscal Year Reports Outlining Wages and Benefits to Ferry Employees

This proviso requires the Department of Transportation to provide to the legislative transportation committees fiscal year reports outlining wages and benefits provided to marine employees. While I support sharing this information with the Legislature, it should not be limited to only one sector of employees. Therefore, I am directing the Office of Financial Management to work with the appropriate agencies to provide wage and benefit information to the legislative transportation committees and ways and means committees. For these reasons, I have vetoed Section 221(7).

Section 221(8), page 32, Department of Transportation, Ferry Detail in the Transportation Executive Information System (TEIS)

This proviso requires the Department of Transportation to work with the Legislative Evaluation and Accountability Program Committee to provide more details on ferry projects in the capital reporting system used by the Legislature, Office of Financial

Management, and WSDOT. It is important that versions of this system are compatible among the agencies for transmitting and comparing data. Furthermore, it would be premature to make such changes to the TEIS until the work required in Section 221(16) regarding the budget structure of the Ferries Division is complete, including a potential restructuring of the ferries budget. For these reasons, I have vetoed Section 221(8).

Section 221(9), page 32, Department of Transportation, Ferry Operating Program, Restrictions on Use of Appropriations for Labor Costs

This proviso limits appropriations used for labor costs to obligations under collective bargaining agreements, civil service laws, and judgments. This limitation would prevent the Department of Transportation from paying legal and necessary labor costs that fall outside these constraints. For example, WSDOT would not be able to pay the salaries and benefits of exempt employees, travel reimbursement for all nonrepresented employees, or the cost of contractors who perform labor-related services from funds appropriated for labor costs. For this reason, I have vetoed Section 221(9).

Section 221(18), pages 34-35, Department of Transportation, Ferry Operating Program, Report Linking Vessel Asset Condition Reports with Vessel Life-Cycle Cost Model

This proviso requires the Department of Transportation to link vessel asset condition reports with its life-cycle cost model for integration with a vessel management system. It also requires WSDOT's 2013-15 budget request to provide a project scope for implementing a vessel asset management system. Predesign requirements, life-cycle cost model changes, asset condition ratings, proposed new management systems, and revised budget structures must be considered in total. To that end, I am directing the Office of Financial Management to convene a workgroup that includes staff from the legislative transportation committees to evaluate how these various requirements should be integrated and reflected in future budget instructions. Therefore, I have vetoed Section 221(18).

Section 305(6), page 40, Department of Transportation, Redistributed Federal Funds

Section 306(4), page 47, Department of Transportation, Redistributed Federal Funds

These provisos require that redistributed federal funds received by the Department of Transportation first be applied to offset planned expenditures of state funds, and second to offset planned expenditures of federal funds, on projects identified in the project list in the 2010 supplemental budget. If these options are not feasible, WSDOT must consult with the Joint Transportation Committee (JTC) prior to obligating redistributed federal funds. If such consultation is not feasible and Washington does not act quickly, we may lose the opportunity to receive redistributed federal funds. However, because input from the Legislature is important, I am directing WSDOT to consult with JTC members when possible. For this reason, I have vetoed Section 305(6) and Section 306(4).

Section 308(6), page 50, Department of Transportation, Ferry Capital Program, Restrictions on Use of Appropriations for Labor Costs

This proviso limits appropriations used for labor costs to obligations under collective bargaining agreements, civil service laws, and judgments. This limitation would prevent the Department of Transportation from paying legal and necessary labor costs that fall outside these constraints. For example, WSDOT would not be able to pay the salaries and benefits of exempt employees, travel reimbursement for all nonrepresented employees, or the cost of contractors who perform labor-related services from funds appropriated for labor costs. For this reason, I have vetoed Section 308(6).

Section 308(10), page 51, Department of Transportation, Ferry Capital Program, Review and Adjust Capital Funding Levels

This proviso requires the Department of Transportation to review and adjust its capital program staffing levels, compare the findings to a 2009 capital staffing level report, and report to the Office of Financial Management and the legislative transporta-

tion committees. WSDOT is currently conducting a thorough review of its staffing levels in all program areas, including the Ferries Division, as it downsizes to meet diminishing revenues. Thus, this requirement specific to Ferries is unnecessary. Therefore, I have vetoed Section 308(10).

Section 308(12), page 51, Department of Transportation, Ferry Capital Program, Provide Cost-Benefit Analysis of Eagle Harbor Slips

This proviso requires the Department to conduct a cost-benefit analysis of replacing or repairing existing structures at the Eagle Harbor maintenance facility. A report is due to the Legislature by December 31, 2011. While I appreciate the need for a thoughtful cost-benefit analysis prior to any capital budget request, I cannot support another unfunded reporting mandate. I am directing the Office of Financial Management to ensure adequate provisions are included in the predesign manual and budget instructions to address these concerns. Therefore, I have vetoed Section 308(12).

Section 610, pages 73-74, Department of Transportation, Report on Department's Future Business Model

This section requires the Department of Transportation to report to the Joint Transportation Committee on its future business model staffing scenarios and method of program and project delivery. I understand the importance of tailoring the workforce both to reflect the ramping down of construction funded by the last two transportation revenue packages and to prepare for a potential new transportation revenue package. However, Section 608 also directs WSDOT to develop new business practices so that a smaller, more nimble workforce can effectively and efficiently deliver transportation projects. In addition, WSDOT is already conducting a thorough review of its staffing levels as it downsizes to meet diminishing revenues. Because this section is unnecessary, I have vetoed Section 610.

Section 706, pages 82-83, Department of Transportation, Exempts Ferries from Biodiesel Requirements for 2011-13

This section exempts ferries from the state biodiesel use requirement. By leveraging federal and private funding, we have made the infrastructure investments to provide biodiesel to ferries. We are moving forward with changes to state procurement contracts to help further reduce the cost of biodiesel and take advantage of available in-state production. If we walk away now, our state funding investments in the industry will be lost, our oilseed farming and refining jobs will move out of state, and we will be forced to pay more to transport biodiesel products from the midwest. The rising cost of gas serves to remind us that we must rely on ourselves, not other countries, for our economic security and safety. I am directing the Department of Transportation to use as much biodiesel as possible within its authorized budget. For these reasons, I have vetoed Section 706.

Section 714, pages 95-96, Marine Employees' Commission Duties Subject to Available Amounts Appropriated for Statutory Duties

RCW 47.64.280 creates the Marine Employees' Commission (MEC). Section 714 amends this statute to provide that MEC shall not perform its duties as identified in this section if funding is not provided. Because funding for MEC has not been provided, this section would prohibit it from performing its statutory duties. Among its duties, MEC adjudicates complaints, grievances, and disputes between labor and management arising out of the operation of the ferry system. A provision in a budget bill cannot extinguish the rights of employees and labor organizations to access MEC to resolve disputes. Changing or eliminating MEC duties should be the subject of a policy bill, not a provision in a two-year budget bill. For these reasons, I have vetoed Section 714.

Section 722, page 99, Toll Enforcement and Administration

During the 2010 legislative session, two separate pieces of legislation, SB 6379 and ESSB 6499, amended RCW 46.63.160 without reference to each other. This section repeals one of those amendments. However, this action is unnecessary because RCW 1.12.025 clearly provides that the amendments can be merged because they do not conflict in purpose. While ESSB 6499 made policy changes related to toll enforcement as we move to a statewide photo toll system, SB 6379 made technical changes to a variety of

vehicle and vessel title and registration statutes intended to have no policy or substantive legal effect. For this reason, I have vetoed Section 722.

Section 817, pages 130-131, Department of Transportation

A reduction of \$7.5 million in the Multimodal Transportation Account-State appropriation was made in the Rail Operating program for the 2009-11 biennium because it was assumed that there would be offsetting Amtrak credits. Amtrak recently informed WSDOT that it had incorrectly calculated the credits. Vetoing this section will restore funding to 2010 levels and allow the Rail Operating program the flexibility needed to close the 2009-11 Biennium. WSDOT is directed to report to the Office of Financial Management and legislative transportation committees on the total credits received from Amtrak. For these reasons, I have vetoed Section 817.

With the exception of Sections 103(3), 103(4), 204(2), 205(3), 208(11), 210(4), 210(6), 221(3), 221(4), 221(7), 221(8), 221(9), 221(18), 305(6), 306(4), 308(6), 308(10), 308(12), 610, 706, 714, 722, and 817, Engrossed Substitute House Bill 1175 is approved.

Respectfully submitted,



Christine O. Gregoire
Governor

EHB 1177

C 219 L 11

Regarding field investigations on privately owned lands.

By Representatives Hunt and McCoy.

House Committee on State Government & Tribal Affairs
Senate Committee on Government Operations, Tribal
Relations & Elections

Background: State law provides that archaeological studies conducted on public lands be performed by professional archaeologists. Professional archaeologist is defined as a person with qualifications meeting the federal Secretary of the Department of Interior's (Secretary) standards for a professional archaeologist. Archaeologists not meeting this standard may be conditionally employed by working under the supervision of a professional archaeologist for a period of four years provided the employee is pursuing qualifications necessary to meet the Secretary's standards for a professional archaeologist. During this four-year period, the professional archaeologist is responsible for all findings. The four-year period is not subject to renewal.

The Secretary's standards for a professional archaeologist require a graduate degree in archaeology, anthropology, or closely related field, plus:

- at least one year of full-time professional experience or equivalent specialized training in archaeological research, administration, or management;
- at least four months of supervised field and analytic experience in general North American archaeology; and
- demonstrated ability to carry research to completion.

In addition to these minimum qualifications, a professional in prehistoric archaeology must have at least one year of full-time professional experience at a supervisory level in the study of archaeological resources of the prehistoric period. A professional in historic archaeology must have at least one year of full-time professional experience at a supervisory level in the study of archaeological resources of the historic period.

Summary: Legislative intent pertaining to archaeological field investigations conducted on privately owned lands is revised to state that such work should be conducted by professional archaeologists, and the intent is not to be interpreted to allow trespassing on private property.

A "field investigation" is defined as an on-site inspection by a professional archaeologist or by an individual under the direct supervision of a professional archaeologist employing archaeological inspection techniques for both the surface and subsurface identification of archaeological resources and artifacts resulting in a professional archaeological report detailing the results of such inspection.

Votes on Final Passage:

House	66	31
Senate	26	20

Effective: July 22, 2011

HB 1178
C 149 L 11

Addressing the office of regulatory assistance.

By Representatives Appleton and Miloscia; by request of Office of Regulatory Assistance.

House Committee on State Government & Tribal Affairs
House Committee on Ways & Means
Senate Committee on Economic Development, Trade & Innovation

Background: Originally created as the Permit Assistance Center in 1995, the Office of Regulatory Assistance (ORA) has evolved from its original mission of providing the public with information on environmental permitting and regulatory laws to a primary point of contact for information on and assistance in navigating the state's environmental and business regulatory systems.

Specifically, the ORA:

- provides information regarding permits;
- maintains a website that provides extensive information on permit laws, including relevant local, state, federal, and tribal laws;
- acts as a service center;
- provides project scoping services;
- offers, under agreement, coordinated permit processes for certain projects; and
- participates in multiagency permitting teams.

In 2010 the ORA was subject to a sunset review by the Joint Legislative Audit and Review Committee (JLARC). The following recommendations were made by the JLARC:

- the Legislature should continue the ORA without further sunset reviews;
- the ORA should include in its biennial reports information on tasks that are and are not working; and
- the ORA should improve its reports to the Legislature for purposes of tracking previous performance targets.

Summary: The termination date for the ORA is repealed. The ORA is required to provide additional information in its biennial report to the Governor and the Legislature: (1) specific information on any difficulty encountered in provision of services, implementation of programs or processes, or use of tools; (2) trend reporting that allows comparisons between statements of goals and performance targets and the achievement of those goals and targets; and (3) recommendations on changes needed to make cost reimbursement, a fully coordinated permit process, multiagency permitting teams, and other processes effective. The duty of reporting the effects of rule-making on the regulatory system to the Governor and the Legislature are transferred from the Office of Financial Management to the ORA.

Votes on Final Passage:

House	62	36	
Senate	43	5	(Senate amended)
House	71	26	(House concurred)

Effective: June 29, 2011

HB 1179
C 63 L 11

Clarifying that public employees may attend informational or educational meetings regarding legislative issues.

By Representatives Hunt, Hudgins, Appleton, Liias, Miloscia, McCoy, Reykdal, Goodman, Darneille, Van De Wege, Upthegrove, Ormsby, Billig, Orwall, Green, Kenney, Dickerson, Santos, Frockt, Tharinger and Moscoso.

House Committee on State Government & Tribal Affairs
Senate Committee on Government Operations, Tribal Relations & Elections

Background: State ethics laws and legislative ethics rules prohibit the use of any person, money, or property under a legislator's official control or direction or in his or her official custody for the private benefit or gain of the legislator. However, there are exceptions to this prohibition, and the Legislative Ethics Board has general rules interpreting the exceptions. For example, if there is no actual cost to the state or the cost is de minimis, if there is a public benefit, and if the use does not interfere with the

performance of official duties, then infrequent and incidental use of state resources for private benefit may be permissible.

In addition, a legislator may not use or authorize the use of state facilities, directly or indirectly, for the purpose of assisting a campaign for election of a person to office or for the promotion of or opposition to a ballot proposition. Knowing acquiescence by a legislator with the authority to direct, control, or influence the actions of the state officer or state employee using the public resources constitutes a violation. Facilities of an agency include stationery, office space, publications, and use of state employees. Among the exceptions to this prohibition: (1) a legislator may use state facilities for activities that are part of the normal and regular conduct of the office; and (2) he or she may have de minimis use of public facilities incidental to the preparation or delivery of communications.

Summary: Exceptions are added to state ethics laws regarding the prohibition against: (1) the use of public facilities by a legislator or state employee for political purposes; and (2) a legislator's use of a state employee for political purposes during the employee's working hours. These new exceptions have the effect of clarifying the scope of state ethics prohibitions by establishing that:

- state employees are not prohibited from attending an informational or educational meeting regarding legislative issues while accompanied by a legislator or other elected official; and
- state facilities, including state-owned or leased buildings, may be used for informational or educational meetings regarding legislative issues.

Votes on Final Passage:

House	97	0
Senate	49	0

Effective: July 22, 2011

HB 1181

C 41 L 11

Creating the Washington state board of naturopathy.

By Representatives Green, Hinkle, Santos and Dickerson.

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

Background: Naturopathic medicine is the art and science of the diagnosis, prevention, and treatment of disorders of the body through the natural processes of the body. Naturopathic medicine includes:

- manipulation (mechanotherapy);
- the prescription, dispensing, and use of nutrition and food science;
- physical modalities;
- minor office procedures;
- homeopathy;

- naturopathic medicines;
- hygiene and immunization;
- contraceptive devices;
- common diagnostic procedures; and
- suggestion.

Naturopaths are licensed by the Department of Health (DOH), which is responsible for:

- adopting rules;
- setting minimum education and experience requirements;
- preparing and administering licensing examinations;
- determining alternative training requirements;
- implementing a continuing competency program;
- setting license and examination fees;
- issuing licenses;
- maintaining records of applicants and licensees;
- conducting hearings if a denial of a license is appealed; and
- disciplining licensed naturopaths for unprofessional conduct.

When carrying out its functions, the DOH is advised by the Naturopathic Advisory Committee, which consists of five members appointed by the Secretary of Health.

Summary: The Board of Naturopathy (Board) is created (replacing the Naturopathic Advisory Committee). The Board consists of seven members appointed by the Governor for four-year terms. Five members of the Board must be licensed naturopaths and two members must be members of the public.

The Board is responsible for:

- adopting rules;
- setting minimum education and experience requirements;
- preparing and administering licensing examinations;
- determining alternative training requirements;
- implementing a continuing competency program; and
- disciplining licensed naturopaths for unprofessional conduct.

The DOH maintains the responsibility for:

- setting license and examination fees;
- issuing licenses;
- maintaining records of applicants and licensees; and
- conducting hearings if a denial of a license is appealed.

Votes on Final Passage:

House	97	0
Senate	47	1

Effective: July 22, 2011

HB 1182
C 165 L 11

Clarifying that each instance of an attempt to intimidate or tamper with a witness constitutes a separate violation for purposes of determining the unit of prosecution under tampering with or intimidating a witness statutes.

By Representatives Goodman, Ross, Kirby, Johnson, Hope, Hurst, Kelley, Maxwell, Frockt, Klippert, Lias, Miloscia, Moscoso, Pearson, Billig, Warnick and Ladenburg.

House Committee on Public Safety & Emergency Preparedness
Senate Committee on Judiciary

Background: A person is guilty of Intimidating a Witness if he or she uses a threat to attempt to influence a witness's testimony, induce a witness to absent him or herself from proceedings, induce a person not to report information relevant to a criminal investigation or child abuse, or induce a person not to have a crime or abuse prosecuted. Intimidating a Witness is a class B felony with a seriousness level of VI.

A person is guilty of Tampering with a Witness if he or she attempts to induce a witness to testify falsely, absent him or herself from proceedings, or withhold information from law enforcement or an agency that is relevant to a criminal investigation or child abuse. Tampering with a Witness is a class C felony with a seriousness level of III.

The Washington Supreme Court (Court) recently determined that where a defendant makes multiple phone calls to induce a single witness not to testify, the prosecutor may charge the defendant with one count of Tampering with a Witness. The Court determined that the unit of prosecution is the ongoing attempt to persuade the witness not to testify.

Summary: For the offenses of Intimidating a Witness and Tampering with a Witness, each instance of an attempt to intimidate or tamper with a witness constitutes a separate offense.

Votes on Final Passage:

House 93 0
Senate 47 0

Effective: July 22, 2011

ESHB 1183
C 150 L 11

Regarding certain osteopathic or allopathic medical schools prohibiting hospitals or physicians from entering into agreements to provide clinical rotations to qualified osteopathic or allopathic medical students.

By House Committee on Health Care & Wellness (originally sponsored by Representatives Johnson, Cody, Ross, Kenney, Warnick, Maxwell, Schmick, Taylor, Hope, Haler, Goodman, Hinkle, Dickerson, McCune, Rodne, Armstrong, Ryu, Seaquist, Pedersen, Lias, Eddy, Appleton, Klippert, Kretz, Hasegawa, Fagan, Asay, Chandler, Angel, Ahern and Stanford).

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

Background: The Medical Quality Assurance Commission (Commission) establishes standards for the issuance of licenses to physicians and surgeons, while the Board of Osteopathic Medicine and Surgery (Board) establishes standards for osteopathic physicians and surgeons. The general standards for both professions require: (1) graduation from an approved medical school; (2) completion of a residency or other postgraduate training program; (3) a work history since graduation; (4) a verification of all admitting or specialty hospital privileges granted within five years of application; and (5) a verification of all states where the applicant is credentialed.

To meet the Commission's postgraduate training requirement, the applicant for a physician or surgeon's license must have completed a two-year program accredited by either the Accreditation Council for Graduate Medical Education or the Royal College of Physicians and Surgeons of Canada. To meet the Board's postgraduate training requirement, the applicant for an osteopathic physician or surgeon's license must have completed either a nationally approved one-year internship program or the first year of a residency program approved by the American Osteopathic Association or the American Medical Association.

Summary: Osteopathic and allopathic medical schools that receive state funds, are authorized by the Higher Education Coordinating Board, or are foreign medical schools may not prohibit a hospital or physician from entering into an agreement to allow qualified osteopathic and allopathic medical students to participate in clinical rotations.

Votes on Final Passage:

House 94 0
Senate 44 1 (Senate amended)
House 96 0 (House concurred)

Effective: July 22, 2011

E2SHB 1186

C 122 L 11

Concerning requirements under the state's oil spill program.

By House Committee on General Government Appropriations & Oversight (originally sponsored by Representatives Rolfes, Hudgins, Upthegrove, Appleton, Roberts, Pedersen, Carlyle, Goodman, Lias, Van De Wege, Dickerson, Cody, Fitzgibbon, Dunshee, McCoy, Finn, Jacks, Reykdal, Tharinger, Frockt, Billig, Hunt, Kenney, Stanford, Ryu and Seaquist).

House Committee on Environment

House Committee on General Government
Appropriations & Oversight

Senate Committee on Natural Resources & Marine Waters
Senate Committee on Ways & Means

Background: Oil Spill Contingency Plan Requirements.

All covered vessels and facilities are required to have an oil spill contingency plan on file with the Department of Ecology (Department). The contingency plan must meet standards identified by the Department and provide for the containment and cleanup of oil spilled into the waters of the state. The contingency plan is a legally binding agreement on the party submitting the plan.

The contingency plan requirements apply to facilities located on the land and to vessels that dock at the facilities. A facility is, with a few exceptions: a structure, a pipeline, a device, or equipment located on or near state waters that transfers oil to or from a vessel or pipeline. A covered vessel is: a tank vessel that is designed to carry oil in bulk as cargo; a cargo vessel weighing over 30 gross tons; or a passenger vessel weighing over 300 gross tons.

Contingency plans must meet the requirements developed in rules by the Department. These rules, which must be periodically updated, establish the standards that contingency plans must meet. Examples of the standards include: details for the method of response to spills of various sizes; lists of personnel and equipment used to remove oil and/or to minimize damage in a worst case spill; and procedures for early detection and timely notification of spills. Rules adopted by the Department also require the use of random, unannounced drills of contingency plan holders as a means for testing the adequacy of the contingency plans.

Emergency Communication. A covered vessel located within 12 miles of the state's coastline is required to notify the United States Coast Guard (USCG) within one hour of becoming disabled, colliding with another vessel, or experiencing a near miss collision with another vessel. The Department, the Washington State Military Department, and the USCG are expected to negotiate an agreement that allows state notification of incidents reported to the USCG. From these notifications, the Department must create summaries of reported incidents.

Compensation Schedule. The owner or operator of a covered vessel that experiences a spill in Washington waters or fails to satisfy the contingency planning requirements faces three different financial liabilities: civil penalties, natural resource damage assessments, and third party tort liability.

Civil penalties are assessed by the Department on covered vessels that enter the waters of the state without an approved contingency plan, or without having met financial responsibility requirements in compliance with state and federal standards. In these cases, the Department may assess a civil penalty of up to \$100,000 for each day the vessel is in violation of compliance with the standards.

Natural resource damage assessments are issued by the Department in consultation with other natural resources agencies based on a compensation schedule for unlawful oil discharges. The amount of compensation must be at least \$1 per gallon and no more than \$100 per gallon spilled. The compensation schedule must reflect compensation for impacts including those to the environment, recreation, and aesthetics.

A person whose private property is damaged by an unlawful oil discharge may bring an action against the owner or operator of the vessel. Generally, the vessel owner or operator faces strict liability for damages resulting from a spill.

Summary: Oil Spill Contingency Plan Requirements.

The Department is required to evaluate and update planning standards for oil spill response equipment that is required under contingency plans in order to ensure in-state access to the best achievable technology that allows for a continuous response to a worst case spill. These equipment standard evaluations must include aerial surveillance availability and be updated every five years. An initial evaluation for tank vessels must occur by the end of 2012. By the same date, the Department must adopt rules to improve the effectiveness of an existing system that utilizes private fishing boats as part of an oil spill response.

The Department is authorized to require joint, large-scale multiple plan equipment deployment drills to determine the compliance with contingency plan requirements. At a minimum, one such drill must be ordered every three years. These extra drills must be focused on the operational readiness of the spill response both during the first six hours of a spill and in the following operational periods. When practicable, the Department must coordinate the drills with Oregon and British Columbia.

Volunteer Coordination System. The Department is required to establish a volunteer coordination system as part of the state's overall spill response strategy. In doing, the Department may organize the system with local emergency management centers and coordinate with analogous federal efforts. Civil immunity is created for volunteers and the state for any acts or omissions by volunteers participating in the volunteer coordination system.

Emergency Communication. The owner or operator of a vessel experiencing an emergency at sea must notify the Department within one hour if there has been a discharge, or a substantial threat of discharge, caused by the emergency. This notification is in addition to similar notification that is required to be given to the USCG.

Contingency Plan Approval. The Department is required to notify a person who submits a contingency plan within 65 days as to whether or not the plan is approved, disapproved, or conditionally approved. For conditional approvals, the Department must describe the conditions and specify a timeline for the submittal of an amended plan.

Umbrella Plans. For contingency plans providing umbrella coverage to both tank vessels and non-tank vessels, the plan holder must specify the maximum worst case discharge from both types of vessels to be covered by the plan. The vessels covered by the plan must have agreements that provide for access to additional oil spill response equipment beyond that provided in the umbrella contingency plan.

Federal Assistance. The Director of the Department is required to formally request, from the federal government, a contribution to the establishment of regional oil equipment caches to ensure adequate response capabilities.

Compensation Schedule. The range of compensation to be assessed by the Department for the unlawful discharge of oil is raised from between \$1 and \$100 per gallon of oil discharged to between \$3 and \$300 for any vessels discharging 1,000 or more gallons of oil. Any persistent oil recovered from the surface of the water within the first 48 hours following a spill is to be deducted from the calculation of total gallons discharged.

The civil damages a vessel that spills oil may be found strictly liable for are specified to include the loss of income and revenue to the damaged party. Actions to which liability attaches include those conducted in response to a spill.

Votes on Final Passage:

House	62	35	
Senate	47	2	(Senate amended)
House	62	34	(House concurred)

Effective: July 22, 2011

SHB 1188
C 166 L 11

Concerning crimes against persons involving suffocation or domestic violence.

By House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Goodman, Kelley, Hurst, Kenney, Moscoso, Warnick, Roberts, Maxwell, Liias, Frockt, Rolfes, Sullivan, Carlyle,

Finn, Hudgins, Kagi, Miloscia, Appleton, Ladenburg and Fitzgibbon).

House Committee on Public Safety & Emergency Preparedness
Senate Committee on Judiciary

Background: A person is guilty of Assault in the second degree if he or she assaults another by strangulation. "Strangulation" means to compress a person's neck, obstructing or intending to obstruct blood flow or the ability to breathe. Assault in the second degree is a class B felony with a seriousness level of IV. If there is a finding of sexual motivation, it is a class A felony.

The definition of "most serious offense" includes Assault in the second degree. A person who has been convicted of three most serious offenses is a persistent offender and may be sentenced to life in prison without the possibility of release.

The standard sentence range for a person convicted of a felony is based on the seriousness level of the offense and the person's offender score. The offender score is determined based on points for prior offenses. Generally only prior felonies are included in the offender score, but where the present conviction is for a felony domestic violence offense, one point is added to the offender score for each prior conviction for a repetitive domestic violence offense. A repetitive domestic violence offense includes non-felony Assault, Harassment, Stalking, and violation of no-contact and protection orders.

A prior conviction "washes out" of an offender's score if the person spends a specified number of years in the community without being convicted of a crime. For example, a class B felony other than a sex offense washes out after 10 years, and a class C felony other than a sex offense washes out after five years.

Summary: Assault in the second degree includes assaulting another by suffocation. "Suffocation" means to block or impair the intake of air at the nose and mouth, whether by smothering or other means, with the intent to obstruct the ability to breathe.

A prior conviction for a repetitive domestic violence offense is not included in the offender score if the person has spent 10 consecutive years in the community without being convicted of a crime.

Votes on Final Passage:

House	97	0	
Senate	49	0	(Senate amended)
House	97	0	(House concurred)

Effective: July 22, 2011

HB 1190

C 128 L 11

Concerning billing for anatomic pathology services.

By Representatives Hinkle, Kelley, Van De Wege, Liias and Stanford.

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

Background: Licensed physicians, osteopathic physicians, dentists, and pharmacists are prohibited from receiving a payment, such as a rebate, refund, or commission, if that payment is received in connection with the referral of patients or the furnishing of health care treatment or diagnosis. The stated intent of the prohibition is to prevent licensed health care providers from receiving compensation for services that they did not perform. The prohibition does not apply to a licensed health provider who charges for the health care services rendered by an employee who is licensed to provide the services.

In 2005 the Washington State Attorney General issued a formal opinion related to the application of the referral prohibitions to pathology services. The opinion concluded that a physician may only charge for professional services that are actually rendered, such as taking samples for a biopsy, preparing the sample, and other associated costs. In addition, a physician may charge for services related to reviewing the pathologist's diagnosis or consulting with the patient about the diagnosis. The opinion also specified that if the pathologist indirectly bills the patient through the referring physician, that physician could not, in turn, receive compensation for those specific services beyond what the pathologist charges.

Summary: Clinical laboratories and physicians that provide anatomic pathology services must submit any claims for payment for pathology services to either: (1) the patient; (2) the responsible insurer; (3) the hospital or clinic that ordered the services; (4) the referring laboratory, unless that laboratory is part of a physician's office or group practice that does not perform the professional component of the anatomic pathology service; or (5) governmental agencies acting on the behalf of the recipient of the services.

Licensed health care practitioners are prohibited from charging for anatomic pathology services unless the services were personally delivered by the practitioner or under the direct supervision of the practitioner. Laboratories that refer to another physician or laboratory for consultation or histologic processing are exempt from the personal delivery and direct supervision requirements, unless the laboratory that makes the referral does not perform the professional component of the service.

Violations of the billing practices regarding anatomic pathology services are governed by the Uniform Disciplinary Act.

The term "anatomic pathology services" is defined to include histopathology or surgical pathology, cytopathology, hematology, subcellular pathology or molecular pathology, and blood-banking services performed by pathologists.

Votes on Final Passage:

House	93	0
Senate	48	0

Effective: July 22, 2011

HB 1191

C 129 L 11

Changing the expiration dates of the mortgage lending fraud prosecution account and its revenue source.

By Representatives Ryu, Kirby, Buys, Fitzgibbon and Bailey; by request of Department of Financial Institutions.

House Committee on Business & Financial Services
House Committee on General Government
Appropriations & Oversight
Senate Committee on Financial Institutions, Housing & Insurance

Background: In 2003 legislation was enacted creating the Mortgage Lending Fraud Prosecution Account (Account), a specific fund to aid in the prosecution of consumer fraud in the mortgage lending process. The Account is administered by the Department of Financial Institutions (DFI). Funds for the Account are generated by a \$1 surcharge, assessed at the recording of a deed of trust. In order to defray the costs of collection, the county auditor may retain up to 5 percent of the funds collected. Once collected by a county, the funds must be transferred monthly to the State Treasurer who, in turn, must deposit the funds into the Account.

The DFI may use the Account to reimburse county prosecutors and/or the Office of the Attorney General (AG) for costs related to the investigation and prosecution of mortgage fraud cases. Reimbursable items include salaries, training costs for staff, and expenses related to investigation and litigation. The Director of the DFI or the Director's designee may authorize expenditures from the Account. The DFI is required to consult with the AG and local prosecutors in developing guidelines for the distribution of the funds, which are to be used to enhance law enforcement capabilities at both the state and local level.

The Account and the surcharge created in 2003 were originally set to expire on June 30, 2006. In 2006 the expiration of the Account, the surcharge, and the report were delayed until June 30, 2011. In 2009 the annual report requirement was changed to expire on June 30, 2009, in an omnibus bill that eliminated or reduced the frequency of a number of reports prepared by state agencies.

ESHB 1202

Summary: The expiration dates of the Mortgage Lending Fraud Prosecution Account and the surcharge are delayed until June 30, 2016.

Votes on Final Passage:

House	97	0
Senate	47	1

Effective: June 29, 2011

ESHB 1202

C 186 L 11

Creating a pilot project to allow spirits sampling in state liquor stores and contract stores.

By House Committee on State Government & Tribal Affairs (originally sponsored by Representatives Hunt, Taylor and Moscoso).

House Committee on State Government & Tribal Affairs
Senate Committee on Labor, Commerce & Consumer Protection

Background: In Washington, spirits in the original package may be sold only in state liquor stores and contract liquor stores. (An exception allows limited sales of spirits by craft distillers.)

Sampling of spirits, beer, and wine by retail customers is permitted in some circumstances. Beer and/or wine specialty shops may serve samples of two ounces or less to a customer. Legislation enacted in 2010 allows certain grocery stores to conduct tastings with an endorsement issued by the Board. Breweries and wineries may also serve samples. A craft distillery may provide one-half ounce or less samples of spirits, up to a total of two ounces per day to a customer, on its premises.

An Alcohol Impact Area (AIA) is a geographic area, designated by a local government and recognized by resolution of the Board, that is adversely affected by chronic public inebriation or illegal activity associated with alcohol sales or consumption. The Board may place restrictions on licensees located in an AIA.

Persons who solicit or take orders for a distiller, manufacturer, importer, or distributor of spirits must hold a representative's license issued by the Board.

Liquor may not be consumed on the premises of a state liquor store.

Summary: The Liquor Control Board (Board) is directed to establish a pilot project for spirits sampling in state and contract liquor stores to promote the sponsor's products.

The pilot project consists of 30 locations with at least six samplings to be conducted at each location between September 1, 2011, and September 1, 2012. Only one sampling per week at a store is permitted. The Board must select the stores. In selecting stores, the Board must give:

- due consideration to the location of the store with respect to places of worship, schools, and public

institutions, and written notice to these entities located within 500 feet of the store; and

- due consideration to motor vehicle accident data in the proximity of the store.

The following conditions apply to sampling:

- Only persons age 21 or over and no apparently intoxicated person may sample spirits.
- Samples may take place only in an area of the store where access to persons under age 21 is prohibited.
- Samples may be free of charge.
- Samples must be one-quarter ounce or less, with no more than one ounce of samples per person per day.
- Only sponsors may serve samples. A sponsor is a domestic distiller or an accredited representative of a distiller, manufacturer, importer, or distributor of spirits.
- Any person involved in serving samples must have completed a Mandatory Alcohol Server Training program.
- The product sampled must be available for sale at the store where the sampling occurs.
- Customers must remain on the premises while consuming samples.

The Board may prohibit sampling at a store within the boundaries of an Alcohol Impact Area if the sampling is having an adverse effect on the reduction of chronic public inebriation. All other criteria needed to establish and monitor the pilot project are determined by the Board. The Board may adopt rules to implement the pilot project.

The prohibition against consuming liquor on the premises of a state liquor store is amended to allow spirits sampling, and contract stores are given explicit authority for sampling on their premises.

The Board must report on the pilot project to the appropriate committees of the Legislature by December 1, 2012. The report must include the results of a survey of state and contract liquor store managers. The act expires on December 1, 2012.

Votes on Final Passage:

House	80	18
Senate	31	17 (Senate amended)
House	85	11 (House concurred)

Effective: July 22, 2011

E2SHB 1206**PARTIAL VETO**

C 64 L 11

Concerning harassment against criminal justice participants.

By House Committee on General Government Appropriations & Oversight (originally sponsored by Representatives Dahlquist, Hurst, Pearson, Harris, Parker, Lytton, Rivers, Johnson, Taylor, Wilcox, Ross, Kelley, Ladenburg, Armstrong, Dammeier, Frockt and Schmick).

House Committee on Public Safety & Emergency Preparedness

House Committee on General Government Appropriations & Oversight

Senate Committee on Judiciary

Background: Harassment. A person commits the crime of harassment if he or she:

- without lawful authority knowingly threatens to: (a) cause bodily injury immediately or in the future to the person threatened or to any other person; (b) cause physical damage to the property of a person other than the actor; (c) subject the person threatened or any other person to physical confinement or restraint; or (d) maliciously do any other act that is intended to substantially harm the person threatened or another with respect to his or her physical or mental health or safety; and
- by words or conduct places the person threatened in reasonable fear that the threat will be carried out. "Words or conduct" includes the sending of an electronic communication.

Criminal harassment is generally a gross misdemeanor. However, the crime is a seriousness level III, class C felony offense if:

- the offender has a previous conviction for harassment or a harassment-related offense against the same victim, members of the victim's family, or persons named in a no-contact or no-harassment order; or
- the offender committed the crime by threatening to kill that person or another person.

Address Confidentiality Program. The Address Confidentiality Program (ACP) is a program that allows victims of domestic violence, sexual assault, or stalking to have an alternative address designated as his or her substitute mailing address. The ACP also allows state and local agencies to comply with requests for public records without disclosing the confidential location of a victim.

Summary: Harassment. A person is guilty of harassment, if he or she harasses:

- a criminal justice participant who is performing his or her official duties at the time of the offense; or
- a criminal justice participant because of an action taken or decision made by the criminal justice

participant during the performance of his or her duties.

The threat that a criminal justice participant receives must create a fear that a reasonable criminal justice participant would have under all the circumstances. Threatening words do not constitute harassment if it is apparent to the victim that the offender does not have the present and future ability to carry out the threat.

Harassment of a criminal justice participant is a seriousness level III, class C felony offense (a sentence of one to three months for a first-time offender).

A criminal justice participant includes: any federal, state, or local law enforcement agency employee; federal, state, or local prosecuting attorney or deputy prosecuting attorney; staff member of any adult corrections institution or local adult detention facility; staff member of any juvenile corrections institution or local juvenile detention facility; community corrections officer; probation or parole officer; member of the Indeterminate Sentence Review Board; advocate from a crime victim/witness program; or defense attorney.

Address Confidentiality Program. A criminal justice participant who is a target for threats or harassment and any family members residing with him or her are eligible for the ACP.

It is a class C felony offense for a person to knowingly provide false or incorrect information upon an application for the ACP stating that disclosure of the applicant's address would endanger the safety of the criminal justice participant or his/her family.

Sentencing Guidelines Commission Report. Beginning on December 1, 2011, and annually thereafter, the Sentencing Guidelines Commission (SGC) must report to the appropriate committees of the Legislature on the number of prosecutions of harassment crimes against criminal justice participants.

Expiration of the Act. The entire act relating to increasing the penalty for harassment of a criminal justice participant, the ACP, and the requirement of the SGC to produce an annual report on the number of prosecutions of harassment crimes against criminal justice participants, expires on July 1, 2018.

Votes on Final Passage:

House	98	0
Senate	48	0

Effective: July 22, 2011

Partial Veto Summary: The Governor vetoed the sections requiring: (1) the SGC to annually report to the Legislature on the number of prosecutions of harassment crimes against criminal justice participants under the act; and (2) the entire act to expire on July 1, 2018.

VETO MESSAGE ON E2SHB 1206

April 13, 2011

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

Ladies and Gentlemen:

I have approved, except for Section 3 and Section 4, Engrossed Second Substitute House Bill No. 1206 entitled:

"AN ACT Relating to harassment against criminal justice participants."

Section 3 directs the sentencing guidelines commission to report to the appropriate committees of the legislature by December 1, 2011, and annually thereafter, the number of prosecutions for criminal harassment of a criminal justice participant. Several bills now before the legislature either eliminate the sentencing guidelines commission or eliminate it as a regularly standing commission. The data identified in this section will be retained by a yet to be identified agency. Therefore, I am vetoing Section 3 and the appropriate committees of the legislature may request the data from the appropriate agency.

Section 4 causes the act to expire July 1, 2018. I believe the legislature should monitor the impact of the act and affirmatively take action to amend or repeal particular aspects of the act at a future date, if needed. Therefore, I am vetoing Section 4.

For these reasons, I have vetoed Section 3 and Section 4 of Engrossed Second Substitute House Bill No. 1206.

With the exception of Section 3 and Section 4, Engrossed Second Substitute House Bill No. 1206 is approved.

Respectfully submitted,

Christine O. Gregoire
Governor

SHB 1211

C 226 L 11

Concerning utility donations to hunger programs.

By House Committee on Technology, Energy & Communications (originally sponsored by Representatives Rivers, Blake, Takko, Kretz, Van De Wege, Liias, Klippert, Smith, Chandler, Nealey, Fitzgibbon, Warnick, Moeller, Harris and Condotta).

House Committee on Ways & Means
House Committee on Technology, Energy & Communications
Senate Committee on Environment, Water & Energy

Background: Hunger Programs. There are a number of federal and state programs that provide emergency food for low-income and vulnerable individuals. For example, the Food Assistance Programs, sponsored by the Washington State Department of Agriculture, help people in Washington receive food through 450 food banks and meal programs across the state and through tribal voucher programs with 32 tribes.

Public Utility Districts and Municipal Utilities. Public utility districts (PUDs) and municipal utilities are municipal corporations authorized by statute. Generally, the powers of municipal corporations are limited to those

powers that are: (1) expressly granted by statute or by the Washington Constitution; (2) necessarily implied in or incident to powers expressly granted; or (3) essential to the declared purposes and objects of the municipal corporation.

State law does not address whether a PUD or a municipal utility may collect donations to support hunger programs.

Public Utility Tax. The Public Utility Tax is a tax on public service businesses, including businesses that engage in transportation, communications, and the supply of electricity, natural gas, and water. The tax is paid on gross income derived from the operation of public and privately owned utilities in lieu of the business and occupation tax.

Summary: Public utility districts (PUDs) and municipal utilities may request voluntary donations from their customers to support hunger programs. Any donations collected must be used to support the maintenance and operation of hunger programs. This authorization to collect donations to support hunger programs does not preclude a PUD or a municipal utility from requesting donations to support other types of programs.

Donations received by a PUD or a municipal utility are not considered gross income of a light and power business or gas distribution business for the purposes of calculating public utility taxes.

Votes on Final Passage:

House	93	1	
Senate	48	1	(Senate amended)
House	96	0	(House concurred)

Effective: July 22, 2011

HB 1215

C 65 L 11

Clarifying the application of the fifteen-day storage limit on liens for impounded vehicles.

By Representatives Liias, Rodne, Goodman and Kenney.

House Committee on Transportation
Senate Committee on Transportation

Background: Tow truck operators who impound vehicles from private or public property, or tow for law enforcement agencies, are regulated by state law. Impoundment, the taking and holding of a vehicle in legal custody without the consent of the owner, may only be performed by registered tow truck operators (RTTOs). If on public property, the impound is at the direction of a law enforcement officer; if the vehicle is on private property, the impound is at the direction of the property owner or his or her agent.

When an unauthorized vehicle is impounded, within 24 hours the towing operator must send an impound notice to the legal owner, based on information received from

law enforcement. After being held for 120 consecutive hours, a vehicle is considered abandoned and the RTTO must file an abandoned vehicle report (AVR) with the Department of Licensing (DOL). In response to the AVR, the DOL provides information to the RTTO regarding the owner of the vehicle. Within 24 hours of receipt of this information, the RTTO must send by certified mail a notice of custody and sale to the owner.

After 15 days from the receipt of information from the DOL, the RTTO may no longer accumulate storage charges. If the vehicle remains unclaimed, the RTTO must conduct a sale at public auction. The RTTO may not hold the vehicle for longer than 90 days, except in the case of a law enforcement or judicial order.

Vehicles may be redeemed by their legal owners any time before the start of the auction upon payment of towing and storage charges.

The RTTOs collect towing and storage charges on abandoned vehicles via a lien against the sale of the vehicle at auction. If the vehicle sale proceeds are less than the lien, the remaining charges owed to the RTTO are sent to a collection agency for recovery of the deficient claim.

All surplus funds after the sale of an abandoned vehicle at auction and satisfaction of the RTTO lien are deposited in the Motor Vehicle Fund.

Summary: The storage charges that may no longer be accumulated after the 15-day deadline are clarified to be in addition to storage charges accumulated prior to the receipt of the information from the DOL.

Abandoned vehicles that are redeemed by an owner prior to their sale at auction are not subject to the 15-day limit and must pay all accumulated storage charges from the time of impoundment up to the time of redemption.

Votes on Final Passage:

House	97	0
Senate	49	0

Effective: July 22, 2011

SHB 1218

C 151 L 11

Making technical corrections to the Revised Code of Washington.

By House Committee on Judiciary (originally sponsored by Representatives Goodman and Rodne; by request of Statute Law Committee).

House Committee on Judiciary
Senate Committee on Judiciary

Background: Technical errors and inaccuracies may develop in the Revised Code of Washington (RCW) for a variety of reasons. Many of these errors are the result of successive amendments to the same section of law over several years. Others are the result of simple drafting

errors or failure to find and amend every statute that contains a reference to another statute that has been repealed or amended in a way that makes the reference incorrect.

The Office of the Code Reviser, under the direction of the Statute Law Committee, is authorized to correct certain "manifest errors" in the statutes. These errors may include such things as mistakes in spelling or obvious clerical or typographical errors. The Code Reviser is also authorized to recommend to the Legislature changes regarding deficiencies, conflicts, or obsolescence, and the need for reorganization in the statutes.

Summary: Technical corrections are made to various provisions of the RCW. The technical corrections include changes to merge double amendments and to correct inaccurate references and cross-references resulting from amendments, drafting errors, or repealers. In addition, changes are made to address drafting errors relating to the effect of expiration dates in amendatory sections.

Votes on Final Passage:

House	94	0
Senate	49	0

Effective: July 22, 2011
July 1, 2012 (Section 1)

ESHB 1220

C 312 L 11

Regulating insurance rates.

By House Committee on Health Care & Wellness (originally sponsored by Representatives Rolfes, Cody, Appleton, Frockt, Hinkle, Liias, Fitzgibbon, Jenkins, Hunt, Van De Wege, Moeller and Kenney; by request of Insurance Commissioner).

House Committee on State Government & Tribal Affairs
House Committee on Health Care & Wellness
Senate Committee on Health & Long-Term Care

Background: The Office of the Insurance Commissioner (OIC) has the authority to regulate health insurance companies in Washington. As part of this authority, the OIC has the authority to review insurance rates in both the individual and small group markets. Insurers are required to file their individual and group rates with the OIC. The OIC may disapprove the rates if they are unreasonable in relation to the benefits in the agreement. The OIC also reviews individual and small group market insurers for compliance with statutory requirements such as adjusted community rating and medical loss ratios (for purposes of determining remittances to the Washington State Health Insurance Pool).

An insurance filing is open to public inspection and copying except for actuarial formulae, statistics, and assumptions submitted in support of the filing.

Summary: The entirety of a rate filing submitted by a health carrier in the individual or small group market on or after July 1, 2011, is available for public inspection, except for the numeric values of each small group rating factor used in the rate filing.

An exception to this general rule is created for new products. The actuarial formulae, statistics, and assumptions associated with an individual or small group market rate filing remain confidential for new products that are distinct and unique from a health carrier's currently or previously offered plans. A health carrier must make a written request to the Insurance Commissioner, which must be approved in writing in order for this exception to apply. This exception lasts for one year or until the date of the next filing, whichever occurs first.

Each health carrier in the individual or small group market must submit with its filings "Part I Rate Increase Summary" and "Part II Written Explanation of Rate Increase" as set forth by the United States Department of Health and Human Services. Additionally, the Insurance Commissioner must prepare a standardized rate summary form to explain his or her findings after the rate review process is completed. The Insurance Commissioner's rate summary form must be included as part of the rate filing documentation available to the public electronically.

The Insurance Commissioner must adopt rules necessary to implement these provisions, including a process for updating the rate disclosure summary forms. The Insurance Commissioner must consult with carriers and consumers when developing summary forms.

The Insurance Commissioner must make the rate filing and summary information available 10 days after the Insurance Commissioner determines that the filing is complete and accepts the filing through the electronic rate and form filing system.

Votes on Final Passage:

House	57	40	
Senate	48	1	(Senate amended)
House	95	1	(House concurred)

Effective: July 22, 2011

EHB 1223

C 130 L 11

Authorizing use of hearing examiners for street vacation hearings.

By Representatives Fitzgibbon, Green, Darneille, Jinkins, Ladenburg and Takko.

House Committee on Local Government
Senate Committee on Government Operations, Tribal Relations & Elections

Background: Owners of real estate abutting a street or alley that wish to have a city or town vacate some or all of a street or alley may petition the legislative authority of the

applicable city or town to make the vacation. Alternatively, the legislative authority may initiate vacation by resolution. If the owners of more than two-thirds of the property abutting the proposed vacation site sign the petition, the legislative authority must hold a timely public hearing on the vacation and satisfy public notice requirements.

Vacation hearings are conducted before the legislative authority or a committee of the legislative authority. However, while a committee may report its recommendation to the legislative authority, it is the full legislative authority that decides whether or not to grant the petition in whole or part.

Summary: The legislative authority is authorized to appoint a hearing examiner to conduct street vacation hearings. Hearings held before a hearing examiner do not need to be held before the legislative authority, but the hearing examiner conducting the hearing must provide a record of the proceedings and make a recommendation to the legislative authority. If the recommendation is to deny the petition for street vacation, the hearing examiner must include an explanation of the facts and reasons underlying the recommendation. The legislative authority makes the decision of whether to adopt or reject the hearing examiner's recommendation.

Votes on Final Passage:

House	93	3
Senate	47	0

Effective: July 22, 2011

2ESHB 1224

C 19 L 11 E1

Concerning a business and occupation tax deduction for amounts received with respect to mental health services.

By House Committee on Ways & Means (originally sponsored by Representatives Green, Dammeier, Cody, Appleton, Darneille, Harris and Roberts).

House Committee on Ways & Means
Senate Committee on Ways & Means

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 or social welfare organizations are allowed a deduction under the B&O tax for payments from governmental entities for health or social services. Examples include: health care; mental health, family, drug, and alcoholism counseling and treatment; services for the sick, elderly, and disabled; daycare; vocational training and employment services; legal services for the indigent; and services for low-income homeowners

and renters. The B&O tax deduction by health or social welfare organizations is provided only for payments made directly by federal, state, or local governments.

The Department of Social and Health Services contracts with Regional Support Networks (RSNs) to oversee the delivery of mental health services for adults and children who suffer from mental illness or severe emotional disturbance. The RSNs contract with local providers to provide an array of mental health services, monitor the activities of local providers, and oversee the distribution of funds under the state managed care plan. A RSN may be a county, group of counties, or a nonprofit or for-profit entity. The B&O deduction is only available to non-profit health or social welfare organizations for amounts received directly from a government. It is not available when the amounts are received from a for-profit RSN.

Summary: A deduction from B&O tax is provided to nonprofit health or welfare organizations for amounts received from RSNs for compensation for mental health services provided under a government funded health program.

A deduction from B&O tax is provided to RSNs for amounts received from a government for distribution to a nonprofit health or social welfare organization for the provision of government funded mental health services.

The deduction applies to amounts received starting August 1, 2011.

Votes on Final Passage:

House 92 5

First Special Session

House 83 5

Senate 44 0 (Senate amended)

House 85 2 (House concurred)

Effective: August 24, 2011

HB 1225

C 152 L 11

Clarifying the method for calculating port commissioner compensation.

By Representatives Angel, Takko, Warnick, Van De Wege and Fitzgibbon.

House Committee on Local Government
Senate Committee on Government Operations, Tribal Relations & Elections

Background: Port districts build and operate shipping terminals, motor vehicle transfer and terminal facilities, marinas and docks, airports, railroads, industrial sites, and parks and recreational facilities throughout Washington.

A board of three or five elected commissioners, who serve four or six-year staggered terms of office, governs each port district.

Compensation for port district commissioners is determined by district income and revenues. Commissioner per diem compensation ranges from \$90 a day to a maximum of \$8,640 annually, or \$10,800 in a port district with a preceding annual gross operating income over \$25 million. Additionally, commissioners in port districts with gross operating revenues in the preceding year that meet or exceed \$25 million receive a monthly salary of \$500. Commissioners receive a monthly salary of \$200 in port districts with gross operating revenues in the preceding year of at least \$1 million and less than \$25 million.

Summary: The method for determining port district commissioner compensation is modified to expressly provide that required salary and per diem thresholds must be adjusted for inflation by the Office of Financial Management.

Votes on Final Passage:

House 92 0

Senate 44 4

Effective: July 22, 2011

HB 1227

C 66 L 11

Concerning the waiver of restaurant corkage fees.

By Representatives Ross, Taylor, Chandler, Hinkle, Warnick, Armstrong, Johnson, Moeller, Harris and Condotta.

House Committee on State Government & Tribal Affairs
Senate Committee on Labor, Commerce & Consumer Protection

Background: A restaurant selling liquor may be licensed by the Liquor Control Board as a spirits, beer, and wine restaurant or a beer and/or wine restaurant. Some restaurants allow patrons to bring their own wine to be served with the meal that they purchase. Restaurants typically charge a fee to open and serve this wine. This charge is referred to as a corkage fee. Restaurants are not required to charge a corkage fee.

The liquor tied house laws regulate the relationship between liquor manufacturers and distributors ("industry members") and retailers. Under the "financial interest" law, liquor industry members and retailers may have direct or indirect financial interests between and among each other unless the interest has caused or is likely to cause or result in undue influence or result in an adverse impact on public health and safety. Certain financial interests are specifically allowed; for example, a winery may also act as a retailer to sell wine at the winery. Under the "moneys' worth" law, no industry member may advance money or moneys' worth to a retailer and no retailer may receive money or moneys' worth under a written or unwritten agreement or through business practices. A number of exceptions to the prohibition on moneys' worth have been

enacted. For example, industry members may provide branded promotional items to retailers under certain circumstances, and wineries may provide personal services such as pouring on retailer premises.

Summary: An exception is created to both the financial interest and moneys' tied house laws to allow domestic wineries and restaurants licensed to sell beer and/or wine or spirits, or beer and/or wine, to enter into an arrangement to waive a corkage fee.

Votes on Final Passage:

House	94	0
Senate	45	4

Effective: July 22, 2011

HB 1229

C 227 L 11

Concerning certain commercial motor vehicle provisions.

By Representatives Moscoso, Armstrong and Kenney; by request of Department of Licensing.

House Committee on Transportation
Senate Committee on Transportation

Background: The Commercial Motor Vehicle Safety Act of 1986 (Act) established minimum national standards that states must meet when issuing commercial driver's licenses (CDLs). Under the Act, the Federal Motor Carrier Safety Administration (FMCSA) issues standards that require states to issue CDLs to certain commercial motor vehicle drivers only after the driver passes knowledge and skills tests administered by the state, that are related to the type of vehicle the driver expects to operate. In addition, the Act requires that CDL holders meet FMCSA medical standards.

A CDL is required in Washington to operate certain types of vehicles. Commercial driver's license holders are not required to indicate to the Department of Licensing (DOL) whether they engage in interstate commerce. Both intrastate and interstate commercial motor vehicle drivers must meet minimum medical standards. Drivers are not required to submit a medical certificate to the DOL, but drivers must possess a medical certificate while driving a commercial motor vehicle. The DOL grants medical waivers for intrastate drivers, and the FMCSA grants medical waivers for interstate drivers.

Beginning January 30, 2012, states must comply with revised federal requirements for licensing commercial motor vehicle drivers. The revisions are primarily related to requirements for driver self-certification of driving type, requirements for medical examiner certificates, and requirements for the DOL regarding recordkeeping for drivers' self-certification and medical certificates, driver notifications, and downgrading licenses for failure to comply.

If Washington does not comply with the revised federal requirements, the FMCSA may decertify Washington's CDL program. Decertification of the state CDL could lead to the following: (1) loss of 5 percent (\$16-17 million) of federal highway funds for the first year of noncompliance and loss of 10 percent (\$32-34 million) of federal highway funds for subsequent years, and (2) commercial drivers operating under a Washington CDL would not be allowed to operate commercial motor vehicles in any activity deemed to be interstate commerce.

The Washington State Patrol may issue an out-of-service order on a commercial vehicle if the vehicle is unsafe to operate or if the driver commits certain violations. A person is disqualified from driving a commercial motor vehicle for not less than 90 days but not more than a year for the first violation of an out-of-service order. A person is disqualified from driving a commercial motor vehicle for not less than one year but not more than five years for two violations of an out-of-service order in a 10-year period.

In addition, monetary penalties may be assessed for violators of out-of-service orders. A driver who is convicted of violating an out-of-service order on a vehicle is subject to a civil penalty of not less than \$1,100 but not more than \$2,750 for each violation. An employer who allows the operation of a commercial motor vehicle while there is an out-of-service order on the vehicle is subject to a civil penalty of not less than \$2,750 but not more than \$11,000.

The fee for issuing each class of CDL is \$30 for the original license and subsequent renewals. The fee to renew or extend a CDL for a period other than five years is \$6 for each year that the license is extended or renewed.

Summary: Various changes are made to Washington's CDL requirements.

A person who applies for a CDL must certify that he or she expects to engage in one of four types of driving: nonexcepted interstate, excepted interstate, nonexcepted intrastate, or excepted intrastate. For a two-year period of time, the DOL may require a person who holds a CDL prior to the effective date of this act to self-certify driving type.

Definitions are added for each of the four types of driving. Those who engage in excepted interstate driving are not required to obtain a medical certificate. Those who engage in excepted intrastate driving are excepted from all or parts of the state CDL driver qualification requirements. A person who self-certifies that he or she expects to engage in nonexcepted interstate driving must submit a medical examiner's certificate to the DOL.

A category labeled "V" has been added to the endorsements and restrictions to indicate that a driver has been issued a federal medical variance.

If a driver fails to self-certify or provide a medical examiner's certificate when one is required, the DOL must mark the commercial driver license information system

(CDLIS) driver's status as "not-certified" and must start procedures to downgrade the driver's license. A driver whose CDL has been downgraded may restore his or her CDL privileges by providing the necessary documents to the DOL.

If a driver's medical certification or medical variance information expires, the DOL must provide notification that the driver will be given a noncertified medical status, and the DOL must provide notification that the driver's CDL privileges will be removed unless the driver changes his or her self-certification of driving type. If a driver is given a noncertified medical status, the DOL must initiate procedures for downgrading the driver's license.

Recordkeeping requirements are revised for the DOL:

- Within 10 days of issuance of a CDL, the DOL must notify the CDLIS.
- The DOL must maintain the self-certification of driving type in the driver's record and in the CDLIS driver record.
- The DOL must retain the medical examiner's certificate for three years after it is issued.
- Within 10 days of receiving a submitted medical examiner's certificate, the DOL must post the information from the certificate to the CDLIS.
- The DOL must update the medical certification status of the driver to "not-certified" within 10 days of a medical certificate expiring or being rescinded.
- The DOL must update the CDLIS driver record to include medical variance information within 10 days of receiving the information.

Minimum disqualification periods are increased for a driver who violates an out-of-service order. A person is disqualified from driving a commercial motor vehicle for not less than 180 days but not more than a year for the first violation of an out-of-service order. A person is disqualified from driving a commercial motor vehicle for not less than two years but not more than five years for two violations of an out-of-service order in a 10-year period.

Monetary penalties for drivers and employers for violations of out-of-service orders are increased. A driver who is convicted of violating an out-of-service order is subject to a civil penalty of not less than \$2,500 for a first violation and not less than \$5,000 for a second or subsequent violation. An employer who allows the operation of a commercial motor vehicle when there is an out-of-service order is subject to a penalty of not less than \$2,750 but not more than \$25,000.

The fee for issuing each class of CDL is increased to \$61 for the original license and subsequent renewals. The fee to renew or extend a CDL for a period other than five years is \$12.20 for each year that the license is extended or renewed.

Votes on Final Passage:

House	94	0	
Senate	46	1	(Senate amended)
House			(House refused to concur)
Senate	40	5	(Senate amended)
House	56	41	(House concurred)

Effective: July 22, 2011
January 30, 2012 (Sections 1-3)

SHB 1237
C 350 L 11

Concerning federal selective service registration upon application for an instruction permit, intermediate license, driver's license, or identicard.

By House Committee on Transportation (originally sponsored by Representatives Haler, Clibborn, Klippert and Moeller).

House Committee on Transportation
Senate Committee on Transportation

Background: The federal Military Selective Service Act of 1948 requires virtually all men between the ages of 18 and 26 living in the United States, as well as male United States citizens between the ages of 18 and 26 living abroad, to register with the Selective Service System. Individuals can register many different ways, including online, by mail, or by checking a box on the federal application for student aid.

Failure to register with the Selective Service System is a felony punishable by up to five years imprisonment, a maximum fine of \$250,000, or both. In addition to the criminal penalties, registration with the Selective Service System is required for men to remain eligible for federal student loans and grants, many federal jobs, certain job training benefits, and United States citizenship for male immigrants seeking citizenship.

Summary: All male applicants for driver's licenses, instruction permits, intermediate licenses, and identicards who are under the age of 26 must be given the opportunity to register with the Selective Service System. An applicant who declines to register with the Selective Service System may not be denied the requested document if the applicant meets all of the other requirements to receive the requested document.

When an applicant authorizes the Department of Licensing (DOL) to forward personal information necessary to register with the Selective Service System, the DOL is required to forward the personal information to the Selective Service System within 10 days of receipt of the application. The DOL is required to notify the applicant that by submitting the application he is authorizing the DOL to register him with the Selective Service System. If the applicant is under the age of 18, the DOL is required to notify the applicant that the registration will occur when

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the applicant turns 18 years of age. The DOL may provide Selective Service System registration information to applicants who decline to register with the system through the DOL if the applicant requests the information.

The DOL is prohibited from creating a record indicating that an applicant declined to register. Any DOL information that indicates that an applicant declined to register is exempted from the disclosure requirements of the Public Records Act, and the DOL is prohibited from disclosing the information to any other government agency.

The requirements placed on the DOL are subject to the availability of funds appropriated for the purpose of the activities contained in the act.

Votes on Final Passage:

House	84	10
Senate	48	0

Effective: January 1, 2012

HB 1239

C 131 L 11

Allowing the department of revenue to issue a notice of lien to secure payment of delinquent excise taxes in lieu of a warrant.

By Representatives Orcutt, Hunter, Johnson and Rivers.

House Committee on Ways & Means
Senate Committee on Ways & Means

Background: A tax warrant is a document that the Department of Revenue (DOR) uses to establish the debt of a taxpayer. When a tax warrant is filed with the superior court in the county where the taxpayer owns real or personal property, a lien is created. The lien is subordinate to bona fide interests of third persons that vested before the filing of the warrant. The lien encumbers all real and personal property used in the business and owned by the taxpayer. The tax lien becomes a public record. Under this lien authority, the DOR may also enforce collections of a tax debt. Examples of enforced collections include: levy of bank accounts, garnishment of wages, and seizure and sale of assets.

Summary: In lieu of filing a tax warrant with a superior court, the Department of Revenue (DOR) may file a notice of lien for any real property in which the taxpayer has an ownership interest if the total amount of the warrant exceeds \$25,000, and the DOR determines that issuing the notice of lien would best protect the state's interest in collecting the amount due on the warrant. A notice of lien is a lien against specific real property as opposed to all real property when a tax warrant is used.

If a tax warrant has already been filed with a superior court, the DOR may issue and record a notice of lien against real property and file a conditional satisfaction of the warrant with the court if the DOR determines that this is in the best interest of collecting the amount due on the

warrant. The filing of a conditional satisfaction releases any liens on real or personal property.

If a taxpayer requests the DOR to file a notice of lien in lieu of a warrant, the DOR may request the taxpayer's current credit report and an abstract of title, at the taxpayer's expense, for the property that will be subject to the notice of lien.

Votes on Final Passage:

House	97	0
Senate	47	0

Effective: January 1, 2012

SHB 1243

C 67 L 11

Concerning crimes against animals belonging to another person.

By House Committee on Judiciary (originally sponsored by Representatives Kretz, Blake, Haigh, Smith, Johnson, Kelley, Finn, Warnick, Moeller, Harris, Roberts, McCune, Stanford, Haler, Taylor and Condotta).

House Committee on Judiciary
Senate Committee on Judiciary

Background: Related but separate provisions in the criminal code may apply when a person harms livestock. These include, but are not limited to, the crimes of animal cruelty, theft of livestock, and malicious mischief.

A person is guilty of Animal Cruelty in the first degree when, except as authorized in law, he or she intentionally: (1) inflicts substantial pain on; (2) causes physical injury to; or (3) kills an animal by a means causing undue suffering. Animal Cruelty in the first degree is an unranked class C felony, except for animal cruelty involving sexual conduct, which is ranked at seriousness level III under the Sentencing Reform Act.

A person is guilty of Theft of Livestock if the person intends to appropriate the horse or cattle for his or her own use or resale to another person. A person commits Theft of Livestock in the first degree when depriving and defrauding the lawful owner of an animal with the intent to sell or exchange the animal. Theft of Livestock in the first degree is a class B felony and is ranked at seriousness level IV. Theft of Livestock in the second degree occurs when the person willfully takes, leads, or transports away, conceals, withholds, slaughters, or otherwise appropriates an animal for his or her own use. Theft of Livestock in the second degree is a class C felony and is ranked at seriousness level III.

A person is guilty of Malicious Mischief in the first degree if he knowingly and maliciously causes physical damage to the property of another in an amount exceeding \$1,500. Malicious Mischief in the first degree is a class B felony and is ranked at seriousness level II.

The term "malice" is defined in the criminal code as an evil intent, wish, or design to vex, annoy, or injure another person. Malice may be inferred from an act done in willful disregard of the rights of another, an act wrongfully done without just cause or excuse, or an act or omission of duty betraying a willful disregard of social duty.

Summary: The term "livestock" includes, but is not limited to, horses, mules, cattle, sheep, swine, goats, and bison.

A new crime is created. It is unlawful for a person to, with malice, kill or cause substantial bodily harm to livestock belonging to another person. The crime is an unranked class C felony, carrying a standard sentence range of zero to 12 months in jail.

The owner of livestock that has been killed or harmed may bring a civil action for damages of up to three times the actual damages sustained, plus attorney's fees.

Votes on Final Passage:

House	97	0
Senate	49	0

Effective: July 22, 2011

SHB 1247

C 19 L 11

Concerning the staffing levels and staff training requirements for secure community transition facilities.

By House Committee on Ways & Means (originally sponsored by Representatives Kagi, Hunter, Darneille and Kenney; by request of Department of Social and Health Services).

House Committee on Ways & Means
Senate Committee on Ways & Means

Background: Under the Community Protection Act of 1990, a sexually violent predator (SVP) may be civilly committed upon the expiration of that person's criminal sentence. A SVP is a person who has been convicted of or charged with a sexually violent offense and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in predatory acts of sexual violence if not confined to a secure facility. Crimes that constitute a sexually violent offense are enumerated in the statute and may include a federal or out-of-state offense if the crime would be a sexually violent offense under the laws of this state. The term "predatory" is defined to mean acts directed towards strangers or individuals with whom a relationship has been established for the primary purpose of victimization.

When a prosecuting agency has filed a petition against a person alleging that the person is a SVP or when the person has previously been found to be a SVP and is subject to a hearing for conditional release, the person is entitled to be examined by qualified experts or professional persons. If the person is indigent, the court must

assist the person in obtaining an expert or professional person to perform an examination.

Once a person is found to be a SVP, the person is entitled to periodic hearings to determine if the person continues to meet the definition of a SVP or if release to a less restrictive alternative is appropriate. A state-endorsed plan for a less restrictive alternative will be a graduated release plan that entails the SVP moving to a Secure Community Transition Facility (SCTF). A SCTF is a facility that provides greater freedom to the SVP and is designed to allow the SVP to gradually transition back to the community while continuing treatment.

A SCTF is required to meet the following minimum staffing requirements:

- for SCTFs opened prior to July 1, 2003, that have six or fewer residents, the facility must maintain one staff per three residents during normal waking hours and one staff per four residents during sleeping hours, but in no case less than two staff per housing unit; and
- for SCTFs opened after July 1, 2003, with six or fewer residents, the facility must maintain one staff per resident during normal waking hours and two staff per three residents during normal sleeping hours, but in no case less than two staff per housing unit.

If a SCTF has six or fewer residents, all staff must be classified as a Residential Rehabilitation Counselor II or have a classification that indicates an equivalent or higher level of skill, experience, and training. All staff must have training in sex offender issues, self-defense, and crisis de-escalation skills and must pass a background check.

Summary: The minimum staffing requirements for a SCTF are modified. At least three staff are required for the SCTF on McNeil Island and at least two staff are required for the SCTF in Seattle. The staffing requirements apply unless there are no residents housed at the facility. If there are six or fewer residents at the SCTF, the staff must be classified as a Residential Rehabilitative Counselor II or higher.

Votes on Final Passage:

House	97	1
Senate	46	2

Effective: April 11, 2011

EHB 1248

C 2 L 11 E1

Authorizing emergency rule making when necessary to implement fiscal reductions.

By Representatives Hunter and Darneille; by request of Office of Financial Management.

House Committee on Ways & Means
Senate Committee on Ways & Means

Background: Rulemaking Procedures Under the Administrative Procedures Act. A rule or regulation is a written policy or procedure by a state agency that is generally applicable to a group of people, industries, activities, or circumstances. Agencies adopt rules under the procedural requirements established by the Washington Administrative Procedures Act (APA).

The APA's procedural requirements for rulemaking include: solicitation of comments on possible rulemaking prior to filing a notice of proposed rulemaking; preparation of a semi-annual agenda for rules under development; maintenance of a rulemaking docket containing a listing of each pending rulemaking proceeding; having copies of notices available for public inspection; notifying persons who have requested notification of proposed rulemaking; holding a rulemaking hearing; and accepting oral and written public comment.

An agency may not adopt a rule that is substantially different from the rule proposed in the published notice of proposed rule adoption or a supplemental notice in the proceeding. An agency must file with the Code Reviser a certified copy of all rules it adopts.

Emergency Rules Under the APA. Under certain circumstances, an agency may adopt, amend, or repeal administrative rules without following the specified APA procedures. These emergency rules take effect upon filing with the Code Reviser, unless a later date is specified in the order of adoption. An emergency rule may not remain in effect for longer than 120 days after it is filed.

To adopt emergency rules, an agency must find good cause that:

- immediate adoption of a rule is necessary for the preservation of the public health, safety, or general welfare, and observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest;
- state or federal law, federal rule, or a federal deadline for state receipt of federal funds requires immediate adoption of a rule; or
- observing the time requirements of notice and opportunity to comment upon the adoption of a permanent rule would be contrary to the fiscal needs or requirements of the agency, if the rule is needed to implement budget requirements or reductions for fiscal years 2009-2011.

An agency must incorporate its finding and a concise statement of the reasons for its finding in its order adopting the emergency rule.

Summary: The authorization to adopt emergency rules to address agency fiscal needs and requirements is extended. Agencies may adopt, amend, or repeal rules on an emergency basis to implement requirements or reductions in appropriations enacted in any budget for fiscal years 2009-2013.

Votes on Final Passage:

First Special Session

House	91	4
Senate	47	0

Effective: May 31, 2011

SHB 1254

C 187 L 11

Regarding the institute of forest resources.

By House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Lytton, Blake, Takko, Van De Wege, Ladenburg and Rolfes).

House Committee on Agriculture & Natural Resources
Senate Committee on Natural Resources & Marine Waters

Background: The Legislature created the Institute of Forest Products (IFP) under the Department of Conservation and Development in 1947. Legislation was enacted to transfer the administration of the IFP to the Board of Regents of the University of Washington (UW) in 1959. The IFP was renamed the Institute of Forest Resources (IFR) in 1959 and was made responsible for pursuing research and education related to forest resources and its multiple uses.

Summary: The authorizing statues for the IFR are amended both technically, to modernize the language, and substantively. These changes include correcting the title of the chief administer of the UW's forest resource program, directing that person to coordinate the various co-operatives and centers located administratively within the UW to broaden the UW's forest products research and outreach, and providing the authority for the creation of an 11-member policy advisory board.

The direction to the IFR is expanded to clarify that its mission is to pursue coordinated research related to the forestry sector in both urban and rural areas. The mission of the IFR is expanded to consider traditional forestry issues along with emerging issues such as environmental services, sustainable management, and forest restoration.

The IFR is also directed to provide a framework for identifying, prioritizing, funding, and conducting interdisciplinary research critical to the forest sector and for synthesizing complex forestry issues and information into tools that aid policymakers.

Direction is given for the IFR to utilize appropriated funds that are distinct from the general appropriation for the UW. The IFR is provided additional mechanisms for raising funds such as the receipt of conveyances and bequests. The IFR may also solicit contracts for work, in-kind and financial contributions, and support from public and private grantees.

Votes on Final Passage:

House	97	0	
Senate	46	0	(Senate amended)
House	96	0	(House concurred)

Effective: July 22, 2011

SHB 1257
PARTIAL VETO
C 188 L 11

Adopting the investments of insurers model act.

By House Committee on Business & Financial Services (originally sponsored by Representatives Stanford, Kirby and Kelley; by request of Insurance Commissioner).

House Committee on Business & Financial Services
Senate Committee on Financial Institutions, Housing & Insurance

Background: General Background on Financial Regulation of Insurers. *Capital and Surplus Requirements.* Insurers are required to have minimum amounts of capital and surplus to transact business in Washington. The amounts vary based on which type or types of insurance the insurer is licensed to sell.

Risk-based Capital. This tool is used to determine if an insurer has enough assets in relation to the risk it holds. There is a complicated series of algorithms used to determine the asset to risk ratio. If the insurer does not meet threshold ratios, the Insurance Commissioner (Commissioner) may take prescribed actions. The types of actions range from requiring more reports to liquidation.

National Association of Insurance Commissioners (NAIC) Standards. As a general rule, the financial and accounting standards used by insurance regulators are uniform standards developed by the NAIC. The NAIC periodically reviews the financial regulatory structures of the states to determine if they meet minimum thresholds. If a state meets the appropriate standards, it is "accredited" and other states know they can rely on the examinations of that state. If it is not accredited, other states may choose to conduct more thorough exams of the companies domiciled in that state. This increases the costs for the other states and for the examined insurers.

Quarterly and Annual Report. Every insurer must submit specific financial records to the NAIC and the Office of the Insurance Commissioner (OIC) every quarter and each year. These are public records.

Financial Exams. At least once every five years, the OIC is required to conduct a financial examination of an insurer domiciled in the state. Insurers must provide all records to the examiners and pay for the examination.

Regulation of Investments. The NAIC has two different model acts to regulate insurers and investments. Investment models are not included as a part of the accreditation process.

The first model, the "defined limits" model, restricts the specific level of investments by insurers in certain areas. The second model, the "defined standards" model, provides more flexibility for insurers by utilizing guidance and principles for investment. In the defined standards model, restrictions on investments are applied to make sure the insurer meets minimum financial standards. After the threshold standards are met, an insurer has more flexibility to invest according to the insurer's principles and policies.

State Investment Standards. The state's regulatory framework regarding insurer investments predates the current NAIC models. Insurer investments are limited to certain specific levels of investment classes similar to a defined limit approach as the base for oversight. The investment standards apply to domestic insurers but there is also a provision requiring insurers formed in another state or country to have investments of "a quality substantially as high as those required" for domestic insurers.

Transactions Authorized by Board or Committee. Every investment, loan, sale, or exchange made by any domestic insurer must be authorized or approved by its board of directors (board) or by a committee that is charged with the duty of making the investment, loan, sale, or exchange. The minutes of any such committee must be recorded and reports submitted to the board for approval or disapproval. The only exception is for policy loans of a life insurer.

Limits on Investments. There are prescribed limits for aggregate investments in:

- cash;
- bonds;
- real property held as a home office;
- real property investments;
- mortgages;
- equities and preferred equities;
- foreign investments;
- loans on policies; and
- other investments.

Some investments either are not recognized or are not allowed by Washington law. For example, an insurer may not invest in mutual funds or in several types of foreign investment, including currencies, loans, and real property.

Prohibited Investments. Unless approved by the Commissioner in advance, an insurer must not invest in or hold:

- issued shares of its own capital stock, except for the purpose of mutualization;

- securities issued by any corporation if a majority of its stock having voting power is owned by or for the benefit of any one or more of the insurer's officers and directors;
- any investment or loan not authorized by state law or in excess of the allowed limits;
- securities issued by any insolvent corporation;
- obligations that do not meet standards regarding medium grade or lower investments; or
- any investment or security which is found by the Commissioner to be designed to evade any prohibition of the insurance code.

An insurer may demand a hearing regarding any act, threatened act, or failure to act by the Commissioner. This includes determinations regarding investments and actions or inactions based on those determinations.

Summary: The existing provisions for the regulation of insurer investments are repealed. A new regulatory structure for insurer investments is created to apply to: domestic insurers; United States branches of alien insurers entered through this state; alien insurers admitted and using this state as their port of entry; domestic fraternal benefit societies; domestic health care service contractors; domestic health maintenance organizations; and domestic self-funded multiple employer welfare arrangements.

The new oversight provisions establish minimum financial security benchmarks and asset standards for insurers. Insurers may not exceed specified aggregate investments in meeting their minimum financial security benchmarks. After the threshold benchmarks are met, insurers may invest beyond the specified aggregate limits.

Minimum Financial Security Benchmark. The minimum financial security benchmark for an insurer is the greater of:

- the authorized control level risk-based capital applicable to the insurer in current statutes; or
- the minimum capital or minimum surplus required for the maintenance of an insurer's ability to transact business.

The Commissioner may order a minimum financial security benchmark to apply to a specific insurer provided it is not less than a specified amount. The Commissioner must determine the amount of surplus that constitutes an insurer's minimum financial security benchmark, as an amount that will provide reasonable security against contingencies affecting the insurer's financial position that are not fully covered by reserves or by reinsurance. There are a host of contingencies and factors that must be considered by the Commissioner in making a determination. The Commissioner may adopt a minimum financial security benchmark by rule that is a multiple of authorized control level risk-based capital to apply to any class of insurers. The benchmark for a class must not be less than the amounts currently required by statute under specified conditions.

The minimum asset requirement is the the sum of an insurer's liabilities and its minimum financial security benchmark. Invested assets may be counted toward the minimum investment requirement, only so far as the investments comply with the statutes, any rules adopted, and orders issued by the Commissioner. An investment that qualified as an admitted asset prior to the effective date of the act remains qualified as an admitted asset. If an insurer does not own and cannot apply an amount of assets equal to its minimum asset requirement, the Commissioner may deem it to be financially hazardous.

Investments. An insurer may loan or invest its funds, and may buy, sell, hold title to, possess, occupy, pledge, convey, manage, protect, insure, and deal with its investments, property, and other assets.

Reasonable Prudence Standard. In making investments for an insurer, the board must exercise the judgment and care that persons of reasonable prudence, discretion, and intelligence exercise regarding the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital. Investments must be of sufficient value, liquidity, and diversity to assure the insurer's ability to meet its outstanding obligations based on reasonable assumptions. The insurer must establish and implement internal controls and procedures to assure compliance with investment policies and procedures.

A number of specific factors must be evaluated by the insurer and considered along with its business in determining whether an investment portfolio or investment policy is prudent. The Commissioner must consider the same factors prior to making a determination that an insurer's investment portfolio or investment policy is not prudent.

Written Investment Policy. An insurer must establish and follow a written investment policy. The policy must be reviewed and approved by the insurer's board at least annually. The policy must include specific written guidelines appropriate to the insurer's business.

Limits on Investments. There are standards or prescribed limits for aggregate investments in:

- cash;
- bonds;
- real property held as a home office;
- real property investments;
- mortgages;
- equities, preferred equities, and mutual funds;
- investments in foreign currencies, loans, property, bonds, and equities;
- loans on policies; and
- other investments.

Prohibited Investments. An insurer must not invest in:

- the use of a derivative instrument for replication, speculative, or for any purposes other than hedging or income generation;

- real property for speculative, ranching, farming, mining, gaming, amusement, oil, gas, or mineral exploration, or club purposes;
- issued shares of its own capital stock, held directly or indirectly, except for the purpose of mutualization;
- securities issued by any corporation if a majority of its stock having voting power is owned directly or indirectly by or for the benefit of any one or more of the insurer's officers and directors;
- securities issued by any insolvent corporation;
- any instrument or security which is found by the Commissioner to be designed to evade any limitation or prohibition of the Insurance Code; and
- other investments prohibited by rule.

A reasonable time must be allowed for disposal of a prohibited investment if:

- the investment is demonstrated by the insurer to have been legal when made;
- the investment is the result of a mistake made in good faith; or
- the Commissioner deems that a sale of the asset is contrary to the interests of insureds, creditors, or the general public.

Reports to the Commissioner. The Commissioner may require any of the following:

- statements, reports, answers to questionnaires, and other information;
- an explanation of any data storage or communication system in use; and
- production of information from any books, records, data systems, computers, or any other information storage system at a reasonable time and in a reasonable manner.

An insurer or specified person must reply within 15 business days to a written inquiry from the Commissioner. Failure to make a timely response is a violation. The Commissioner may require verification of any communication made to the Commissioner. The Commissioner may bring suit against any person that provided information that is not truthful and accurate.

Commissioner's Powers. If the Commissioner determines that an insurer's investment practices do not meet the statutory requirements, the Commissioner may order the insurer to make the necessary changes. The Commissioner may impose reasonable additional restrictions upon the admissibility or valuation of investments or may impose restrictions on the investment practices of an insurer, including prohibition or divestment if the Commissioner determines that the financial condition of an insurer is or may endanger:

- a current investment practice or plan of an insurer; or
- the interests of insureds, creditors, or the general public.

The Commissioner may count assets in which an insurer is required to invest under the laws of a foreign country as a condition for doing business in that country toward the satisfaction of the minimum asset requirement.

If the Commissioner is satisfied with the financial stability of an insurer and the competence of management, the Commissioner may:

- adjust the class limitations for that insurer. Adjustments are limited to an amount equal to 10 percent of the insurer's liabilities; or
- exempt the insurer from specific restrictions to the extent that the Commissioner is satisfied that the interests of insureds, creditors, and the general public are protected.

Commissioner Staff. The Commissioner may retain expert staff at the insurer's expense as is reasonably necessary to assist in reviewing the insurer's investments.

Insurer's Right to a Hearing. An insurer aggrieved by an order or any other act or failure to act by the Commissioner may request a hearing.

Confidentiality of the Investment Policy. The investment policy and information related to the investment policy provided to the Commissioner for review is confidential and is not a public record or subject to subpoena.

Rules. The Commissioner may adopt rules interpreting and implementing the provisions of the act. The Commissioner has specific authority to adopt rules regarding certain investment restrictions.

Report. By December 1, 2011, the Commissioner must submit a report to the Governor and to the appropriate committees of the Legislature. The report must include the following information:

- the estimated total dollar amount of insurer assets affected by the act;
- an analysis of the statutory changes in investment regulation made by the act and the reasons for the changes;
- an analysis of any risks to policyholders and taxpayers associated with the implementation of the act and any provisions in the act that protect against those risks;
- any proposed rules to implement the act;
- any changes to staffing in the OIC related to implementing the act;
- an explanation describing why the investment policy of an insurer must be exempt from public disclosure and subpoena;
- a list of other states that have adopted all or part of the NAIC model legislation on insurer investments and the reasons for their decisions; and
- a list of states that have explicitly chosen not to adopt the NAIC model legislation and the reasons for their decisions.

In preparing the report, the Commissioner must consult with the Department of Financial Institutions and the Washington State Investment Board.

Votes on Final Passage:

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

Effective: July 1, 2012

Partial Veto Summary: The Governor vetoed the section that required the Insurance Commissioner to submit a report to the Governor and the Legislature.

VETO MESSAGE ON SHB 1257

April 29, 2011

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

Ladies and Gentlemen:

I am returning herewith, without my approval as to Section 19, Substitute House Bill 1257 entitled:

"AN ACT Relating to adopting the investments of insurers model act."

This bill updates the statutes on insurer investments to increase financial security and to provide more flexibility for insurers to manage their investments.

Section 19 would require the Office of the Insurance Commissioner to submit a report to the Governor and the Legislature, in consultation with the Department of Financial Institutions and the State Investment Board, by December 1, 2011. This is prior to the effective date of the act, July 1, 2012. Section 19 would require the Office of the Insurance Commissioner to gather information that is a redundant to the bill analysis, overly burdensome to obtain, or difficult to analyze prior to implementation of the law. Further, requiring proposed rules to be submitted to the Governor and Legislature would infringe upon the role of the Insurance Commissioner and would blur the distinction between the Legislature and a state executive office with regard to the rulemaking process.

For these reasons, I have vetoed Section 19 of Substitute House Bill 1257.

With the exception of Section 19, Substitute House Bill 1257 is approved.

Respectfully submitted,



Christine O. Gregoire
Governor

HB 1263

C 68 L 11

Addressing the definition of employer for certain public corrections entities formed by counties or cities under RCW 39.34.030.

By Representatives Crouse, Bailey and Seaquist; by request of Select Committee on Pension Policy.

House Committee on Ways & Means
Senate Committee on Ways & Means

Background: The Public Safety Employees' Retirement System (PSERS) was created in 2004 and opened to

members on July 1, 2006. The PSERS provides retirement benefits for state and local government employees who work in positions with law enforcement duties but are not eligible for membership in the Law Enforcement Officers' and Fire Fighters' Retirement System. Members of PSERS with at least 20 years of service will be eligible for full retirement benefits from age 60, five years earlier than the regular retirement age in Public Employees' Retirement System Plans 2 and 3. Members of PSERS with 20 years of service may also retire early beginning at age 53 with a 3 percent reduction in benefits per year of early retirement.

Membership in PSERS is restricted by an individual's employer and by specific job criteria. The PSERS employers are defined as the Department of Corrections, the Department of Natural Resources, the Parks and Recreation Commission, the Gambling Commission, the Washington State Patrol, the Liquor Control Board, county corrections departments, the corrections departments of municipalities not classified as first-class cities, and employers employing statewide elective officials.

A new correctional facility is expected to open in the fall of 2011 as a shared jail for the cities of Auburn, Burien, Des Moines, Federal Way, Renton, SeaTac, and Tukwila. A multi-jurisdictional agency called the South Correctional Entity has been created under the Interlocal Cooperation Act to build and operate the facility. About 124 full-time corrections officers will be employed at the facility, including many that will transfer from pre-existing facilities operated by the participating cities. Corrections officers employed at the facility will not be eligible for PSERS because the statutory definition of employer in PSERS does not include corrections departments created by interlocal agreements between cities.

Summary: The definition of employer for the Public Safety Employees' Retirement System is amended to include public corrections entities formed by counties, cities, or both. The employer definition change applies retroactively to any public corrections entity existing on or after January 1, 2011.

Votes on Final Passage:

House	97	0
Senate	47	0

Effective: July 22, 2011

SHB 1266

C 132 L 11

Modifying the landlord-tenant act and other related provisions.

By House Committee on Judiciary (originally sponsored by Representatives Pedersen, Rodne, Warnick, Kenney and Kelley).

House Committee on Judiciary
Senate Committee on Financial Institutions, Housing & Insurance

Background: The Residential Landlord-Tenant Act (RLTA) regulates the creation of residential tenancies and the relationship between landlords and tenants of residential dwelling units. The RLTA establishes rights and duties of both tenants and landlords, procedures for the parties to enforce their rights, and remedies for violations of the RLTA.

Landlord duties include such things as the duty to maintain the premises in reasonably good repair and remedy defective conditions within specified timelines. Tenant duties include the duty to pay rent, not damage the dwelling or allow a nuisance, and not engage in drug activity or criminal activity on the premises. The RLTA covers a wide variety of other issues governing the landlord-tenant relationship, including: prohibited provisions in rental agreements and prohibited practices by landlords; the landlord's right of access to the dwelling unit; procedures and remedies available to a landlord when a tenant has abandoned the tenancy or is subject to eviction for violations of the RLTA; and requirements with respect to the collection and retention of security deposits, nonrefundable fees, and fees or deposits to hold a dwelling unit or secure a tenancy.

Summary: Numerous provisions of the RLTA are revised and updated.

Long-Arm Jurisdiction Over Out-of-State Owners. District courts are given authority to issue service of process out of state in actions filed in the small claims department if the action is brought under the RLTA against an owner. An owner who resides outside the state and who violates a provision of the RLTA is deemed to have submitted himself or herself to the jurisdiction of the state. In actions brought in small claims court, the notice of claim may be served out of state in the same manner as if served in the state except that the date on which the party is required to appear must not be less than 60 days from the date of service.

Tenant Remedies for Defective Condition. Changes are made to provisions governing a tenant's rights when a landlord fails to remedy a defective condition within required time frames after written notice from the tenant. A tenant may use first-class mail, rather than certified mail, when sending a notice to the landlord containing a good faith estimate of needed repairs. The amount the

tenant may deduct from rent in order to carry out repairs is increased from no more than one month's rent to no more than two month's rent. In the case of defective conditions that a landlord must commence to remedy within 10 days, the time period a tenant must wait in order to commence repairs after providing a written estimate is reduced to two days, rather than five days, but in no case sooner than 10 days after notice of the defective condition. The value of repairs that may be completed by the tenant and deducted from the rent is increased from one-half month's rent to one-month's rent.

Landlord Entry. More specific notice requirements are established for landlord entry into a tenant's dwelling unit. The notice must be in writing and specify the date or dates of entry and either the exact time of entry or a period of time during which entry will occur. The notice must also include a telephone number for the tenant to call and communicate an objection or request to reschedule the entry.

Fees or Deposits to Hold a Unit or Secure a Tenancy. When a landlord requires a fee or deposit to hold a dwelling unit or secure that a prospective tenant will move into a dwelling unit, the landlord may not withhold a portion of the fee or deposit if the dwelling unit fails a tenant-based rental assistance program inspection by a qualified inspector. A landlord may elect to no longer hold a unit for a tenant if the inspection does not occur within 10 days from the date the fee or deposit is collected. The penalty for a violation of provisions relating to fees or deposits to hold a unit or secure a tenancy is changed from \$100 to two times the fee or deposit.

Security Deposits. A landlord who collects a security deposit without providing a written checklist describing the condition of the dwelling unit at the commencement of the tenancy is liable for the amount of the deposit, and the prevailing party in an action may recover costs and reasonable attorneys' fees. A tenant may request one free replacement copy of the written checklist.

When a tenant's dwelling unit is foreclosed upon and the security deposit is not transferred to the successor after the foreclosure sale, the foreclosed-upon owner must provide a full refund to the tenant immediately after the foreclosure sale. A foreclosed-upon owner who fails to either transfer the deposit to the successor or refund it to the tenant is liable for damages up to two times the amount of the deposit.

Damages for Certain Prohibited Actions. The damages that may be awarded to a tenant when a landlord engages in certain unlawful practices are increased. Statutory damages of up to \$500 and costs of suit are added to the remedies a tenant may recover if a landlord includes prohibited provisions in a rental agreement. The statutory damages a tenant may recover when a landlord intentionally and wrongfully takes and detains a tenant's property are increased from \$100 to \$500 for each day the

E2SHB 1267

tenant is deprived of the property, up to a maximum of \$5,000.

Other Changes. When there is a change in the landlord, the requirement that the tenant be notified by certified mail is removed and instead the tenant must be notified in writing either by personally delivering the notice to the tenant, or by mailing the notice to the tenant and posting it on the premises.

The types of criminal activity resulting in arrest that allow a landlord to proceed directly to an unlawful detainer action against the tenant are expanded to include physical assaults and the use of a firearm or other deadly weapon.

The dollar limit for when a landlord may sell a tenant's abandoned property upon seven-day notice is raised from \$50 to \$250.

A landlord must provide each tenant who signs a lease agreement with an executed copy of the rental agreement, and a tenant is entitled to one free replacement copy. In addition, a landlord must provide a receipt for all tenant payments made in cash.

If a landlord charges a nonrefundable fee without providing the tenant with a written rental agreement, the landlord is liable for the amount of any fees collected as nonrefundable fees. Any fee that is not designated in the rental agreement as a nonrefundable fee must be treated as a refundable fee.

Various provisions of the RLTA are revised for clarity and to remove unnecessary language.

Votes on Final Passage:

House	92	5
Senate	46	3

Effective: July 22, 2011

E2SHB 1267

C 283 L 11

Clarifying and expanding the rights and obligations of state registered domestic partners and other couples related to parentage.

By House Committee on General Government Appropriations & Oversight (originally sponsored by Representatives Pedersen, Walsh, Jinkins, Eddy, Roberts, Kagi, Sullivan, Van De Wege, Hurst, Goodman, Orwall, Moeller, Kirby, Frockt, Carlyle, Liias, Kenney, Clibborn, Seaquist, Blake, Hudgins, Fitzgibbon, Darneille, Dunshee, Morris, Takko, Pettigrew, Finn, Billig, Hunter, Cody, Dickerson, Stanford, Springer, Reykdal, Haigh, Rolfes, Sells, Jacks, Appleton, Hunt, Maxwell, Ryu, Ormsby, Ladenburg, McCoy, Santos, Lytton, Moscoso, Upthegrove, Green, Hasegawa and Tharinger; by request of Washington State Bar Association).

House Committee on Judiciary

House Committee on General Government Appropriations & Oversight

Senate Committee on Government Operations, Tribal Relations & Elections

Background: Washington's Uniform Parentage Act (UPA) is based on model legislation from the National Conference of Commissioners on Uniform State Laws (NCCUSL). The NCCUSL amended its model act in 2002 and Washington has not yet adopted those changes.

Under the UPA, parentage may be established based on a presumption, signed acknowledgment, or adjudication. A person is a presumed parent if the child was born in the context of marriage. A person is an acknowledged parent if the person signs an acknowledgment of paternity that is later filed with the State Registrar of Vital Statistics. A person is an adjudicated parent if the person's parentage was determined in a court proceeding.

The procedures for challenging parentage vary depending on whether the child has a presumed, acknowledged, or adjudicated parent. Generally, a challenge must be brought within two years after the child's birth, and parentage may be disproved by admissible results of genetic testing. There are specific procedures for when genetic testing may be ordered and when a motion for genetic testing may be denied.

In 2009 legislation was enacted adding language to the UPA stating that terms such as spouse, marriage, husband, and wife used in the UPA must be interpreted to apply equally to domestic partners, to the extent that such interpretation does not conflict with federal law. In addition, gender-specific terms must be construed to be gender neutral.

Summary: The UPA is amended to specifically reference state-registered domestic partnerships in various provisions and to specify that the UPA applies to persons of the same sex who have children together to the same extent it applies to opposite sex couples who have children together. However, acknowledgments of paternity apply only when there is a mother and a man claiming to be the genetic father of the child. Gender-specific terms are replaced with gender-neutral terms. Some of the changes made by the NCCUSL are adopted, including a new provision for the presumption of parentage. A person is a presumed parent if, for the first two years of the child's life, the person resided in the same home with the child and openly held out the child as his or her own.

The time period under which a person may challenge parentage is extended from two years to four years. If an action to challenge parentage is commenced more than two years after the child's birth, the child must be made a party to the action. If a person signed an acknowledgment or denial of paternity when the person was a minor, the person may commence an action to rescind the acknowledgment or denial up until the date of his nineteenth birthday.

Provisions on genetic testing do not apply when the child is conceived through assisted reproduction. A person who provides gametes for or consents to assisted reproduction with another person with the intent to be the parent of the child is the parent of the resulting child. The parentage of a child conceived through assisted reproduction may be disproved by admissible evidence showing the intent of the parents.

A child conceived through assisted reproduction who is at least 18 years old must be provided, upon the child's request, access to medical history information of the donor and, in some cases, access to identifying information of the donor.

Votes on Final Passage:

House	57	41	
Senate	27	21	(Senate amended)
House			(House refused to concur)
Senate	27	21	(Senate amended)
House	57	40	(House concurred)

Effective: July 22, 2011

ESHB 1277

C 3 L 11 E1

Concerning oversight of licensed or certified long-term care settings for vulnerable adults.

By House Committee on Ways & Means (originally sponsored by Representative Cody; by request of Department of Social and Health Services).

House Committee on Health Care & Wellness
 House Committee on Ways & Means
 Senate Committee on Ways & Means

Background: The Department of Social and Health Services (Department) licenses three primary types of residential long-term care settings: nursing homes (sometimes referred to as skilled nursing facilities), boarding homes, and adult family homes.

Nursing Homes. Nursing homes provide continuous 24-hour convalescent and chronic care. Such care may include the administration of medications, preparation of special diets, bedside nursing care, application of dressings and bandages, and carrying out treatment prescribed by licensed health care providers.

Boarding Homes. Boarding homes are facilities that provide housing and basic services to seven or more residents. Services provided by boarding homes include housekeeping, meals, snacks, laundry, and activities. They may also provide domiciliary care including assistance with activities of daily living, health support services, and intermittent nursing services.

Adult Family Homes. Adult family homes are facilities licensed to care for up to six individuals who need long-term care. These homes provide room, board, laundry, necessary supervision, and assistance with

activities of daily living, personal care, and nursing services.

The Department administers the licensing programs for each of the long-term care settings. The Department's licensing functions include processing applications for new providers, performing inspections, investigating complaints, and taking enforcement action if resolution is not met. In some instances, formal dispute resolutions or hearings may be included.

License fees are set as directed in statute and depend on facility type. The Department is directed to set the nursing home license fee in an amount adequate to fully recover the costs of the licensure. The boarding home fee is to be based on costs to administer the program, and the adult family home license fee is set in statute.

In Washington there are approximately:

- 220 licensed skilled nursing facilities that provide services for approximately 9,900 Medicaid eligible clients. The average number of beds per facility is 96 and there are a total of 22,788 beds in Washington;
- 550 licensed boarding homes that provide services for approximately 6,800 Medicaid eligible clients. About 2 percent of these are clients with developmental disabilities. The average number of beds per facility is 49 and there are a total of 28,926 beds in Washington; and
- 2,900 licensed adult family homes that provide services for approximately 6,900 Medicaid eligible clients. About 25 percent of these are clients with developmental disabilities. The average home has six beds.

Summary: Adult Family Home Licensing Qualifications. Applicants for an adult family home license must provide proof of financial solvency and complete a business planning class that includes at least 48 hours of classroom time and has been approved by the Department of Social and Health Services (Department). The requirement that applicants and resident managers have at least 320 hours of direct caregiving experience is increased to 1,000 hours in the previous five years. An applicant must not have been convicted of a crime related to the abuse, neglect, exploitation, or abandonment of a minor or vulnerable adult.

Applicants for additional adult family homes must wait two years from the issuance of the initial license and not have had any enforcement actions taken against them in the two years prior to application. For applicants for additional adult family homes who are beyond the initial licensing period, the applicant must wait one year since the previous adult family home license and not have had any enforcement actions taken against it in the previous year. Married couples and state registered domestic partners are prohibited from applying for separate licenses.

Adult family home providers, applicants, and resident managers are required to be able to communicate in

English. The provider and resident manager must assure that there are staff available to residents at all times who are able to communicate with the resident in his or her primary language.

Inspections of adult family homes must be conducted on a 15-month average.

Adult Family Home Practice Requirements. Adult family home providers are ultimately responsible for the daily operations of each licensed adult family home and for the health, safety, and well-being of each resident in each of their homes. Residents who require physical, mental, or verbal assistance must be kept on the ground floor. Adult family home providers are prohibited from operating a separate business in the home. Homes are required to maintain a "home-like" nature by:

- having sufficient space to accommodate all residents at once in the dining and living room areas;
- providing all residents with access to common areas, including kitchens, dining and living areas, and bathrooms;
- having halls and doors that are wide enough to accommodate mobility aids; and
- having outdoor areas that are safe for residents to use.

Either the adult family home provider or resident manager must live at the home. Employees working in a home pending approval of a background check may not have unsupervised access to any residents. Adult family homes must be solvent and must provide financial information to the Department upon request.

Protections are established for security deposits and prepayments submitted by residents of adult family homes, including requirements regarding the deposit of funds in interest-bearing accounts, accountability, disclosures, and refunds. Violation of the resident fund protections are declared to be violations of the Consumer Protection Act.

Sanctions Against Adult Family Homes. Civil penalties for violations of adult family home standards are changed from a limit of \$100 per day per violation to at least \$100 per day per violation. The Department is authorized to impose civil penalties up to \$3,000 for each incident that violates adult family home licensing laws. A civil penalty up to \$10,000 may be imposed upon a current or former provider who operates an unlicensed adult family home. Receipts from civil penalties may be used for promoting the quality of life for residents living in adult family homes.

Long-Term Care Facility Fees. As of July 1, 2011, the per-bed licensing fee for nursing homes and boarding homes shall be established by the Legislature in the operating budget, rather than by the Department. As of July 1, 2011, the \$100 license fee for adult family homes established in statute is replaced by a per-bed fee to be determined in the operating budget. Licensing fees must not exceed the Department's annual costs for licensing and

oversight activities and must include the Department's cost of paying providers for the amount the fee attributed to Medicaid clients.

Other Provisions. Subject to funding, the Department is directed to use additional investigative resources to decrease the average time between adult family home and boarding home inspections. The Department must develop a statewide internal quality review and accountability program to improve consistency in investigative activities and outcomes for vulnerable individuals. In addition, the Department must convene a quality assurance panel to recommend ways to improve the safety of residents and oversight of adult family homes. The panel must report its recommendations to the Governor and the appropriate committees of the Legislature by December 1, 2012. These provisions are null and void unless funded in the operating budget.

It is specified that licenses for boarding homes are only valid for one year. The Department has discretion to deny nursing home, boarding home, and adult family home licenses, even if all licensing standards have been met.

References to the Advisory Committee on Adult Family Homes, which was eliminated in 2010, are removed.

Legislative Findings. Legislative findings are made stating Washington's long-term care system must be more aggressive in protecting vulnerable populations and that the cost of system oversight should be borne by the licensed providers. Legislative findings related to adult family homes are amended to clarify that adult family homes have the responsibility to promote the health, welfare, and safety of their residents, while it is the state's role to develop and enforce standards that provide such protection.

Votes on Final Passage:

House 57 40

First Special Session

House 50 45

Senate 33 12

Effective: August 24, 2011

July 1, 2011 (Sections 401-403)

HB 1290

C 251 L 11

Concerning mandatory overtime for certain health care employees.

By Representatives Green, Cody, Van De Wege, Sells, Kenney and Reykdal.

House Committee on Labor & Workforce Development
House Committee on General Government
Appropriations & Oversight

Senate Committee on Labor, Commerce & Consumer Protection

Senate Committee on Ways & Means

Background: Both federal and Washington state minimum wage laws establish requirements related to overtime work. These laws require covered employees to receive overtime pay for hours worked over 40 hours per week. With some exceptions, these wage laws do not prohibit an employer from requiring employees to work overtime.

One exception, enacted in 2002, prohibits covered health care facilities from requiring overtime, except in limited circumstances, for registered nurses and licensed practical nurses who are involved in direct patient care and paid an hourly wage. For this prohibition on mandatory overtime, overtime means work in excess of an agreed upon, regularly scheduled shift of not more than 12 hours in a 24-hour period or 80 hours in a 14-day period. A health care facility means a facility that is licensed under specified laws as a hospital, a hospice, a rural health care facility, or a psychiatric hospital. Institutions operated by the DOC are not licensed under the statutes specified in the overtime prohibition law.

Summary: State or local correctional institutions that provide health care services to adult inmates are added to the list of health care facilities covered under the prohibition on mandatory overtime for certain registered and licensed practical nurses.

This provision is contingent on funding in the 2011-13 State Omnibus Operating Appropriations Act.

Votes on Final Passage:

House	97	0	
Senate	47	1	(Senate amended)
House	96	0	(House concurred)

Effective: July 22, 2011

SHB 1294

C 20 L 11

Establishing the Puget Sound corps.

By House Committee on Environment (originally sponsored by Representatives Tharinger, Warnick, Seaquist, Finn, Smith, Upthegrove, Springer, Dunshee, Orcutt, Hudgins, Reykdal, Rolfes, Hunt, Moscoso, Green, McCoy, Morris, Frockt, Ryu, Jenkins, Fitzgibbon, Sells,

Blake, Appleton, Liias, Maxwell, Kenney, Carlyle, Hope and Billig; by request of Commissioner of Public Lands and Department of Ecology).

House Committee on Environment
House Committee on General Government
Appropriations & Oversight

Senate Committee on Natural Resources & Marine Waters

Background: The Washington Conservation Corps (WCC) is a program that provides fee-for-service youth work crews for projects that address defined goals. The WCC is implemented jointly by the Employment Security Department, the Department of Ecology (DOE), the Department of Fish and Wildlife (WDFW), the Department of Natural Resources (DNR), and the State Parks and Recreation Commission (SPRC). Each department is responsible for: recruiting staff and WCC members; executing agreements that allow the WCC crews to work; applying for and accepting grant funding; and prioritizing projects.

The DOE, DNR, WDFW, and SPRC all have specified tasks that their respective WCC crews may complete. These eligible projects are related to the functions of the associated agency. For instance: the WCC crews working for the DOE may work on litter pickup or irrigation ditch maintenance; the WCC crews working for the DNR may focus on jobs such as wood cutting and reforestation. The WDFW and SPRC have similar agency-specific lists.

With some exception, the WCC members must be unemployed Washington residents between the ages of 18 and 25 years who are United States citizens or lawful permanent residents of the United States. Special efforts are required for the recruitment of minority and disadvantaged youth, and for youths residing in areas with a substantial unemployment rate.

Members of the WCC serve a six-month term which may be extended up to two years. Members may only be paid the state minimum wage, although an increase in pay of up to 5 percent is allowed for each additional six-month term served.

Summary: The administration of the WCC is centralized at the DOE. The DOE must administer the WCC program as a partnership with the DNR, the WDFW, and the SPRC. The DOE may also partner with other agencies and non-profits when appropriate to advance the WCC's program goals. Partnering agencies may maintain a WCC coordinator to assist with the agency partnership.

The WCC remains an organization that provides pay-for-service work crews to complete projects designed to address identified program goals. The program goals for the WCC are broadened and are no longer individually specified for each state agency participant. The program goals, applicable to both the DOE and all the partner agencies, are related to the protection, promotion, or restoration of certain identified public assets. These assets include public lands, state natural resources, water quality, habitat, outdoor recreation and state historic sites. The DOE may

develop more than one career pathway within the WCC to match crew member interests with project types.

In addition, the DOE is directed to create and administer the Puget Sound Corps (PS Corps). The PS Corps is to be a distinct program within the WCC. The PS Corps work crews may be assigned to projects meeting the same goals as other WCC work crews. However, the PS Corps are also directed to seek to deploy work crews to assist with the restoration of the Puget Sound. The activities of the PS Corps must be prioritized, when practicable, to focus on projects located within the Puget Sound basin that further the Puget Sound Partnership's Action Agenda, benefit public lands, lead to habitat restoration, or are centered on education and stewardship.

The administrative responsibilities for the WCC are removed from the DNR, the WDFW, and the SPRC. These responsibilities are given only to the DOE and include: recruiting staff; serving as a central grant application recipient; establishing consistent work standards; and reviewing the success of the WCC projects. The recruitment of the WCC participants is a primary function of the DOE; however, the DOE should coordinate recruitment when possible with the DNR, the WDFW, the SPRC, the Washington Department of Veterans Affairs, the Employment Security Department, technical and community colleges, and any interested postsecondary education institution.

A person must be a Washington resident and between the ages of 18 and 25 years to participate in the WCC. The upper age limit may be waived for crew leaders, specialists, military veterans, and individuals with sensory or mental handicaps. Recruitment efforts must be targeted to fully matriculated students, disadvantaged and minority youths, and military veterans. Recruited WCC participants serve a three-month tour and are eligible for three-month extensions until two years are served. Longer terms of service are available for certain specialty crews.

The Director of the DOE and the Commissioner of Public Lands are directed to jointly host an annual meeting to serve as a forum for partner agencies and other affected organizations and to provide guidance and feedback concerning the WCC. The annual meeting participants must review recently completed WCC projects and establish a work plan for the next year.

The centralization of administration is prospective only and does not affect any existing grant awards or WCC placements. Going forward, the Salmon Recovery Funding Board must give preference to projects proposed to be undertaken by the WCC within the list of projects that qualify for grant funding.

Votes on Final Passage:

House	67	30
Senate	38	9

Effective: July 22, 2011

Concerning the installation of residential fire sprinkler systems.

By House Committee on Local Government (originally sponsored by Representatives Van De Wege, Hurst, Tharinger, Fitzgibbon and Liias).

House Committee on Local Government
Senate Committee on Government Operations, Tribal Relations & Elections

Background: A fire protection sprinkler system is a series of pipes connected to the primary water supply of a residence that transfers water to extinguish, control, or contain a fire. Sprinkler systems provide protection from exposure to fire or other combusted materials.

Fire protection sprinkler systems contractors must obtain and maintain a license issued by the State Director of Fire Protection. An annually renewed certificate of competency is also required of individuals who install sprinkler systems. Both the contractor's license and certificate of competency are subject to a required annual renewal fee, the proceeds of which are placed in the Fire Protection Contractor License Fund (Fund) along with funds generated from related rules and regulations.

Expenditures of the Fund may be used for limited purposes, including: hospital fire protection inspections, and assistance with activities that identify recalled sprinkler system components.

Counties, cities, and towns planning under the Growth Management Act may impose impact fees on development activity to help pay for public facilities. Persons required to pay impact fees may not also be required to pay a fee for comparable purposes under the State Environmental Policy Act.

Summary: Expenditures from the Fund may be used to develop and publish educational materials related to residential fire sprinkler effectiveness. Individuals installing a residential fire sprinkler system in a single-family home are exempted from paying the fire operations portion of the impact fee but remain responsible for the proportionate share of the impact fee related to the delivery of emergency medical services.

Public water systems are not liable for damages resulting from shutting off water to a residential home with an installed fire sprinkler system if the shut off is due to:

- routine maintenance or construction;
- customer nonpayment for service; or
- a water system emergency.

Any governmental or municipal corporation, including but not limited to special districts, is deemed to be exercising a governmental function when it acts or undertakes to supply water, within or without its corporate limits, to a residential home with an installed fire sprinkler system.

Votes on Final Passage:

House	95	2	
Senate	43	4	(Senate amended)
House	96	0	(House concurred)

Effective: July 22, 2011

HB 1298

C 21 L 11

Concerning child support order summary report forms.

By Representative Kelley.

House Committee on Judiciary
Senate Committee on Human Services & Corrections

Background: Parties establishing or modifying a child support order must complete a child support order summary report form. The parties must attach the form to the child support worksheets filed with the court. The clerk sends the forms to the Division of Child Support (DCS) at the Department of Social and Health Services, and the DCS prepares a report using the data from these forms. The DCS report is to be used for reviewing the state's child support laws. Federal law requires states to review their child support laws every four years.

In 2007 legislation was enacted directing the DCS to convene a work group every four years to conduct these reviews. The 2007 legislation required the Joint Legislative Audit Review Committee (JLARC) to analyze the data from the summary report forms.

The JLARC found that the information received from these forms is incomplete, may not be accurate, and is unusable for purposes of the review required by federal law. In its final report, the JLARC recommends that the Legislature eliminate the summary report forms and instead have the DCS use data from the actual child support orders to compile its report.

Summary: References to the child support summary order report forms are removed from the statutes. To prepare its report, the DCS must use data compiled from child support orders, and the work groups conducting the quadrennial reviews must review the DCS report.

Votes on Final Passage:

House	98	0
Senate	48	0

Effective: July 22, 2011

HB 1303

C 69 L 11

Concerning the insurance commissioner's authority to review and disapprove rates for certain insurance products.

By Representatives Jinkins, Kelley, Van De Wege, Liias and Reykdal; by request of Insurance Commissioner.

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

Background: The Office of the Insurance Commissioner (OIC) has the authority to regulate health insurance companies in Washington. In 2008 the OIC was granted the authority to review insurance rates in the individual market. Individual market insurers are required to file their rates with the OIC. The OIC may disapprove the rates if they are unreasonable in relation to the benefits in the agreement. The OIC also reviews individual market insurers for compliance with statutory requirements such as adjusted community rating and medical loss ratios (for purposes of determining remittances to the Washington State Health Insurance Pool).

The OIC's authority to review individual market rates expires on January 1, 2012.

Summary: The expiration date on the OIC's authority to review individual market rates is repealed.

Votes on Final Passage:

House	93	1
Senate	37	9

Effective: July 22, 2011

SHB 1304

C 70 L 11

Concerning the administration of drugs by health care assistants.

By House Committee on Health Care & Wellness (originally sponsored by Representatives Jinkins, Harris, Green, Cody, Van De Wege, Kelley, Schmick, Bailey, Clibborn, Moeller, Hinkle and Reykdal).

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

Background: A certified health care assistant is authorized to provide assistance to certain licensed health care practitioners, such as physicians, nurses, and naturopaths. A licensed health practitioner may delegate certain functions to the health care assistant such as administering skin tests and injections and performing blood withdrawals.

Each health care assistant is certified by the facility in which he or she is employed, or by the practitioner who delegates functions to the health care assistant, pursuant to standards adopted by the Department of Health (DOH) in

rule. The facility or practitioner must submit a roster of certified health care assistants to the DOH.

Health care assistants are divided into seven different categories based on differing educational, training, and experiential requirements. The different tasks each category of health care assistant may perform are as follows (all health care assistants may administer vaccines):

- Category A: venous and capillary invasive procedures for blood withdrawal;
- Category B: arterial invasive procedures for blood withdrawal;
- Category C: intradermal, subcutaneous, and intramuscular injections for diagnostic agents and the administration of skin tests;
- Category D: intravenous injections for diagnostic agents;
- Category E: intradermal, subcutaneous, and intramuscular injections and the administration of skin tests;
- Category F: intravenous injections for therapeutic agents; and
- Category G: hemodialysis.

In 2009 legislation was enacted authorizing health care assistants to administer certain over-the-counter drugs (e.g., Benadryl, acetaminophen, ibuprofen, aspirin, Neosporin) and certain legend drugs (e.g., kenalog, hydrocortisone cream, raglan, compazine). The administration of these drugs is limited to oral, topical, rectal, otic, ophthalmic, or inhaled routes and must be pursuant to a written order of a supervising health care practitioner. Only category C or E health care assistants may administer oral drugs.

The provisions allowing health care assistants to administer drugs expire on July 1, 2013.

Summary: Only category C or E health care assistants may administer over-the-counter drugs and legend drugs (as opposed to oral over-the-counter and legend drugs). The DOH must adopt any rules necessary to implement this limitation.

Votes on Final Passage:

House	93	1
Senate	47	0

Effective: July 22, 2011

HB 1306

C 153 L 11

Removing the expiration date for exempting applicants who operate commercial motor vehicles for agribusiness purposes from certain commercial driver's license requirements.

By Representatives Lytton, Bailey, Dahlquist, Billig, Clibborn, Armstrong, McCune, Blake, Liias, Takko, Chandler, Johnson, Frockt, Fitzgibbon and Smith.

House Committee on Transportation

Senate Committee on Transportation

Background: The operation of commercial motor vehicles is regulated under both state and federal law. In order to operate a commercial motor vehicle in Washington, a person generally must hold a commercial driver's license with the applicable endorsements for the vehicle he or she is driving. However, this requirement does not apply to the following persons:

- a firefighter or law enforcement officer operating emergency equipment who has completed an approved driver training course;
- the operator of a recreational vehicle used for noncommercial purposes;
- the operator of a commercial motor vehicle for military purposes; or
- the operator of a farm vehicle controlled and operated by a farmer. The vehicle itself must also be used to transport agricultural products, farm machinery, or farm supplies to or from a farm. Finally, the vehicle may not be used in the operations of a common or contract motor carrier, and it must be used within 150 miles of the person's farm.

To receive a commercial driver's license from Washington, an applicant must be a resident of the state, pass knowledge and skills tests that comply with minimum federal standards, and successfully complete a course of instruction in the operation of a commercial motor vehicle that has been approved by the Director of the Department of Licensing (DOL) or be certified by an employer as having the skills and training necessary to safely operate a commercial motor vehicle. The DOL may waive the requirement for instruction in the operation of a commercial motor vehicle for an applicant who has been issued a valid commercial driver's license in another state and is transferring to Washington.

Applicants for a commercial driver's license who operate a commercial motor vehicle for agribusiness purposes are exempt from the requirement of either successfully completing a course of instruction in the operation of a commercial motor vehicle that has been approved by the Director of the DOL or being certified by an employer as having the skills and training necessary to safely operate a commercial motor vehicle. The exemption expires July 1, 2011.

Agribusiness is defined for purposes of this exemption as a private carrier who in the normal course of business primarily transports:

- farm machinery, farm equipment, and other materials used in farming;
- agricultural inputs such as seeds, feed, fertilizers, and crop protection products; or
- unprocessed agricultural commodities, which are defined as plants or parts of plants, animals, or animal products that are produced by farmers, ranchers, vineyardists, or orchardists.

A private carrier is defined by statute as a person who transports by his or her own motor vehicle, with or without compensation, property that is owned or is being bought or sold by the person, or property where the person is the seller, purchaser, lessee, or bailee and the transportation is incidental to and in furtherance of some other primary business conducted by the person in good faith.

Summary: The July 1, 2011, expiration date is removed from a section that exempts applicants for a commercial driver's license who operate a commercial motor vehicle for agribusiness purposes from the requirement of either successfully completing a course of instruction in the operation of a commercial motor vehicle or being certified by an employer as having the skills and training necessary to safely operate a commercial motor vehicle.

In addition, the DOL is required to notify the transportation committees of the Legislature if the federal government takes action affecting the agribusiness exemption.

Votes on Final Passage:

House	93	1	
Senate	48	0	(Senate amended)
House	96	0	(House concurred)

Effective: July 1, 2011

ESHB 1309

C 189 L 11

Concerning reserve accounts and studies for condominium and homeowners' associations.

By House Committee on Judiciary (originally sponsored by Representatives Roberts, Appleton, Rodne, Springer, Hasegawa, Ryu, Eddy, Green, Kagi and Kelley).

House Committee on Judiciary
Senate Committee on Financial Institutions, Housing & Insurance

Background: In 2008 the Condominium Act and the Horizontal Property Regimes Act were amended to require condominium associations to conduct an initial reserve study by a reserve study professional, updated annually with a visual site inspection every three years, unless doing so would impose an unreasonable hardship.

Homeowners' associations (HOAs) are not required to conduct reserve studies.

Condominium Associations and Reserve Studies. A "reserve study" identifies the major maintenance, repair, and replacement expenses that a condominium association will incur over time that are not practical to include in an annual budget. The purpose of a reserve study is to evaluate the expected cost of future repair and maintenance of common elements. A reserve study must include a variety of information such as a reserve component list and the balance of the association's reserve account. A condominium association is not required to conduct a reserve study if the cost of a study exceeds 10 percent of the annual budget.

Condominium associations are authorized and encouraged to establish "reserve accounts" independent of the annual operating budget, administered by the board of directors, to fund the maintenance, repair, and replacement of common elements. A reserve account consists of funds contributed by condominium owners, supplemental to the association's annual operating budget, to fund major maintenance, repair, and replacement of common elements that will be required within 30 years. Examples of common elements include a condominium's lobby, roof, parking lot, recreational areas, roads, and sidewalks. The purpose of the reserve account is to offset the financial burden of necessary future renovations that, in the absence of a reserve account, would require the condominium association to impose a special assessment upon the owners.

Homeowners' Associations. A HOA is a legal entity with membership comprised of the owners of residential real property located within a development or other specified area. A HOA typically arises from restrictive covenants recorded by a developer against property in a subdivision. The purpose of a HOA is to manage and maintain a subdivision's common areas and structures, to review design, and to maintain architectural control.

Under the Homeowners' Association Act, the HOA may exercise powers necessary and proper for the governance and operating of the association. It must prepare annual financial statements and provide homeowners with notice of and a ratification process for the annual budget. It is not required to conduct reserve studies or to maintain reserve accounts.

Summary: The requirements of condominium associations concerning reserve components and summaries of annual budgets are amended. Reserve study and reserve account requirements are adopted with respect to HOAs.

Condominium Associations. A condominium association is required to comply with the reserve study requirement if the association has significant assets. For the purposes of condominium associations, "significant assets" means that the current total cost of major maintenance, repair, and replacement of the reserve components

is 50 percent or more of the gross budget of the association, excluding reserve account funds.

A reserve study's reserve component list must include roofing, painting, paving, decks, siding, plumbing, windows, and any other building component that would cost more than 1 percent of the annual budget for major maintenance, repair, or replacement. If one of the components is not included, the study must explain the basis for the exclusion.

The board of directors must disclose information to owners regarding reserve studies with the summary of the annual budget. The list of required information includes:

- the current amount of regular assessment budgeted for contribution from the reserve account;
- any regular or special assessments and the date of such assessments;
- the sufficiency of reserve funds for the next 30 years and, if the funds are insufficient, notice of a possible assessment; and
- the projected balances of the reserve account at the end of the next five budget cycles.

Homeowners' Associations. Homeowners' associations with significant assets are required to prepare an initial reserve study based upon a visual site inspection conducted by a reserve study professional. The study must be updated annually and must include a visual site inspection every three years by a reserve study professional.

When more than three years have passed since the date of the most recent reserve study prepared by a professional, the owners to which at least 35 percent of the votes in the association are allocated may demand that a reserve study be conducted in the next budget year. The board of directors must provide the owners with reasonable assurance that a study will be conducted if the next budget is not rejected by a majority of the owners in the association.

A HOA is not required to comply with the reserve study requirements if: there are 10 or fewer homes in the HOA; the cost of the reserve study exceeds 5 percent of the HOA's annual budget; or the HOA does not possess significant assets. For the purposes of HOAs, "significant assets" means that the current replacement value of the major reserve components is 75 percent or more of the HOA's gross budget, excluding reserve account funds.

Homeowners' associations are encouraged to establish reserve accounts, supplemental to the annual operating budget, to fund major maintenance, repair, and replacement of common elements. Similar to the new requirement for condominium associations, HOAs must disclose information to owners regarding reserve accounts and reserve studies with the summary of the annual budget.

Monetary damages or any other liability may not be awarded against the association, the officers, or board of directors, or those who may have provided assistance to the association for failure to: (1) establish a reserve

account; (2) have a reserve study prepared or updated; or (3) make reserve disclosures.

Votes on Final Passage:

House	93	5	
Senate	48	1	(Senate amended)
House	95	1	(House concurred)

Effective: January 1, 2012

ESHB 1311

C 313 L 11

Creating a collaborative to improve health care quality, cost-effectiveness, and outcomes.

By House Committee on Health Care & Wellness (originally sponsored by Representatives Cody, Jinkins, Bailey, Green, Clibborn, Appleton, Moeller, Frockt, Seaquist and Dickerson).

House Committee on Health Care & Wellness
House Committee on Health & Human Services
Appropriations & Oversight
Senate Committee on Health & Long-Term Care

Background: The Health Care Authority (Authority) administers state employee health benefit programs through the Public Employees Benefits Board, as well as health care programs targeted at low-income individuals, such as the Basic Health Plan and the Community Health Services Grants. In addition, the Authority coordinates initiatives related to state-purchased health care, such as the Prescription Drug Program and the Health Technology Assessment Program. Through the Prescription Drug Program, the state contracts for independent reviews of prescription drugs to compare the safety, efficacy, and effectiveness of drug classes from which recommendations are made by a clinical committee for the development of a preferred drug list. The Health Technology Assessment program reviews scientific, evidence-based reports about the safety and effectiveness of medical devices, procedures, and tests, and a clinical committee determines whether or not the state should pay for them.

Chapter 258, Laws of 2009 (Engrossed Substitute House Bill 2105) established a work group to be appointed by the Authority. The work group included physicians and private and public health care purchasers. The work group was responsible for identifying evidence-based best practice guidelines and decision support tools related to advanced diagnostic imaging services. All state-purchased health care programs that purchase services directly were required to implement the guidelines by September 1, 2009. The work group expired on July 1, 2010.

Summary: Legislative findings are established related to the need for public and private health care purchasers to work together to improve the quality and cost-effectiveness of health care services and the existence of substantial

variations in practice patterns or high utilization trends as indicators of poor quality and potential waste. Legislative declarations are made regarding the need for state and private health care purchasers to collaborate to identify strategies to increase the effectiveness of health care and to provide immunity from state and federal antitrust laws. It is stated that it is not the Legislature's intent to mandate payment or coverage decisions by private health carriers or purchasers.

The Robert Bree Collaborative (Collaborative) is established. The Collaborative consists of 20 members appointed by the Governor. The members include:

- two representatives of health carriers or third party administrators;
- one representative of a health maintenance organization;
- one representative of a national health carrier;
- two physicians, one of whom is a primary care provider, representing large multispecialty clinics with 50 or more physicians;
- two physicians, one of whom is a primary care provider, representing clinics with fewer than 50 physicians;
- one osteopathic physician;
- two physicians representing the largest hospital-physician groups in the state;
- three representatives of hospital systems, at least one of whom is responsible for quality;
- three representatives of self-funded purchasers;
- two representatives of state-purchased health care programs; and
- one representative of the Puget Sound Health Alliance.

The Collaborative is required to add members or establish clinical committees to acquire clinical expertise in particular health care service areas under review. Clinical committees must include at least two members who are associated with the most experienced specialty or subspecialty society for the health services under consideration. No member may be compensated for his or her service. Members of the Collaborative and clinical committees are immune from civil liability for any decisions made in good faith while conducting work related to the Collaborative or its clinical committees. The Collaborative's proceedings must be open to the public and notice of meetings must be provided at least 20 days in advance. The Collaborative may not begin its work unless there are sufficient federal funds, private funds, or state funds available through other ongoing health care service review efforts. Private funds may not be accepted if their receipt could present a potential conflict of interest in the Collaborative's deliberations.

The Collaborative must annually identify up to three health care services for which there are substantial

variations in practice patterns or high utilization trends in Washington. In addition, the services must not produce better care outcomes and be indicators of poor quality and potential waste in the health care system.

Upon the identification of such health care services, the Collaborative is required to identify evidence-based best practices to improve quality and reduce variation in the use of the service. The Collaborative must also identify data collection and reporting for the development of baseline utilization rates and ways to measure the impact of strategies to promote the use of the best practices. To the extent possible, the reporting must minimize cost and administrative effort and use existing data resources.

Lastly, the Collaborative must identify strategies to increase the use of the evidence-based practices. The strategies may include: goals for appropriate utilization rates; peer-to-peer consultation; provider feedback reports; use of patient decision aids; incentives for the appropriate use of health services; centers of excellence or other provider qualification standards; quality improvement systems; and service utilization and outcome reporting. In the event that the Collaborative selects a health care service that lacks evidence-based best practices, the Collaborative must consider strategies that promote improved care outcomes, including patient decision aids and provider feedback reports. The Collaborative must strongly consider the efforts of other organizations when developing strategies.

The Collaborative is required to report to the Administrator of the Health Care Authority (Administrator) on the selected health services and the proposed strategies. The Administrator must review the recommended strategies and inform the Collaborative of any decisions to adopt the strategies. Following the Administrator's review, the Collaborative must report to Governor and Legislature. The reports must be submitted annually and describe the selected services, proposed strategies, and results of the Administrator's review.

Upon receiving the endorsement of the Administrator, all state-purchased health care programs, including health carriers and third party administrators that contract with state programs, must implement the evidence-based practice guidelines and strategies by January 1, 2012, and every subsequent year. If the Collaborative does not reach consensus, state purchased health care programs may implement evidence-based strategies on their own initiative.

The Health Care Authority work group, established to identify evidence-based practices related to advanced diagnostic imaging services that would apply to all state-purchased health care programs, and its duties are repealed.

Votes on Final Passage:

House	62	35	
Senate	38	11	(Senate amended)
House	58	38	(House concurred)

Effective: July 22, 2011

SHB 1312
C 284 L 11

Regarding statutory changes needed to implement a waiver to receive federal assistance for certain state purchased public health care programs.

By House Committee on Health Care & Wellness (originally sponsored by Representatives Cody, Jinkins, Green and Kenney).

House Committee on Health Care & Wellness
House Committee on Ways & Means
Senate Committee on Ways & Means

Background: State Health Care Programs for Low-Income Individuals. The Basic Health Plan (BHP), Disability Lifeline (DL), and the Alcohol and Drug Addiction Treatment and Support Act program (ADATSA) are three of the largest programs in Washington that provide health care coverage to low-income individuals with state-only funds.

The Health Care Authority (Authority) administers the BHP, which is a health care insurance program that assists enrollees by providing a state subsidy to offset the costs of premiums. Residents of Washington with an income of less than 200 percent of the federal poverty level are eligible for enrollment in the BHP. In addition, the enrollee must not be: (1) eligible for Medicare; (2) institutionalized; or (3) in school on a temporary work visa.

In addition to administering the Medicaid program, the Department of Social and Health Services (Department) administers the medical care services program with state-only funds. Medical care services programs provide medical benefits to individuals enrolled in the DL and ADATSA programs. To be eligible for the DL program, an applicant must meet the same financial criteria that exists for the Temporary Assistance for Needy Families program and be incapacitated from gainful employment because of a physical or mental condition that is expected to last more than 90 days. Enrollees in the DL program may not receive benefits for more than 24 months in a five-year period.

To be eligible for the ADATSA program, an individual must meet financial and incapacity eligibility criteria. The financial eligibility criteria are equivalent to those of the Temporary Assistance to Needy Families program. The incapacity eligibility criteria are met if the applicant: (1) has a diagnosed chemical dependency on a psychoactive substance class; (2) has not abstained from alcohol and drug use during the prior 90 days; (3) has not been

gain-fully employed during the prior 30 days; and (4) is unable to work.

Federal Waiver. Medicaid is a federal-state program that provides health care services to specified categories of low-income individuals pursuant to federal standards. States may request a waiver from federal requirements for experimental, pilot, or demonstration projects. The 2010 supplemental budget directed the Authority and the Department to seek a waiver from the federal government to support some of the enrollees on the BHP and DL programs. The federal government approved this waiver in January 2011. Under the terms of the waiver, the federal government will provide matching funds to Washington for those enrollees in the BHP, DL, and ADATSA programs whose income is at or below 133 percent of the federal poverty level and who are United States citizens or eligible qualified aliens.

Summary: Individuals who are eligible for federally financed categorically needy or medically needy medical assistance programs may not enroll in the Basic Health Plan (BHP). The Administrator of the Health Care Authority must identify BHP enrollees who are currently eligible for other coverage and transition them to federally financed medical assistance programs. Applications for enrollment in the BHP must include a Social Security number, if available, for each family member requesting coverage. Applications for the BHP shall also be considered an application for medical assistance.

The Department of Social and Health Services is authorized to suspend new enrollment in medical care services for Disability Lifeline (DL) applicants and establish a waiting list of those who are eligible once there are sufficient funds.

People subject to termination from DL benefits due to time limits remain enrolled in medical care services. People subject to denial of DL benefits due to time limits remain eligible for medical care services.

Technical corrections are made to fix erroneous references.

Votes on Final Passage:

House	57	39
Senate	48	0

Effective: July 22, 2011

SHB 1315

C 228 L 11

Concerning the employment of physicians by nursing homes.

By House Committee on Health Care & Wellness (originally sponsored by Representatives Kelley, Schmick, Cody, Hinkle, Van De Wege, Miloscia, Jinkins, Seaquist, Angel and Harris).

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

Background: Medical Services in Nursing Homes. Nursing homes are licensed facilities that provide convalescent care and/or chronic care for more than 24 consecutive hours for three or more unrelated patients who are unable to care for themselves.

Each resident of a nursing home must have a comprehensive plan of care prepared by an interdisciplinary team that includes the attending physician. The nursing home must inform a resident of the name and specialty of the physician responsible for the resident's care and provide a way for the resident to contact his or her physician. According to federal interpretive guidelines for the Medicare and Medicaid programs, residents should be allowed to designate a personal physician, and the nursing home is responsible for assisting the resident to obtain these services.

A nursing home that has contracted to provide care under the Medicare or Medicaid program must ensure that a resident is seen by a physician whenever necessary and that the medical care provided by the nursing home is supervised by a physician. This includes supervising the medical care when the attending physician is not available and providing physician services 24 hours a day in case of emergency. Under some circumstances, physician tasks may be delegated to a physician assistant or advanced registered nurse practitioner who is not an employee of the nursing home.

A nursing home must designate a medical director who is responsible for implementing resident care policies and coordinating medical care in the facility.

A nursing home may maintain a quality assurance committee that includes a physician designated by the nursing home, along with the director of nursing services and three other staff members.

The Corporate Practice of Medicine. Generally, under the common law in Washington, a business entity is prohibited from employing a medical professional to practice his or her licensed profession unless legislatively authorized. Courts conclude that this prohibition exists to protect the relationship between the professional and the patient.

There are statutes that address the corporate practice of medicine. For example, a statute authorizes persons licensed or authorized to render the same professional services to form a professional corporation (including a

limited liability company). The Washington Supreme Court (Court) interpreted this statute in 1988, holding that it did not authorize a business partnership between a nurse and a physician. In a 2010 case, the Court considered whether this statute or the corporate practice of medicine doctrine was violated by a limited liability company owned by physicians that employed physical therapists. The Court found no violation of either, reasoning that both physicians and physical therapists were providing aspects of the "practice of medicine."

Summary: A nursing home may employ physicians to provide professional services to residents of the nursing home or a related living facility (such as a boarding home on the same campus). The authority applies both to the entity licensed to operate a nursing home and a subsidiary of the licensee, as long as the licensee adheres to its responsibility for the daily operations of the nursing home.

The nursing home may not supplant, diminish, or regulate any employed physician's judgment directly or indirectly, concerning the practice of medicine or diagnosis and treatment of any patient. The authority for a nursing home to employ a physician may not interfere with federal rules, state statutes, or Department of Social and Health Services (DSHS) rules addressing a resident's rights.

The DSHS must monitor nursing homes who employ physicians and report its findings to the Legislature by January 1, 2013, including information on consumer satisfaction and cost implications.

Votes on Final Passage:

House	97	0	
Senate	49	0	(Senate amended)
House	96	0	(House concurred)

Effective: July 22, 2011

SHB 1328

C 332 L 11

Concerning the operation of motorcycles.

By House Committee on Transportation (originally sponsored by Representatives Van De Wege, DeBolt, Blake, Klippert, Hinkle, Ross, Hasegawa, Kirby, Billig, Liias, Takko, Stanford, Finn, Alexander, Short, Angel, Dammeier, Zeiger, Upthegrove, Tharinger, Green, Kelley, Hurst, McCune, Kenney and Maxwell).

House Committee on Transportation
Senate Committee on Transportation

Background: The Chief of the Washington State Patrol (WSP) may temporarily suspend the following provisions with respect to the operation of motorcycles in connection with a parade or public demonstration:

- With certain exceptions, it is unlawful for a person to operate a motorcycle, moped, or motor-driven cycle that does not meet certain equipment standards for

mirrors and windshields; however, certain older and antique motorcycles are exempt from the mirror requirements.

- Motorcycle riders must meet certain requirements in terms of riding position in relation to permanent seats and foot pegs, and operators are prohibited from carrying passengers unless there is proper seating for the passenger.
- Motorcycles must meet requirements for handlebar height.
- With certain exceptions, it is unlawful for a person to operate a motorcycle, moped, or motor-driven cycle unless he or she is wearing a helmet.
- It is unlawful to transport a child under the age of 5 on a motorcycle or motor-driven cycle.

The Department of Licensing (DOL) issues special vehicle license plates that may be used in lieu of standard plates. A governmental or nonprofit organization seeking to sponsor a special plate either makes an application with the Special License Plate Review Board or requests legislation to create the special plate. Generally, the organization seeking to sponsor the special plate is required to reimburse the DOL for the costs of establishing the new special plate. After the DOL is reimbursed for the costs, the revenue generated from the plate goes into an account for the benefit of an organization that supports a particular cause or institution.

The DOL may issue some types of special license plates to passenger vehicles, motorcycles, and trailers while other special plate types are restricted to certain vehicle types. Certain special license plate types may not be issued to motorcycles or trailers.

Summary: Certain provisions related to motorcycle equipment standards and helmet use are temporarily suspended with respect to the operation of motorcycles on closed roads during a parade or public demonstration that has been permitted by a local jurisdiction.

The types of special license plates that the DOL may issue to motorcycles is expanded.

Votes on Final Passage:

House	95	2	
Senate	49	0	(Senate amended)
House	97	0	(House concurred)

Effective: July 22, 2011

SHB 1329

C 229 L 11

Creating "Music Matters" special license plates.

By House Committee on Transportation (originally sponsored by Representatives Maxwell, Liias, Haigh, Dammeier, Armstrong, McCoy, Finn, Billig, Hunt, Probst, Lytton, Kenney, Ryu, Frockt, Sells, Jacks, Orwall, Van De Wege, Roberts, Tharinger and Miloscia).

House Committee on Transportation
Senate Committee on Transportation

Background: The Department of Licensing (DOL) issues special vehicle license plates that may be used in lieu of standard plates. A governmental or nonprofit sponsoring organization seeking to sponsor a special plate either submits an application to the DOL or requests legislation to create the special plate.

For special license plates that are enacted by statute, a sponsoring organization must, within 30 days of enactment, submit prepayment of all start-up costs to the DOL. If the sponsoring organization is not able to meet the prepayment requirement, revenues generated from the sale of the special license plate are first used to pay off any costs associated with establishing the new plate. The sponsoring organization must also provide a proposed license plate design to the DOL. Additionally, the sponsoring organization must submit an annual financial report to the DOL detailing actual revenues generated from the sale of the special license plate.

There is a moratorium on the issuance of new special license plates until June 30, 2011.

Summary: The "Music Matters" special license plate is created, which would display the "Music Matters" logo. In addition to all fees and taxes required to be paid upon application for a vehicle registration, a fee of \$40 would be charged for a "Music Matters" special license plate and a \$30 fee is charged for renewal of a special license plate.

The DOL is required to annually report the status of the "Music Matters" special license plate to the Joint Transportation Committee. The "Music Matters" special license plate is exempt from the temporary moratorium on special license plates.

Votes on Final Passage:

House	89	5	
Senate	47	2	(Senate amended)
House	94	2	(House concurred)

Effective: January 1, 2012

ESHB 1332

C 258 L 11

Providing for the joint provision and management of municipal water, wastewater, storm and flood water, and related utility services.

By House Committee on Local Government (originally sponsored by Representatives Eddy, Anderson, Goodman, Takko, Liias, Springer, Rodne, Hurst and Tharinger).

House Committee on Local Government
Senate Committee on Government Operations, Tribal Relations & Elections

Background: Provision of Water-Related Utility Services by Local Governments. General purpose and selected special purpose local governments are authorized to provide water-related utility services. Cities and towns, for example, may provide for the sewerage, drainage, and water supply of the city or town, and may establish, construct, and maintain water supply systems and systems of sewers and drains within or outside their corporate limits. In addition to broad provision, control and regulation powers, cities and towns may participate in and expend revenue on cooperative watershed management actions related to water supply, water quality, and water resource protection and management.

Interlocal Cooperation Act/Watershed Management Partnerships. Under the Interlocal Cooperation Act (ICA), public agencies are authorized to contract with one another to provide services either through cooperative action or when one or more agencies pay another for a service. A "public agency," for purposes of interlocal agreements, includes any agency, political subdivision, or unit of local government. The term specifically includes municipal corporations, special purpose districts, local service districts, state agencies, federal agencies, recognized Indian tribes, and political subdivisions of other states.

In addition to provisions governing general cooperative actions between public agencies, the ICA authorizes counties, cities, and selected special purpose districts to enter into agreements to form watershed management partnerships. The participating entities may expend 10 percent of their water-related revenues for watershed management plan projects or activities that are in addition to the existing water-related services or activities of the county, city, or district.

Actions Against Political Subdivisions, Municipal, and Quasi-Municipal Corporations. All local governmental entities, whether acting in a governmental or proprietary capacity, are liable for damages arising out of tortious (wrongful) conduct by their officers, employees, or volunteers while performing, or in good faith purporting to perform, official duties. The term "local governmental entities," for purposes of tortious conduct provisions, includes counties, cities, towns, municipal

corporations, quasi-municipal corporations, and public hospitals.

Summary: Joint Municipal Utility Services Authority: Formation, Membership, and Services. A Joint Municipal Utility Services Authority (Authority) may be formed by two or more members to perform or provide any or all of the utility service or services that all of its members, other than tribal government members, perform or provide. A "member" for purposes of Authority provisions, may be a county, city, town, special purpose district, or other unit of local government in Washington or another state that provides utility services and is party to an agreement forming an Authority. The term "member" also includes federally recognized Indian tribes.

"Utility services" is defined to mean any or all of specified functions, including:

- the provision of retail or wholesale water supply and conservation services;
- the provision of wastewater, sewage, or septage collection, handling, treatment, transmission, or disposal services; and
- the management and handling of storm water, surface water, drainage, and flood waters.

With limited exceptions, at the time an agreement to form an Authority is executed, each member must be providing the type of utility service or services that will be provided by the Authority. The agreement, which must be filed with the Secretary of State, must be approved by the legislative authority of each member organization. The date of filing is the date of formation, and the formation and activities of an Authority, including the admission or withdrawal of members, are not subject to review by a boundary review board.

Formed Authorities are municipal corporations and are authorized to perform or provide any or all of the utility services that all of its members, excepting tribal government members, perform or provide. Authorities are entitled to all immunities and exemptions that apply to local governmental entities under tortious conduct provisions specified in statute. Authorities are subject to Washington's public records and open public meetings acts, and the code of ethics for municipal officers. Authorities may be audited by the State Auditor.

The formation and operation of an Authority does not diminish a member's powers in connection with its provision or management of utility services or its taxing power with respect to its services. The formation and operation of an authority also does not diminish the authority of local governments to enter into agreements under the ICA or agreements formed under the ICA. Additionally, the formation and operation of an Authority does not impair or diminish valid water rights.

Corporate Powers. For the purpose of providing utility services, Authorities are entitled to exercise numerous powers, including the power to:

- acquire and fully control property and property rights, including water rights and other assets;
- incur liabilities, including issuing bonds;
- employ persons and fix salaries;
- determine fees, rates, and charges for services; and
- exercise eminent domain.

Authorities do not have the power to levy taxes.

Asset Transfer and Availability: Member Authorizations. Members of an Authority are authorized to transfer or otherwise make available assets of member organizations, including money, real property, and water rights, to an Authority with or without payment or other consideration. The transfer and asset availability provisions are not required to be submitted and approved by the electors of the members.

Formation and Governance Agreements. A joint municipal utility services agreement that forms and governs an Authority must include numerous provisions, including provisions that:

- identify members and specify terms or conditions for joining or withdrawing from the Authority;
- specify how the number of directors of the Authority's board will be determined and how those directors will be appointed (each director must be an elected official);
- describe how the agreement may be amended; and
- describe how rates and charges imposed by the Authority, if any, will be determined.

Conversion of Existing Entities into Authorities. Any intergovernmental entity formed under the ICA or other applicable law may be converted into an Authority and is entitled to all powers and privileges available to Authorities if delineated eligibility and procedural requirements are met.

Tortious Conduct, Taxation, and Miscellaneous Provisions. Tortious conduct provisions are amended to specify that Authorities and entities created by public agencies under the ICA are considered "local governmental entities" and are subject to statutes governing tortious conduct claims involving these entities.

Payments between or any transfers of assets to or from an Authority and its members are exempted from business and occupation taxes and public utility taxes. Additionally, Authority property is exempt from taxation, and retail sales and use tax provisions do not apply to any sales or transfers made to or from an Authority and its members.

Flood control districts and flood control zone districts are expressly authorized to participate in watershed management arrangements and actions, rather than watershed management partnerships, including those authorized under the ICA and provisions governing Authorities.

Votes on Final Passage:

House	92	2	
Senate	40	8	(Senate amended)
House	95	1	(House concurred)

Effective: July 22, 2011

HB 1334

C 282 L 11

Authorizing civil judgments for assault.

By Representatives Nealey, Hurst, Walsh, Johnson, Klippert, Haler, Rodne, Bailey, Short, Dammeier, Pearson, McCune, Warnick, Hinkle, Kelley, Orcutt, Chandler, Rivers, Ross, Schmick and Smith.

House Committee on Public Safety & Emergency Preparedness

Senate Committee on Human Services & Corrections

Background: The Department of Corrections (DOC) provides inmate work programs through the Correctional Industries Board (Board). The Board develops and implements programs that offer inmates employment, work experience, and training, and that reduce the cost of housing inmates. To achieve these goals, the Board operates five classes of correctional industry work programs. All inmates working in class I - IV employment receive financial compensation for their work. Class V jobs are court ordered community work that is preformed for the benefit of the community without financial compensation.

Class I Industries. As of 2011, there are no class I Correctional Industry programs operating in the state. However, the statute requires that inmates working in class I ("free venture") industries be paid according to the prevailing wage for comparable work in that locality. There are two models for class I industries authorized under state law—an employer model and a customer model.

Employer model industries are operated and managed by for-profit or nonprofit organizations under contract with the DOC. They produce goods and services for sale to both the public and private sector. Customer model class I industries are operated and managed by the DOC to produce and provide Washington businesses with products or services produced only by out-of-state or foreign suppliers.

Inmates working in free venture industries do so by their own choice and are paid a wage comparable to the wage paid for work of a similar nature in the locality in which the industry is located (ranging from today's minimum wage of \$8.67 to \$14.76 per hour). The production of window blinds, metal fabrication, upholstery, concrete work, water-jet cutting, sewing, carabiners, and multi-packaging services are examples of jobs found in the class

I industries work program. Security and custody services are supplied to the participating firm without charge.

Class II Industries. Class II ("tax reduction") industries are state-owned and operated industries designed to reduce the costs for goods and services for public agencies and nonprofit organizations. Industries in this class must be closely patterned after private sector industries but with the objective of reducing public support costs rather than making a profit. The products and services of this industry, including purchased products and services necessary for a complete product line, may only be sold to public agencies, nonprofit organizations, and to private contractors when the goods purchased will ultimately be used by a public agency or a nonprofit organization. However, to avoid waste or spoilage, by-products and surpluses of timber, agricultural, and animal husbandry enterprises may be sold at private sale or donated to non-profit organizations when there is no public sector market for such goods.

Inmates working in tax reduction industries do so by their own choice and are paid a gratuity which may not exceed the wage paid for work of a similar nature in the locality in which the industry is located. Class II gratuities range from 55 cents to \$1.55 per hour and includes such jobs as: producing aluminum signs, license plates and tabs, mattresses, asbestos abatement, meat processing, optical lab, engraving, furniture manufacturing, screen printing and embroidery, industrial sewing, and laundry. Security and custody services are provided without charge by the DOC.

Class III Industries. Class III ("Institutional Support") industries are solely operated by the DOC with the objective being to offset tax and other public support costs. Except for inmates who work in training programs, inmates in this class are paid a gratuity ranging between \$30 to \$55 per month. All supervision, management, and custody services are solely provided by the DOC.

Inmates working in class III industries provide maintenance and operation of the DOC's institutions. Ground keepers, barbers, dental assistants, truck drivers, fork-lift operators, mechanics, library aides, typists, and interpreters are examples of jobs found in the class III industries work program.

Class IV Industries. Class IV ("Community Work") industries are operated by the DOC and are designed to provide services in the inmate's resident community. Inmates working in class IV industries provide services at a reduced cost to other state agencies, to county and local government, to persons who are poor or infirm, and to nonprofit organizations. Local governments that hire inmates must provide supervision service without charge to the state and must pay the inmate a gratuity.

Janitorial services, grounds keeping, litter control, institutional kitchen support, special event seating set-up, wheelchair cleaning, tree planting, forest maintenance, and fire suppression are examples of jobs found in the class IV industries work program.

Inmate Wage Deductions. The DOC is required by statute to take certain mandatory deductions from the gross wages and gratuities of each inmate working in class I through class IV Correctional Industry programs.

For inmates working in class I industries (and others earning at least minimum wage), excluding child support payments, the DOC takes a minimum of 55 percent of the inmates' income. The 55 percent is divided into:

- 5 percent for crime victims' compensation;
- 10 percent for the inmate's savings account;
- 20 percent to the DOC for costs of incarceration; and
- 20 percent for any owed legal financial obligations (LFOs) which can also include restitution for the victim.

For inmates working in class II industries, the DOC takes 65 percent of the inmate's income. The 65 percent is divided as follows:

- 5 percent for crime victims' compensation;
- 10 percent for the inmate's savings account;
- 15 percent to the DOC for costs of incarceration;
- 15 percent for any child support owed; and
- 20 percent for any owed LFOs.

For inmates working in class III industries, the DOC takes 5 percent of the inmate's income for the purpose of crime victim's compensation and 15 percent for any child support owed under a support order.

For inmates working in class IV industries, the DOC takes 5 percent of the inmate's income to contribute to the cost of incarceration and 15 percent for any child support owed under a support order.

Summary: The DOC must take an additional deduction from the wages and gratuities of an inmate for payment of a civil judgment for assault. A total of 20 percent must be deducted from the wages of an inmate employed in a class I Correctional Industry program and 15 percent from the gratuities of an inmate employed in a class II - IV Correctional Industries program.

"Civil judgment for assault" means a civil judgment for monetary damages awarded to a correctional officer or a DOC employee entered by a court of competent jurisdiction against an inmate that is based on, or arises from, injury to the correctional officer or the DOC employee caused by the inmate while the correctional officer or employee was acting in the course and scope of his or her employment.

Notes on Final Passage:

House	93	1	
Senate	49	0	(Senate amended)
House	97	0	(House concurred)

Effective: July 22, 2011

HB 1340

C 133 L 11

Regarding the unlawful hunting of big game.

By Representatives Kretz, McCune, Johnson and Warnick.

House Committee on Agriculture & Natural Resources
Senate Committee on Natural Resources & Marine Waters

Background: The crime of unlawful hunting of big game in the second degree is committed when a person does one of three things:

- hunts for, takes, or possesses big game without the required licenses and tags;
- violates any rules regarding requirements for hunting big game; or
- possesses a big game animal taken during a closed season.

The crime of unlawful hunting of big game in the first degree is committed when a person who has previously committed a wildlife-related crime, within five years of that conviction, commits one of the acts that qualifies as unlawful hunting in the second degree.

The term "big game" is defined to include the following animals: deer, elk, moose, mountain goats, caribou, mountain sheep, pronghorn antelopes, cougars, black bears, and grizzly bears.

Summary: The elements of the crime of unlawful hunting of big game in the first degree are changed. A person may be convicted of this crime without first being convicted of a different wildlife-related crime if the person kills, or attempts to kill, three or more big game animals within the same course of events. The same course of events is defined to mean within a 24-hour period or as part of a series of acts evidencing a continuity of purpose.

The authority to prosecute the first degree of unlawful hunting of big game against a person with an earlier conviction is maintained.

Votes on Final Passage:

House	97	0
Senate	49	0

Effective: July 22, 2011

HB 1345

C 22 L 11

Regarding the uniform unsworn foreign declarations act.

By Representatives Rivers, Pedersen and Rodne; by request of Uniform Laws Commission.

House Committee on Judiciary
Senate Committee on Judiciary

Background: Participants in legal proceedings before Washington courts and agencies generally may attest that certain statements are true through affidavits, which are

voluntary, written declarations of facts that are sworn to by the declarant before a government officer and certified by that officer. For example, affidavits are often used to admit evidence in court. Washington law permits unsworn written declarations to be used in lieu of affidavits and other sworn statements, so long as the declarations follow a prescribed form. A declaration must state that it is certified or declared by the person to be true under penalty of perjury, be signed by the person, state the date and place of execution, and state that it is declared under Washington law. The law does not apply to: written statements requiring an acknowledgement; depositions; oaths of office; or oaths required to be taken before a special official other than a notary public.

In 2008 the National Conference of Commissioners on Uniform State Laws issued the Uniform Unsworn Foreign Declarations Act (Act), which allows people outside the geographic boundaries of the United States to submit unsworn written declarations in the place of affidavits and other sworn statements. The Act parallels a federal law in place since 1976. At least nine states and the District of Columbia have adopted the Act.

Summary: The Uniform Unsworn Foreign Declarations Act (Act) is adopted. People who are physically located outside the boundaries of the United States, Puerto Rico, the United States Virgin Islands, and territories or possessions subject to United States jurisdiction may submit unsworn declarations in lieu of other sworn statements.

In addition to existing exceptions, the Act does not allow unsworn declarations to be used in place of declarations to be recorded pursuant to certain real estate and business partnership laws and certain oaths required by statute relating to proving wills.

Unsworn declarations must be made in the same medium as required by Washington laws for sworn declarations.

The Act supersedes certain requirements of the federal Electronic Signatures in Global and National Commerce Act. In interpreting the Act, courts must consider the need to promote uniformity of the law regarding unsworn declarations among the states that adopt the Act.

Votes on Final Passage:

House	93	0
Senate	45	1

Effective: July 22, 2011

ESHB 1346

C 20 L 11 E1

Making tax law changes that do not create any new or broaden any existing tax preferences as defined in RCW 43.136.021 or increase any person's tax burden.

By House Committee on Ways & Means (originally sponsored by Representative Hunter; by request of Department of Revenue).

House Committee on Ways & Means
Senate Committee on Ways & Means

Background: Business and Occupation Tax and Nexus. 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. Nexus is the level of connection with a state necessary under the United States Commerce Clause to permit a state to impose a tax or collection duty on out-of-state businesses doing business in the state.

In 2010 Engrossed Substitute Senate Bill 6143 was enacted, specifying that for service-type activities, a business will have substantial nexus in Washington if it has a certain threshold amount of property, employees, or income in the state. The 2010 changes also provide that a business with substantial nexus in the current year is deemed to have substantial nexus the following year. This is referred to as trailing nexus.

Sales and Use Taxes. Retail sales and use taxes are imposed by the state, most cities, and all counties. Retail sales taxes are imposed on retail sales of most articles of tangible personal property, digital products, and some services. The use tax applies to the acquisition of tangible personal property, digital products, and some services that are not subject to sales tax. Generally, a person or business acquiring property in another state is responsible for the payment of Washington use tax when the property is brought into the state. However, under certain circumstances, an out-of-state seller may be required to collect and remit use tax to Washington even if the property is transferred to the buyer outside the state. This requirement would apply only if the seller has some connection to the state.

Tax Incentive Reporting Requirements. The Citizen Commission for Performance Measurement of Tax Preferences (Commission) was established by the 2006 Legislature (Engrossed House Bill 1069). The Commission develops a schedule to review nearly all tax preferences at least once every 10 years. The Commission also schedules preferences with expiration dates for reviews two years before the tax preference expires. Tax preference reviews are conducted by the Joint Legislative Audit and Review Committee (JLARC) according to the schedule established by the Commission. For each tax preference, the JLARC provides recommendations to continue, modify, schedule for future review, or terminate the

preference. The Commission reviews and comments on the JLARC report.

In 2005 legislation was enacted creating a Cost-Recovery Incentive Payment Program to promote renewable energy systems that produce electricity from solar, wind, or anaerobic digesters. The Department of Revenue must measure the impacts of the program and provide a report to the Legislature by December 2014. The JLARC is also scheduled to review the tax incentive in 2013.

Businesses claiming tax incentives are required to provide data on annual accountability reports or surveys filed with the Department of Revenue. In general, accountability reports and surveys require information about employment and economic activities related to the tax incentives. In prior years, it was common to create an entirely new accountability report or survey statute for each new tax incentive even though the requirements of each new annual report or survey largely duplicated existing report or survey statutes. In 2010 Substitute House Bill (SHB) 3066 repealed most of these duplicative tax incentive annual report and survey statutes and replaced them with a uniform annual survey and a uniform annual report. However, duplicative annual report and survey statutes were also amended in other bills that passed during 2010. These other bills did not take cognizance of the repealed sections in SHB 3066.

Exemption Study. The Department of Revenue (DOR) must produce and submit to the Legislature a tax exemption report every four years. The report includes a listing of the estimated revenue lost from the exemption and the beneficiary of the exemption. The next report is due in January 2012.

Summary: The trailing nexus statute is clarified by specifying that a person who has a substantial nexus with this state in any tax year will be deemed to have a substantial nexus with the state for the following tax year.

Two redundant annual tax incentive accountability report and survey statutes are repealed.

For purposes of collecting use taxes, it is explicitly clarified that a seller has no obligation to collect use tax if Washington is prohibited under the United States Constitution or federal law from requiring the person to collect use tax.

For the January 2012 tax exemption study, the DOR does not have to prepare or update the report for any tax exemption that is not likely to increase state revenue if the exemption was repealed.

Votes on Final Passage:

House 58 39

First Special Session

House 53 38

Senate 43 0

Effective: August 24, 2011

HB 1347

C 23 L 11

Concerning sales and use tax exemptions for certain property and services used in manufacturing, research and development, or testing operations, not including changes to RCW 82.08.02565 and 82.12.02565 that reduce state revenue.

By Representatives Hunter and Orcutt; by request of Department of Revenue.

House Committee on Ways & Means
Senate Committee on Ways & Means

Background: Retail sales and use taxes are imposed by the state, most cities, and all counties. Retail sales taxes are imposed on retail sales of most articles of tangible personal property and digital products and some services. A retail sale is a sale to the final consumer or end user of the property, digital product, or service. If retail sales taxes were not collected when the property, digital products, or services were acquired by the user, then use taxes apply to the value of most tangible personal property and digital products and some services when used in this state. The state sales and use tax rate is 6.5 percent. Local tax rates vary from 0.5 percent to 3.0 percent, depending on the location. The average local tax rate is 2 percent, for an average combined state and local tax rate of 8.5 percent.

A retail sales and use tax exemption applies to new or replacement machinery and equipment (M&E) used in a manufacturing or research and development operation by a manufacturer or processor for hire. The exemption also applies to services, such as installation or repair services, rendered with respect to the M&E. The exemption applies to industrial fixtures and devices as well as pollution control equipment that is used in the manufacturing operation. The exemption does not apply to short-lived tools, hand tools, and consumable supplies.

King County is constructing a new regional wastewater treatment plant, called Brightwater. Construction started in 2006. The treatment plant is anticipated to begin operations in 2012. Brightwater will serve portions of King and Snohomish counties. The new facilities will include a treatment plant, conveyance (pipes and pumps taking wastewater to and from the plant), and a marine outfall. King County filed a refund lawsuit claiming it is entitled to the M&E exemption for the M&E installed at Brightwater. The amount of the refund request is approximately \$23 million, not including interest.

As part of the wastewater treatment process, many treatment plants produce exceptional quality biosolids that contain almost no pathogens. These exceptional grade biosolids can be used as commercial fertilizer.

Two state universities are claiming the exemption for M&E used as part of a technological research and development operation.

Summary: The sales and use tax exemption for machinery and equipment (M&E) is clarified to only

apply with respect to businesses that are taxed under the manufacturing category for business and occupation tax. The exemption does not apply to M&E used for activities within the purview of a utility business, i.e., distributing electricity, providing water and sewer services, distributing natural gas, etc. However, M&E used by a wastewater treatment facility to process class B biosolids into biosolids meeting class A or exceptional quality standards would qualify for the exemption. It is also clarified that the M&E exemption does not apply to the state and its departments and institutions.

A stand-alone sales and use tax exemption for M&E is provided for public research institutions using the M&E as part of a research and development operation. The exemption also applies to installation, repair, and other services related to the M&E. The following institutions would be eligible for the exemption: University of Washington, Washington State University, Western Washington University, Central Washington University, Eastern Washington University, and The Evergreen State College. Any public research institution claiming the exemption is required to file an annual survey with the Department of Revenue providing employment-related information for the prior calendar year, the general areas of research and development where exempt M&E is used, and the amount of the tax exemption claimed in the prior calendar year.

The act applies retroactively to open assessment periods as well as prospectively.

Votes on Final Passage:

House	97	0
Senate	47	0

Effective: April 11, 2011

HB 1353

C 71 L 11

Concerning continuing education for pharmacy technicians.

By Representatives Rivers, Cody, Schmick, Moeller, Orcutt, Ladenburg, Dahlquist, Harris, Moscoso, Green and Kenney.

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

Background: Certified pharmacy technicians provide assistance to licensed pharmacists by performing manipulative, non-discretionary functions associated with the practice of pharmacy. In addition, pharmacy technicians who meet criteria for employment, experience, training, and proficiency may perform specialized functions such as unit-dose medication checking and parenteral preparations. Pharmacy technicians may only practice while under the immediate supervision of a licensed pharmacist.

In order to be certified, a pharmacy technician must:

- be a high school graduate or successfully complete general education development tests;
- complete a formal pharmacy technician training program approved by the Board of Pharmacy or an on-the-job pharmacy technician training program approved by the Board of Pharmacy; and
- pass a national standardized pharmacy technician certification examination.

Pharmacy technicians are not subject to continuing education requirements.

Summary: Certified pharmacy technicians must complete continuing education requirements established by the Board of Pharmacy.

Votes on Final Passage:

House	98	0
Senate	48	0

Effective: July 22, 2011

ESHB 1354

C 4 L 11 E1

Changing the apportionment schedule to educational service districts and school districts for the 2010-11 school year.

By House Committee on Ways & Means (originally sponsored by Representatives Hunt, Haigh, Hunter and Darneille; by request of Office of Financial Management).

House Committee on Ways & Means
Senate Committee on Ways & Means

Background: General apportionment is the primary means by which basic education funding is allocated to school districts. The basic education rate (BEA rate) is the per pupil allocation provided to districts for a general education student, and is the foundation of the general apportionment budget. In fiscal year 2011, general apportionment exceeds \$4.86 billion and represents about 75 percent of the total funding to school districts from the state. The BEA rate used to allocate special education funding for the 2009-10 school year was approximately \$4,978 per student full time equivalent.

General apportionment funding is allocated monthly to each district through each county treasurer. The amount provided varies by month. In the months of September, October, December, January, February, and March, districts receive 9 percent of their school year apportionment payment. In November and May they receive 5.5 percent. In June they receive 6 percent. In July and August they receive 10 percent.

Summary: The school apportionment payment schedule is changed for the 2010-11 school year. The June apportionment payment is reduced by \$128 million. A payment of an equal, off-setting amount is added on the first day of July, in addition to the regularly scheduled payment.

(These changes have the effect of delaying \$128 million in school apportionment payments to fiscal year 2012.)

Votes on Final Passage:

First Special Session

House	52	36
Senate	28	14

Effective: May 31, 2011

EHB 1357

C 24 L 11

Providing the department of revenue with additional flexibility to achieve operational efficiencies through the expanded use of electronic means to remit and report taxes.

By Representatives Carlyle, Parker, Hunter, Dickerson, Roberts and Kenney; by request of Department of Revenue.

House Committee on Ways & Means
Senate Committee on Ways & Means

Background: Most businesses report and pay their taxes to the Department of Revenue (Department) on a monthly, quarterly, or annual basis. Only monthly filers are required to report and pay their taxes electronically.

The Department is authorized to assess various penalties on a number of tax reporting and payment deficiencies. For example, separate and cumulative penalties are assessed on late tax payments, substantially underpaid tax payments, and failing to register with the Department. The Department may also assess a 10 percent penalty where the taxpayer has disregarded specific written instructions by the Department regarding reporting requirements or tax liabilities.

Summary: All taxpayers are required to report and pay taxes electronically. However, the Department is authorized to waive these requirements for taxpayers filing on an annual basis and taxpayers with certain extenuating circumstances such as lack of access to the Internet, computer problems, or not having a bank account or credit card.

The 10 percent penalty for disregarding specific written instructions is applied to circumstances where the Department has specifically required a taxpayer to electronically file or remit taxes and the taxpayer willfully disregards those instructions.

The act applies to tax returns and payments originally due after July 24, 2011.

Votes on Final Passage:

House	65	31
Senate	34	13

Effective: July 22, 2011

HB 1358
C 230 L 11

Modifying combination of vehicle provisions.

By Representatives Klippert, Liias and Sells; by request of Department of Transportation.

House Committee on Transportation
Senate Committee on Transportation

Background: A saddlemount combination is a combination of vehicles in which a truck or truck tractor tows one or more trucks or truck tractors. Each one is connected by a saddle or fifth wheel to the vehicle in front of it. The saddle is a mechanism that connects the front axle of the towed vehicle to the frame or fifth wheel of the vehicle in front and functions like a fifth wheel kingpin connection. When two vehicles are towed in this manner, the combination is called a double saddlemount combination. When three vehicles are towed in this manner, the combination is called a triple saddlemount combination. These combinations are used when there is a need to move multiple vehicles, for example, from a truck manufacturer to a truck dealer.

Washington law prohibits a combination of these vehicles to exceed 75 feet in overall length. In 2005 federal law was changed to prohibit any state from imposing a length for these saddlemount combinations of no less or more than 97 feet.

Federal law states that non-compliance with the federally mandated saddlemount length could lead to a 10 percent reduction of federal aid for the National Highway System apportioned to the state for the next fiscal year.

When seeking to enforce a federal law or regulation, an agency, through the Washington Administrative Code, may adopt the federal rules and regulations as a state rule.

Summary: The 75-foot restriction is removed from existing Washington statutes regarding the saddlemount combination.

Votes on Final Passage:

House	94	0
Senate	49	0

Effective: July 22, 2011

2SHB 1362
C 58 L 11

Protecting and assisting homeowners from unnecessary foreclosures.

By House Committee on Ways & Means (originally sponsored by Representatives Orwall, Hope, Rolfes, Moeller, Liias, Probst, Green, Darneille, Frockt, Kirby, Miloscia, Roberts, Hunt, Dickerson, Upthegrove, Fitzgibbon, Kagi, Eddy, Hasegawa, Pettigrew, Ormsby, Sells, Kenney, Cody, Hudgins, Lytton, Moscoso, Ryu, Appleton, Reykdal, Van De Wege, Carlyle, Dunshee, Santos, McCoy, Tharinger,

Haigh, Goodman, Jinkins, Jacks, Takko, Sullivan, Blake, Seaquist, Billig, Stanford, Ladenburg, Finn and Pedersen).

House Committee on Judiciary
House Committee on Ways & Means
Senate Committee on Financial Institutions, Housing & Insurance

Background: Foreclosure Process for Deeds of Trust. A deed of trust may be nonjudicially foreclosed if the borrower defaults on the loan obligation. The Deeds of Trust Act imposes certain requirements on beneficiaries and trustees during the foreclosure process.

To foreclose on a deed of trust, the beneficiary or trustee must send a notice of default to the borrower. Thirty days after the notice of default is sent, the trustee may record a notice of sale in the county auditor's office. The foreclosure sale may not occur until 90 days after the time the notice of foreclosure sale is recorded, and may not occur until at least 190 days from the date of default. Within that time frame, the borrower may, among other things, cure the default and discontinue the sale or bring a court action to enjoin the foreclosure.

Meet and Confer. In 2008 legislation was enacted that amended the Deeds of Trust Act to require a beneficiary to contact a borrower by letter and telephone before issuing a notice of default in order to assess the borrower's financial situation. The beneficiary must give the borrower information for housing counseling agencies and must inform the borrower that he or she can request a subsequent meeting with the beneficiary to explore options to avoid foreclosure. This is referred to as the "meet and confer" requirement. The "meet and confer" requirement applies to deeds of trust made from January 1, 2003, to December 31, 2007, on owner-occupied residential property and expires on December 31, 2012.

Real Estate Excise Tax. The real estate excise tax does not apply when property is transferred by deed in lieu of foreclosure to satisfy a deed of trust and no additional money or thing of value (called "consideration") is given to the transferor. In some cases, a lender might provide a nominal amount of money to the borrower as an incentive for the borrower to transfer the property in a deed in lieu of foreclosure transaction and to assist the borrower in relocation costs (sometimes referred to as "cash for keys"). That money could be "consideration" and may be subject to the real estate excise tax.

Summary: Meet and Confer. The "meet and confer" requirement is amended to allow for an additional 60 days before the notice of default may be issued, if the borrower responds within 30 days of the initial contact. The beneficiary makes initial contact by sending a form letter, which must contain model language developed by the Department of Commerce (COM). The letter must urge the borrower to contact a housing counselor or attorney as soon as possible. If the borrower requests a meeting with the beneficiary, the meeting must be in person unless waived by the borrower. A person authorized to make

decisions for the beneficiary may participate by phone. The "meet and confer" requirement is made applicable to all deeds of trust and the expiration date is repealed.

Housing Counselors. A housing counselor who is contacted by a borrower has a duty to act in good faith to attempt to reach a resolution within the time frame of the meet and confer process. A resolution may include, but is not limited to a loan modification, an agreement to conduct a short sale, a deed in lieu of foreclosure, or some other plan. Housing counselors are not liable for civil damages resulting from acts or omissions in providing assistance to borrowers, unless the acts or omissions constitute gross negligence or willful or wanton misconduct.

Mediation. A foreclosure mediation process is established that applies to borrowers of deeds of trust on owner-occupied residential property who have been referred to mediation by a housing counselor or attorney. The housing counselor or attorney may refer a borrower to mediation if appropriate based on the individual circumstances and if a notice of sale has not yet been recorded. A referral to mediation does not preclude a trustee from issuing a notice of default. A financial institution that certifies to the COM that it was not a beneficiary in more than 250 foreclosure sales in a calendar year is exempt from the mediation provisions.

A housing counselor or attorney referring a borrower to mediation must send a notice form to the COM. Within 10 days of receiving the notice, the COM must select a mediator and notify the parties. The mediator must convene an in-person mediation session within 45 days after being selected, unless the parties agree in writing to extend the time. Provisions are established to address when the mediator must send the parties notice of the mediation session, what documents and information the parties must provide to the mediator, and what factors the parties must consider during mediation. The parties must mediate in person, but a decision-maker on behalf of the beneficiary may participate by phone.

Parties in mediation have a duty to act in good faith. A party may violate of the duty to act in good faith by failing to timely participate in mediation without good cause, failing to provide certain information to the other party, failing to pay its portion of the mediator's fees, or engaging in other conduct set forth in the act.

Within seven days of the conclusion of the mediation, the mediator must certify to the COM the outcome of mediation and whether the parties acted in good faith. A certification that the beneficiary violated the duty to act in good faith constitutes a defense to the foreclosure, but not to any future foreclosure action. A certification that the borrower violated the duty to act in good faith authorizes the beneficiary to proceed with the foreclosure.

If an agreement was not reached and the mediator's certification shows that the net present value of a modified loan exceeds the anticipated net recovery at foreclosure,

the showing constitutes a basis for the borrower to enjoin the foreclosure.

The mediator's fees must not exceed \$400 for a three-hour session and must be paid for equally by the borrower and beneficiary. The COM must maintain a list of approved foreclosure mediators and may establish a training program for mediators. The COM must make annual reports to the Legislature on the results of the mediation program.

Funding. Beginning October 1, 2011, and every quarter thereafter, beneficiaries must: (1) report to the COM the number of owner-occupied residential real properties for which the beneficiary has issued notices of default during the previous quarter; and (2) remit to the COM a lump sum payment of \$250 per property. No later than 30 days after the effective date of this provision, the beneficiaries must remit to the COM a lump sum payment of \$250 per owner-occupied residential real property for which the beneficiary has issued a notice of default during the three months prior to the effective date of this provision. This reporting and remitting requirement does not apply to financial institutions and loan servicers that have issued fewer than 250 notices of default in the preceding year, or to association beneficiaries.

The funds are to be deposited into the newly created Foreclosure Fairness Account, which is a non-appropriated account administered by the COM. The funds must be distributed as follows: no less than 80 percent to fund housing counselors; the greater of up to 6 percent, or \$655,000 per biennium, to the Consumer Protection Division of the Office of the Attorney General (AGO); up to 2 percent to the Office of Civil Legal Aid for purposes of contracting with legal aid programs for representation of homeowners in matters relating to foreclosure; the greater of up to 9 percent, or \$451,000 per biennium, to the COM to implement the Foreclosure Fairness Act; and up to 3 percent to the Department of Financial Institutions to conduct homeowner outreach and education programs. The amount specified to fund housing counselors may be less than 80 percent if necessary to meet the level of funding specified for the AGO and the COM.

Consumer Protection Act. It is a Consumer Protection Act violation for any person or entity to: (1) violate the duty of good faith in the mediation requirement; (2) fail to initiate contact with the borrower and exercise due diligence under the "meet and confer" requirement; or (3) fail to comply with the reporting and remitting requirements to the COM.

Servicer's Duty. A servicer's duty to maximize net present value under a pooling and servicing agreement is a duty that is owed to all parties in a deed of trust pool, not to a particular party, and the servicer acts in the best interests of all parties if it agrees to a modification where default on the loan is reasonably imminent and anticipated recovery under a modification is more than the anticipated recovery through foreclosure.

Real Estate Excise Tax. For the purpose of the real estate excise tax, "total consideration" does not include the amount of any relocation assistance provided to the transferor when a transfer is made by deed in lieu of foreclosure to satisfy a deed of trust.

Votes on Final Passage:

House	83	13	
Senate	36	11	(Senate amended)
House	78	15	(House concurred)

Effective: July 22, 2011
April 14, 2011 (Sections 11, 12, and 16)

ESHB 1367
C 190 L 11

Concerning for hire vehicles and for hire vehicle operators.

By House Committee on Labor & Workforce Development (originally sponsored by Representatives Green, Moeller, Rolfes, Hasegawa, Pettigrew, Sells, Ryu, Appleton, Hunt, Seaquist, Miloscia, Ormsby and Roberts).

House Committee on Labor & Workforce Development
Senate Committee on Labor, Commerce & Consumer Protection

Background: Industrial Insurance. With limited exceptions, all workers in the state are covered by mandatory industrial insurance. Some independent contractors are exempt from mandatory coverage. The term "independent contractor" is not defined in law; rather, this concept is embodied in several exception tests to the definition of "worker." If a worker fulfills the tests, the worker is not covered for purposes of workers' compensation, and no industrial insurance premiums are due. Otherwise, the worker is a covered worker, and premiums are due. Most business owners are exempt but may elect coverage.

In nearly all types of employments, premiums are based on hours worked.

The retrospective rating program (retro) allows an employer or a group of employers to assume a portion of industrial insurance risk and receive premium refunds or be assessed additional premiums based on claim losses.

For Hire Vehicles. For hire vehicle (includes taxicabs) owners must obtain a vehicle certificate from the Department of Licensing (DOL). Taxicab businesses are also subject to regulation by local jurisdictions. Cities, towns, counties, and port districts may control rates charged for taxicab transportation services and the manner in which rates are calculated and collected.

Limousine carriers must obtain a license from the DOL. The state has preempted local regulation of limousine carriers except that the Port of Seattle has some regulatory authority. A limousine carrier is a person who, under a single contract, acquires the use of a limousine to

travel to a specific destination or for a particular itinerary on a prearranged basis.

Summary: Industrial Insurance. Certain for hire businesses and operators of for hire vehicles are within mandatory industrial insurance coverage. Businesses are those that own and operate, or own and lease: a for hire vehicle (includes taxicabs) licensed by the state, a limousine, or a taxicab licensed by a local jurisdiction. Persons who operate these vehicles for the purpose of carrying persons for compensation and chauffeurs are covered persons.

The Department of Labor and Industries (L&I) must determine by rule, the basis for premiums for these businesses. The L&I must consider: (1) the unique economic structures of the taxicab, for hire vehicle, and limousine industries; (2) the difficulty of equitably assessing premiums on classes of businesses that use both employer/employee and independent contractor business models; (3) the economic impact on businesses of a rate and assessment alternative, such as a flat rate and per vehicle or miles driven basis, compared to an hours worked basis; (4) the L&I's costs and efficiency of administration; (5) the cost to businesses and covered workers; and (6) the anticipated effectiveness in implementing mandatory industrial insurance of for hire vehicle operators. The L&I may appoint a panel of individuals with for hire and taxicab transportation industry experience and expertise to advise the L&I. The owner of any vehicle subject to mandatory coverage is eligible for inclusion in a retro program.

A for hire vehicle certificate, a limousine business license and vehicle certificate, and a local taxicab license must be suspended or revoked, and may not be renewed, if industrial insurance premiums are not paid. Suspension and revocation for failure to pay premiums must be at the direction and expense of the L&I. The DOL and the L&I may adopt rules and enter into cooperative agreements to implement this provision. With respect to local taxicab regulation, local jurisdictions may also enter cooperative agreements with the DOL and the L&I.

A for hire vehicle, limousine, locally regulated taxicab, and its operator (or chauffeur, in the case of a limousine) must have evidence of good standing regarding the industrial insurance premium. Failure to produce evidence upon demand of a law enforcement officer or other government agent is a civil infraction punishable by a fine of not more than \$250 per infraction on both the owner and the operator.

Local Regulation. A local jurisdiction setting rates charged for taxicab services must adjust the rates to accommodate changes in the cost of industrial insurance or other industry-wide costs. An owner of a taxicab licensed by a local jurisdiction that leases the taxicab to an operator must make a reasonable effort to train the operator in motor vehicle operation and safety requirements, and to monitor operator compliance, which may include the use of operator monitoring cameras.

Votes on Final Passage:

House	96	0	
Senate	39	8	(Senate amended)
House	95	1	(House concurred)

Effective: January 1, 2012
July 22, 2011 (Section 3)

E2SHB 1371

C 21 L 11 E1

Addressing boards and commissions.

By House Committee on Ways & Means (originally sponsored by Representatives Darneille and Hunt; by request of Governor Gregoire).

House Committee on State Government & Tribal Affairs
House Committee on Ways & Means
Senate Committee on Ways & Means

Background: In 1994 legislation was enacted directing the Governor to review and submit to the Legislature every odd-numbered year a report recommending which boards and commissions should be terminated or consolidated. In making a recommendation, the Governor must consider the following:

- whether the entity completed its work and is no longer of critical significance to effective state government;
- whether the work of the group directly affects public safety, welfare, or health;
- whether the work can be done by another state agency;
- what impact termination will have on costs;
- whether the work can be done by a non-public entity;
- whether termination will result in significant loss of expertise to state government;
- whether termination will result in operational efficiencies other than fiscal; and
- whether the work can be done by an ad hoc committee.

The Governor is required to make appointments to boards, commissions, and other entities, including citizen member appointments to over 200 entities.

In 2009 legislation was enacted eliminating 18 statutory boards, commissions, and similar entities, and the Governor eliminated a number of non-statutory entities by executive order. In 2010 the enacted legislation eliminated 45 statutory boards, commissions, and similar entities.

The Office of Financial Management (OFM) sets allowances for subsistence, lodging, and travel expenses for persons who are appointed to serve on boards, commissions, or similar groups. Part-time groups are identified as class one through class five for purposes of setting any additional compensation or allowances.

In 2010 the enacted legislation eliminated allowances for class one through three and class five groups if the cost is funded by the State General Fund. Exceptions are permitted. Class one through three and class five groups funded by sources other than the State General Fund are encouraged to reduce travel, lodging, and other costs. All classes were directed, if feasible, to use methods of conducting meetings that do not require members to travel and to use state facilities whenever possible for meetings that require members to physically be present. Approval of the Director of OFM is required to use private facilities for meetings. These restrictions apply to fiscal year 2011.

Summary: Elimination/Transfer/Duties/Appointment Authority. The following entities are eliminated and in some cases duties are transferred to agencies:

- the Eastern State Hospital Board;
- the Firearms Range Advisory Committee;
- the Performance Agreement Committee;
- the Salmon Stamp Selection Committee;
- the Western State Hospital Board;
- the Home Care Quality Authority. Responsibility for the referral registry is transferred to the Department of Social and Health Services; and
- the Migratory Waterfowl Art Committee. The responsibility to select the migratory bird stamp is transferred to the Department of Fish and Wildlife (DFW). The DFW must solicit recommendations from the public.

The following entities are renamed advisory committees, and in some cases functions are limited to reflect the advisory role. If the Governor appoints the members, an agency head becomes the appointing authority.

- The Correctional Industries Board of Directors becomes the Correctional Industries Advisory Committee. Appointments are made by the Secretary of the Department of Corrections (DOC), and the Correctional Industries Advisory Committee makes recommendations to the Secretary of the DOC.
- The Hanford Area Economic Investment Fund Committee becomes the Hanford Area Economic Investment Fund Advisory Committee. Appointments are made by the Director of the Department of Commerce (COM), and the Hanford Area Economic Investment Fund Advisory Committee advises the Director of the COM.
- The Escrow Commission becomes the Escrow Advisory Committee.
- The Livestock Identification Advisory Board becomes the Livestock Identification Advisory Committee.

The appointment authority of the Governor is also changed for the following entities:

- the Capitol Campus Design Advisory Committee (appointed by the Director of the Department of General Administration);
- the State Advisory Board of Plumbers (appointed by the Director of the Department of Labor and Industries);
- the Apprenticeship Council (appointed by the Director of the Department of Labor and Industries);
- the Boundary Review Board (Three positions appointed by the Governor are eliminated. The number of members appointed by counties and cities is increased for both counties and cities from three to four and the number of members appointed by the Boundary Review Board from special districts is increased from two to three.);
- the Commission on Pesticide Regulation (appointed by the Director of the Department of Agriculture);
- the Commute Trip Reduction Board (The Governor's representative is changed to a representative from the OFM, and other representatives are appointed by the Secretary of Transportation.);
- the Community Economic Revitalization Board (appointed by the Director of the COM);
- the Emergency Management Council (appointed by the Adjutant General);
- the Emergency Medical Services and Trauma Care Steering Committee (appointed by the Secretary of Health);
- the Interstate Horse Racing Compact Committee (appointed by the Horse Racing Commission);
- the State Council on Aging (Appointments are made by the Area Agencies on Aging, except that the Governor continues to appoint a city and county member and up to five at-large members.);
- the Horse Park Authority Board (appointed by the Parks and Recreation Commission);
- the Home Inspector Advisory Licensing Board (appointed by the Director of the Department of Licensing);
- the Real Estate Appraiser Commission (appointed by the Director of the Department of Licensing); and
- the Productivity Board (appointed by the Secretary of State for the three Governor's appointments).

Other Agency Specific Provisions. The Achievement Gap Oversight and Accountability Committee is renamed the Educational Opportunity Gap Oversight and Accountability Committee.

The Superintendent of Public Instruction (Superintendent) may appoint advisory groups on subject matters within the Superintendent's responsibilities or required as a condition to the receipt of federal funds. Members may be paid travel expenses. A person may receive an amount not to exceed \$100 for each day during which the member

attends an official meeting or performs statutorily prescribed duties approved by the chair, if the person: (1) occupies a position, normally regarded as full-time as a certificated employee of a local school district; (2) is participating as part of their employment with the local school district; and (3) the meeting or duties are performed outside school days. The Superintendent may reimburse local school districts for substitute certificated employees. A person may receive compensation from federal funds in an amount determined by personal service contract for groups required by federal law.

The Quality Education Council may meet no more than four days, rather than four times, a year.

The Horse Racing Commission is reduced from five to three members.

General Provisions. The fiscal year 2011 restrictions on allowances and travel are made permanent, except for restrictions on use of private facilities. Members of boards, commissions, councils, or committees identified as class one through class three and class five groups may not receive allowances for subsistence, lodging, and travel if these costs are funded by the State General Fund. Exceptions must be approved by the OFM, the Chief Justice of the Supreme Court, and the House Chief Clerk or the Secretary of Senate, as appropriate. Those class one through class three and class five boards, commissions, councils, or committees funded by sources other than the State General Fund are encouraged to reduce travel, lodging, and other costs. When feasible, all classes are directed to use methods of conducting meetings that do not require members to travel.

Except under a specific law to the contrary, agencies are prohibited from entering into personal service contracts with a member of any agency board, commission, council, committee, or other group formed to advise state government for services related to work done as a member of the group.

Votes on Final Passage:

First Special Session

House	57	38	
Senate	37	5	(Senate amended)
House	50	45	(House concurred)

Effective: July 1, 2011

August 24, 2011 (Sections 53 and 60)

EHB 1382

C 369 L 11

Concerning the use of express toll lanes in the eastside corridor.

By Representatives Clibborn, Maxwell, Liias, Eddy, Hunter and Springer; 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 by allowing the vehicles to avoid congestion. The Washington State Department of Transportation (WSDOT) has authority to designate HOV lanes on state highways, and there are 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 vehicles. The goal for these lanes is to provide a higher level of service for multi-occupant vehicles, while permitting other vehicles to use surplus capacity in the lane by paying a toll.

The WSDOT operates a HOT lane pilot project along the nine miles of HOV lanes on State Route 167 (SR 167) within King County. Tolls on the project are established by the state tolling authority, the Washington State Transportation Commission (Commission), and vary in amount by time of day and the level of traffic congestion. 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.

In 2009 the WSDOT was directed by Engrossed Substitute Senate Bill 5352 to conduct a traffic revenue study for Interstate 405 (I-405) in King and Snohomish counties that included funding for improvements and HOT lanes. The WSDOT was also directed to develop a plan to operate two HOT lanes in each direction on I-405. The WSDOT delivered the Eastside Corridor Tolling Study to the Legislature in January 2010. After release of the study, the WSDOT decided to convene an Expert Review Panel to review the eastside corridor express toll lanes study work. The Expert Review Panel final report was distributed in December 2010.

Summary: The imposition of tolls is authorized for express toll lanes on I-405 between the junction with Interstate 5 on the north end and Northeast 6th Street in Bellevue on the south end. In addition, I-405 is designated as an eligible toll facility. An express toll lane means an HOV lane in which the WSDOT charges tolls to regulate use of the lane to maintain travel speed and reliability. The Commission is directed to set the schedule of toll rates for

the express toll lanes, which may vary by time of day, level of congestion, and other criteria determined by the Commission. Toll charges may not be assessed on transit buses and vanpools. Toll revenue may be used for debt services, planning, administration, construction, maintenance, repairing, rebuilding, operation, enforcement, and the expansion of express toll lanes on I-405. The I-405 Express Toll Lanes Operations Account is created in the motor vehicle fund, so the expenditure of the revenue is limited to highway purposes.

The WSDOT is authorized to construct and operate the express toll lanes and set the performance standards for the project. Operation of the lanes may not begin until the WSDOT has completed certain capacity improvements. The WSDOT is required to automatically adjust the toll rate, using dynamic tolling, within the schedule established by the Commission to ensure that average vehicle speeds in the lanes remain above 45 miles per hour 90 percent of the time during peak hours. The Commission must periodically review the toll rates against the traffic performance of all lanes to determine if the toll rates are effectively maintaining travel time, speed, and reliability. The WSDOT is required to annually report to the Commission and the Legislature on the impact of the express toll lanes project on certain performance measures. The express toll lanes project must be terminated if it does not meet certain performance criteria within two years.

The Commission is required to hire independent experts to conduct a traffic and revenue analysis of a 40-mile continuous express toll lane system that includes SR 167 and I-405. In addition, the WSDOT must develop a corridor-wide project management plan for the eastside corridor. The WSDOT is directed to use the information from the analysis and the management plan to develop a finance plan to fund improvements in the corridor. The WSDOT must consult with the Commission in developing the corridor-wide management plan and the finance plan, and the WSDOT and the Commission must consult with certain elected officials and representatives from certain transit agencies while developing the performance standards, the traffic and revenue analysis, and the finance plan. The traffic and revenue analysis and the finance plan are due to the Governor and Legislature in January 2012.

Votes on Final Passage:

House	52	46	
Senate	36	13	(Senate amended)
House	51	44	(House concurred)

Effective: July 22, 2011

SHB 1384

C 231 L 11

Concerning public improvement contracts involving certain federally funded transportation projects.

By House Committee on Transportation (originally sponsored by Representatives Moscoso, Lias, Clibborn, Billig, Ryu, Kenney, Stanford and Reykdal; by request of Department of Transportation).

House Committee on Transportation
Senate Committee on Transportation

Background: State law requires that public improvement contract provisions include a "contract retainage" of no more than 5 percent of the moneys earned by the contractor. The retainage is to be set aside as a trust fund in the event that claims arise under the contract or taxes are not paid by the contractor.

Federal disadvantaged business enterprise (DBE) regulations require prime contractors to pay subcontractors in full by no later than 30 days after the subcontractor's work is satisfactorily completed. This is referred to as the DBE "prompt payment requirement."

Summary: Public improvement contracts for highway, road, and street projects that are funded by federal transportation funds are exempted from the retainage requirement. Instead, the contract bond is used in the event of claims or unpaid taxes. The contract bond must remain in full force and effect until, at a minimum, all claims filed in compliance with contractor's bond requirements are resolved.

Votes on Final Passage:

House 98 0
Senate 48 0

Effective: July 22, 2011

HB 1391

C 72 L 11

Regarding the use of water delivered from the federal Columbia basin project.

By Representatives Warnick, Haler, Fagan, Schmick, Chandler, McCune, Armstrong, Condotta, Johnson, Hinkle and Parker.

House Committee on Agriculture & Natural Resources
Senate Committee on Environment, Water & Energy

Background: Columbia Basin Project. The Columbia Basin Project (Project) of the U.S. Bureau of Reclamation (Bureau) receives its waters from Franklin D. Roosevelt Lake behind Grand Coulee Dam. The Department of Ecology (DOE) has entered into an agreement with the Bureau and has adopted rules for managing certain comingled waters associated with the Project. Under these rules, the DOE may issue water use permits.

Groundwater Management Subareas. A groundwater management subarea (subarea) may be established by rule by the DOE to address aquifer levels and to regulate withdrawals of public groundwater. The DOE has adopted rules establishing the WAC 508-14 Subarea, the Odessa Subarea, and the Quincy Subarea. Parts of these subareas include lands within the boundaries of the Project.

In 2004 legislation was enacted granting the DOE the authority to enter into agreements with the Bureau and the Project irrigation districts to offset aquifer depletions due to groundwater withdrawals. Such agreements allow surface water conserved within currently served Project areas to be delivered to deep well irrigated lands in subareas within Project boundaries. When such deliveries occur, the DOE must issue a superseding water right permit or certificate to indicate that the unused portion of a replaced subarea groundwater right is a reserve right with low flow protection from relinquishment.

This reserve right may again be used if the delivery of conserved Project water is curtailed or otherwise unavailable. The total acreage irrigated under the subarea groundwater right and delivered Project water must not exceed quantity or acreage limits described in the groundwater permit or certificate.

Summary: The allowable quantity of water permitted for irrigation is modified in circumstances where a person has a groundwater right within a subarea using surface water from the Project. The total acreage irrigated under the subarea groundwater right and delivered Project water must not exceed the quantity of water authorized by the Bureau or acreage limits described in the groundwater permit or certificate.

Votes on Final Passage:

House 96 0
Senate 47 0

Effective: July 22, 2011

SHB 1402

C 134 L 11

Concerning certain social card games in an area annexed by a city or town.

By House Committee on State Government & Tribal Affairs (originally sponsored by Representatives Upthegrove and Orwall).

House Committee on State Government & Tribal Affairs
Senate Committee on Labor, Commerce & Consumer Protection

Background: The Gambling Act authorizes a business to conduct social card games, including house-banked games, when licensed by the Gambling Commission (Commission). A gambling license is legal authority to engage in that gambling activity. A city, town, or county

may "absolutely prohibit" gambling, but may not change the scope of a license.

In 2009 legislation was enacted authorizing certain cities that ban house-banked card games and annex an area that allows house-banked card games to "grandfather" an existing card game business in the annexed area and allow it to continue operating. This grandfathering authority is limited in several respects: (1) only cities within King, Snohomish, and Pierce Counties may grandfather; (2) the annexed area must have a population of at least 10,000 people (except for areas annexed by Bellevue); (3) the continuation of the card game business must reduce a tax authorized as a credit against the sales and use tax; and (4) the business to be grandfathered must have been licensed by the Commission as of July 26, 2009. In addition, the grandfathering authorization applies only to house-banked card game businesses.

In November 2009 voters in the Panther Lake area approved the annexation of the area to the city of Kent, effective July 1, 2010. In April 2010 Kent adopted an ordinance allowing house-banked card rooms in the annexed area to continue operating.

Summary: A jurisdiction with a ban on house-banked card rooms that annexed an area and allowed a house-banked card room in the annexed area to continue operating before July 15, 2010, must allow all card rooms (i.e., non house-banked) card rooms licensed and operating as of January 1, 2011, to continue operating.

Votes on Final Passage:

House	94	1
Senate	46	2

Effective: July 22, 2011

2SHB 1405
C 191 L 11

Regulating loans made under the consumer loan act.

By House Committee on General Government Appropriations & Oversight (originally sponsored by Representatives Kirby, Kelley, Ladenburg, Darneille, Ryu, Stanford and Jinkins).

House Committee on Community Development & Housing
House Committee on Business & Financial Services
House Committee on General Government Appropriations & Oversight
Senate Committee on Financial Institutions, Housing & Insurance

Background: The Consumer Loan Act (CLA) authorizes the Department of Financial Institutions (DFI) to regulate consumer loan companies doing business in Washington. Consumer loan companies include mortgage lenders and consumer finance companies.

License Required. No person may engage in the business of making secured or unsecured loans of money, credit, or things in action unless licensed by the DFI under the CLA or exempt from licensure. The CLA provides exemptions from licensing for:

- any person making loans primarily for business, commercial, or agricultural purposes, or making loans to government or government agencies or instrumentalities, or to an "organization" as defined in the federal Truth in Lending Act;
- an entity licensed as a bank, savings bank, trust company, savings and loan association, building and loan association, or credit union under state or federal law;
- entities licensed as pawnbrokers;
- entities making loans for retail installment sales of goods and services;
- entities licensed as a check casher or seller;
- entities making loans under the Housing Trust Fund;
- entities making loans under programs of the federal government that provide funding or access to funding for single-family housing developments or grants to low-income individuals for the purchase or repair of single-family housing;
- nonprofit housing organizations making loans, or loans made, under housing programs that are funded by federal or state programs if the primary purpose of the programs is to assist low-income borrowers with purchasing or repairing housing or the development of housing for low-income state residents; and
- entities making loans which are not residential mortgage loans under a credit card plan.

An applicant for a license and any officers and principals of the applicant must undergo a background check. A licensee must maintain a surety bond or meet other specified financial requirements. The amount of the bond is based on the annual dollar amount of loans originated with a minimum amount of \$30,000.

- Powers of a CLA Licensee. A CLA licensee may:
- lend money at a rate that does not exceed 25 percent per annum;
 - charge a borrower a nonrefundable, prepaid, loan origination fee limited to 4 percent of the first \$20,000 loaned and 2 percent of any amount above \$20,000. The fee may be included in the principal balance of the loan;
 - agree with the borrower for the payment of fees to third parties other than the licensee who provides goods or services to the licensee in connection with the preparation of the borrower's loan and may include such fees in the amount of the loan. However, no charge may be collected unless a loan is made, except for reasonable fees properly incurred in

connection with the appraisal of property by a qualified, independent, professional, third-party appraiser;

- in connection with a loan secured by real estate, agree with the borrower to pay a fee to a mortgage broker that is not owned by the licensee or under common ownership with the licensee and that performed services in connection with the origination of the loan. A licensee may not receive compensation as a mortgage broker in connection with any loan made by the licensee;
- charge and collect a penalty of not more than 10 percent of any installment payment delinquent 10 days or more;
- collect fees and expenses related to a collection when a debt is referred to an attorney who is not a salaried employee of the licensee;
- make open-end loans as provided in the CLA;
- charge a fee for dishonored checks; and
- sell insurance covering real and personal property, covering the life or disability or both of the borrower, and covering the involuntary unemployment of the borrower.

Prohibited Practices. There are a variety of prohibited practices under the CLA to ensure fair, honest, and open practices.

Mortgage Loans and Mortgage Loan Servicing. In 2009 a law was enacted that regulates mortgage loan servicers under the CLA. In 2010 changes to the Escrow Act were made, including changes to the exemptions from regulation under the Escrow Act. As a result of the 2009 and 2010 legislation, a small group of people who service mortgage loans are regulated under the Escrow Act and the CLA.

The Director has the authority to waive licensing CLA provisions for persons making mortgage loans when the Director determines it is necessary to facilitate commerce and protect consumers.

Administrative Enforcement. The Director of the DFI (Director) may deny applications or renewals or suspend or revoke licenses for specified actions or failures to act by an applicant or licensee. The Director may impose fines for violations. The Director may issue an order directing the licensee, its employee or loan originator, or other person subject to the CLA to:

- cease and desist from conducting business in a manner that is injurious to the public or violates any provision of the CLA;
- take action necessary to comply with the CLA; or
- make restitution to a borrower or other person who is injured by a CLA violation.

Penalties. Violations of the CLA are violations of the Consumer Protection Act (CPA). The Office of the Attorney General may bring an action on behalf of persons injured by a violation of the CPA. A private party may

also bring an action to enforce the CPA. The CPA allows an injured party to receive treble damages, up to a maximum of \$25,000.

Certain violations are gross misdemeanors. A gross misdemeanor is punishable by:

- imprisonment for not more than 12 months in jail;
- a maximum fine of \$5,000; or
- a combination of imprisonment and a fine.

In 2009 the statute concerning the exemptions was amended in two different bills. The difference in language could not be reconciled by the Code Reviser. The result is two different, overlapping statutes in law.

Summary: The exemption regarding loans made primarily for business, commercial, or agricultural purposes is modified to except loans that are secured by a lien on the borrower's primary residence.

It is a prohibited practice for a licensee to execute or induce the execution of an instrument that conveys any ownership interest in a borrower's primary residence to the lender. The prohibition only applies to actions that are contemporaneous to the making of the loan and are prior to a default on the loan. The prohibited practice does not apply to mortgages or deeds of trust.

It is a prohibited practice for a licensee, at the time of closing a loan, to obtain a release for damages resulting from a violation of the usury law, the CLA, or other laws.

The Director may waive CLA licensing provisions for persons servicing mortgage loans when the Director determines it is necessary to facilitate commerce and protect consumers.

Several formatting and housekeeping changes are made.

Votes on Final Passage:

House	96	0	
Senate	47	2	(Senate amended)
House	97	0	(House concurred)

Effective: July 22, 2011

ESHB 1406
PARTIAL VETO
C 215 L 11

Establishing the intrastate building safety mutual aid system.

By House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Hunt, Ross, Appleton, Armstrong, Hurst and Stanford).

House Committee on Public Safety & Emergency Preparedness

Senate Committee on Government Operations, Tribal Relations & Elections

Background: Mutual aid is a term in organizational theory used to signify a voluntary reciprocal exchange of

resources and services for mutual benefit. In emergency services, mutual aid is an agreement among emergency responders to lend assistance across jurisdictional boundaries. This may occur due to an emergency response that exceeds local resources, such as a disaster or a multiple-alarm fire. Mutual aid may be ad hoc and requested only when such an emergency occurs. It may also be a formal standing agreement for cooperative emergency management on a continuing basis, such as ensuring that resources are dispatched from the nearest fire station, regardless of which side of the jurisdictional boundary the incident is on. Various state and local governmental entities in Washington are involved in emergency management and preparedness.

The Washington Association of Building Officials. The Washington Association of Building Officials is a nonprofit, professional association of state, county, city, and town officials in Washington engaged in the development, enforcement, and administration of building construction codes and ordinances. Membership includes building officials and inspectors, planners, architects, structural engineers, and others.

The Emergency Management Division. The Emergency Management Division of the Washington Military Department administers emergency management and disaster relief programs. The Director of the Military Department (Director) is appointed by the Governor and is required to develop a comprehensive emergency management plan including an analysis of the natural, technological, or human-caused hazards that could affect the state. Local jurisdictions are directed to establish comprehensive local emergency management plans and submit their plans to the Director for recommendations. Local jurisdictions may also establish and operate joint local emergency management organizations.

The Emergency Management Council. The Emergency Management Council (Council) is a 17-member Council appointed by the Governor to advise the Governor and the Director on state and local emergency management matters. The Council includes representatives from various state and local agencies as well as emergency medical personnel and private industry. Among other duties, the Council must ensure the Governor receives an annual assessment of statewide emergency preparedness. In the event of a disaster beyond local control, the Governor, through the Director, may assume operational control over all or any part of emergency management functions in the state. In addition to using state and local agencies and employees for emergency response, the Governor and the chief executives or emergency management directors of counties, cities, and towns have authority to press citizens into emergency management service if the Governor proclaims a disaster.

The Washington State Emergency Response Commission. The Washington State Emergency Response Commission (SERC) was created in accordance with a federal law that establishes requirements for federal, state and

local governments, and private industry regarding emergency response planning. The membership of the SERC includes representatives from private industry and state and local agencies. The SERC is a subcommittee of the Council and deals with hazardous chemical type emergency hazards. Among other purposes, the SERC designates and oversees local emergency planning districts or committees and facilitates preparation and implementation of emergency planning and preparedness.

The Washington State Patrol Fire Protection Bureau. The Washington State Patrol Fire Protection Bureau provides training to first responders on hazardous material incidents and is the Incident Command Agency if an incident occurs along any state route or interstate freeway. The terrorism unit offers training and information regarding terrorism response and extremist groups. The training is meant for all first responders, but the terrorism unit also provides information to agencies and the public on these topics.

Summary: The Intrastate Building Safety Mutual Aid (IBSMA) System is established to provide mutual assistance among member jurisdictions in the case of a building safety emergency or to aid in training and exercises. A building safety emergency means a situation that temporarily renders a building safety department incapable of providing building safety services. Mutual assistance may include immediate responses to a building safety emergency, any effort to help mitigate or prevent further damages, or recovery activities.

Membership of the IBSMA System. Member jurisdictions of the IBSMA System include counties, cities, towns, and tribal government entities that have provided a written declaration of their intention to participate, and any other governmental entities with responsibilities of ensuring building safety. Nothing precludes a jurisdiction's membership in the IBSMA System from entering into or interfering with other mutual aid agreements as permitted by law.

Request for Assistance. Member jurisdictions of the IBSMA System may request mutual aid assistance from other member jurisdictions to respond to, mitigate, or recover from a building safety emergency, or for participation of other member jurisdictions in authorized drills or exercises, provided that:

- the request for assistance is from the chief executive officer of the requesting jurisdiction and that jurisdiction is experiencing a building safety emergency or is undertaking drills or exercises;
- the verbal request for assistance is confirmed by a written request as soon as practicable;
- a responding member jurisdiction may withhold resources for any reason;
- emergency responders and resources from a responding member jurisdiction are under the general

command of their jurisdiction but under the operation command of the requesting jurisdiction; and

- a response to a building safety emergency under an IBSMA agreement is voluntary.

A responding member jurisdiction may designate, in writing, persons to serve as temporary emergency responders for the purposes of deploying such persons under the IBSMA System. A designation as a temporary emergency responder does not grant any right to wages, salary, pensions, health benefits, seniority or other benefits. The IBSMA Oversight Committee (Committee) must develop policies detailing the temporary designation process.

Reimbursement. A jurisdiction requesting mutual aid assistance must reimburse responding jurisdictions for the true and full value of assistance. Requests for reimbursement must be made within 30 days within the procedures and rates developed by the Committee. Responding jurisdictions may donate assistance and resources to a requesting jurisdiction. However, if a member jurisdiction has a dispute over the reimbursement payments for assistance, that jurisdiction may send a written request to the other member jurisdiction to resolve the matter within 30 days. If the dispute is not resolved within 30 days following receipt of the written request, either party may request arbitration.

Reciprocity of Professional Qualifications. There is reciprocity for any emergency responder holding a license, certificate, or other permit evidencing qualification in a professional, mechanical, or other skill, issued by Washington or a political subdivision. That person is deemed to be licensed, certified, or permitted in the requesting member jurisdiction for the duration of the emergency, drill, or exercise, subject to any limitations and conditions that the chief executive officer of the requesting member jurisdiction may prescribe.

Injuries Under the Mutual Aid Agreement. If an employee dies or is injured during the course of his or her employment while providing assistance under the IBSMA System, such employee is eligible for benefits that would otherwise be available for injuries sustained or death in the course of employment.

Immunity. For purposes of tort liability or immunity, an emergency responder of a responding jurisdiction is considered an agent of the jurisdiction that has requested assistance. A responding jurisdiction rendering aid under the IBSMA System is not liable for the acts or omissions in good faith of the responding jurisdiction's emergency responders or resources. Good faith does not include willful misconduct, gross negligence, or recklessness. The IBSMA System does not provide rights or privileges to any person responding for any reason if a member jurisdiction has not requested or authorized that person to respond to the emergency.

Intrastate Building Safety Mutual Aid Oversight Committee. The Intrastate Building Safety Mutual Aid Oversight Committee (Committee) is created as a Committee of the Washington Association of Building Officials. It is representative of building safety agencies and disciplines as well as local political subdivisions.

The President of the Washington Association of Building Officials will appoint members of the Committee from interested applicants. The Committee, which will meet at least annually, will be responsible for developing and updating the IBSMA System's comprehensive guidelines and procedures implementing the IBSMA System. The guidelines, at a minimum, must include projected or anticipated costs, checklists for requesting and providing mutual aid assistance, recordkeeping for all member jurisdictions, rates and reimbursement procedures, and other necessary implementation instructions and forms.

The Committee must review the progress and status of the IBSMA System and draft any necessary guidelines, policies, and procedures to correct any deficiencies in the IBSMA System.

Votes on Final Passage:

House	97	0
Senate	48	0

Effective: July 22, 2011

Partial Veto Summary: The Governor vetoed the provision that created the Committee that was responsible for developing and updating the guidelines and procedures relating to the operations of the IBSMA System.

VETO MESSAGE ON ESHB 1406

April 29, 2011

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

Ladies and Gentlemen:

I am returning herewith, without my approval as to Section 10, Engrossed Substitute House Bill 1406 entitled:

"AN ACT Relating to intrastate building safety mutual aid in the event of emergencies and other situations that temporarily render a jurisdiction incapable of providing required building safety services."

Section 10 creates the intrastate building safety mutual aid oversight committee, and provides that it shall be a committee of the Washington association of building officials. I do not believe the creation of this oversight committee is necessary to carry out the purposes of the act. If desired, the members of the intrastate building safety mutual aid system can establish a committee structure without the need of a statutory reference.

For these reasons, I have vetoed Section 10 of Engrossed Substitute House Bill 1406.

With the exception of Section 10, Engrossed Substitute House Bill 1406 is approved.

Respectfully submitted,



*Christine O. Gregoire
Governor*

HB 1407
C 285 L 11

Allowing the negotiated sale and conveyance of all or part of a water system by a municipal corporation to first class and code cities.

By Representatives Ryu, Hope, Dunshee, Angel and Kagi.

House Committee on Local Government
Senate Committee on Government Operations, Tribal Relations & Elections

Background: A public utility district (PUD or district) is a type of special purpose district authorized for the purpose of generating and distributing electricity, providing water and sewer services, and providing telecommunications services. A PUD may operate on a countywide basis or may encompass a smaller jurisdiction. There are 28 operating PUDs in the state, many of which provide a mix of services: 23 provide electrical services; 19 provide water or wastewater services, or both; and 13 provide wholesale broadband telecommunications services. Public utility districts are governed by a board of either three or five elected commissioners.

A PUD may sell, lease, or convey its works, plants, systems, utilities, and properties in accordance with specified procedures and the approval of the district voters. In general, PUDs are subject to the same regulations as cities and towns with respect to the disposition of district property.

However, the governing statutes provide numerous exceptions to the general rule requiring voter approval for the disposition of property by a PUD. These exceptions are wide-ranging and allow disposition of property without voter approval under circumstances that include the following:

- where the property lies outside the boundaries of the district and is being sold to another PUD or other public entity;
- where the property is obsolete or otherwise not useable and is no longer needed by the PUD;
- where the property is being sold to another public utility, private utility, utility contractor, or governmental entity for not less than fair market value and in response to specified circumstances; and
- where the property is all or any part of an electric generating project powered by a renewable resource, and the district has specific rights relating to the purchase of energy from the project and to an option to repurchase the project at fair market value upon termination of the right to purchase energy from the project.

Additionally, districts meeting certain population and geographic requirements are authorized to engage in disposition transactions under specified circumstances.

Summary: A PUD located in a county that borders the Puget Sound and that has a population of between 650,000 and 750,000 inhabitants may, without voter approval, sell and convey all or part of its water system to a city or town that owns its own water system and has a population of fewer than 65,000 inhabitants.

Votes on Final Passage:

House	87	10	
Senate	44	2	(Senate amended)
House	90	7	(House concurred)

Effective: July 22, 2011

EHB 1409
C 259 L 11

Authorizing the sale, exchange, transfer, or lease of public property to Indian tribes.

By Representatives Appleton, Hurst and McCoy.

House Committee on State Government & Tribal Affairs
Senate Committee on Government Operations, Tribal Relations & Elections

Background: The state, any municipality, or any political subdivision of the state may sell, transfer, exchange, lease, or dispose of real or personal property to the state, a political subdivision of the state, or the federal government.

Before disposing of surplus property with an estimated value greater than \$50,000, the state or local government must hold a public hearing in the county where the property is located. Notice must be published at least 10 days, but not more than 25 days, before the hearing in a newspaper of general circulation in the area where the property is located. If the property is real property, the notice must also describe the proposed use of the lands involved. A news release must be disseminated to the electronic media in the area where the property is located.

Summary: The state, any municipality, or any political subdivision of the state may also sell, transfer, exchange, lease, or dispose of real or personal property to a federally recognized Indian tribe.

Votes on Final Passage:

House	63	34	
Senate	43	5	(Senate amended)
House	60	36	(House concurred)

Effective: July 22, 2011

ESHB 1410

C 22 L 11 E1

Regarding science end-of-course assessments.

By House Committee on Education (originally sponsored by Representatives Santos, Dammeier, Probst and Liias; by request of Superintendent of Public Instruction).

House Committee on Education

Background: Since the graduating class of 2008, students have been required to meet the state standard on the statewide high school assessments in reading, writing, and mathematics to earn a Certificate of Academic Achievement (CAA). Students in special education who are not appropriately tested by the regular assessment may earn a Certificate of Individual Achievement (CIA). Earning the CAA or CIA in reading and writing is a requirement for graduation. There has been a temporary exemption through the class of 2012 where students may graduate without a CAA or CIA as a result of not meeting the state standard in mathematics by taking additional mathematics courses. Beginning with the graduating class of 2013, students will be required to meet the state standard on the high school assessments in reading, writing, mathematics, and science both to earn a CAA and for graduation.

For purposes of graduation, the Legislature has authorized alternative assessments for students who do not meet the standard on state assessments. For example, students may substitute a score of three on specified Advanced Placement (AP) exams covering English, language arts, and mathematics. None of the AP exams currently authorized are in science.

The high school science assessment is a comprehensive assessment. A budget proviso in the 2010 Supplemental Omnibus Appropriations Act directed the Superintendent of Public Instruction (SPI) to develop an end-of-course assessment (EOC) for high school science in Biology, to be implemented in the 2011-12 school year. The proviso also required the SPI to recommend whether additional science EOCs should be developed and to recommend an implementation schedule. Washington's science learning standards were revised in 2009 and include content in life, physical, and earth and space sciences. The standards also include the study of systems, inquiry, and application that cuts across content areas.

In a report submitted in December 2010, the SPI recommends development of two additional EOCs in Physical Science and Integrated Science. The SPI recommends that, for purposes of high school graduation, students be required to meet the state standard on one of the science EOCs. The report also recommends delaying the implementation of the graduation requirement in science to the class of 2017.

A number of science education groups, led by Achieve, Incorporated, are working to develop a set of common science learning standards that multiple states

could adopt. The framework for the standards is being prepared by the National Academy of Sciences and is scheduled to be released in the late spring of 2011. Standards are expected to be available for states to review by spring of 2012. If the SPI proposes changes to state learning standards or assessments, the education committees of the Legislature must, on request, be provided an opportunity to review the proposed changes before they are adopted.

Summary: Beginning with the graduating class of 2015, rather than the class of 2013, students must meet the state standard in science on the state assessment, or on an alternate assessment for students in special education, to earn a CAA or CIA for graduation.

Beginning in the 2011-12 school year, the state high school science assessment is a Biology EOC. The SPI may develop additional science EOCs for purposes of graduation when directed by the Legislature. The SPI is also authorized to participate with consortia of multiple states as common science standards and assessments are developed, and may adapt the state high school science assessment accordingly, as long as the legislative education committees have an opportunity to review any proposed modifications to the standards and assessments before they are adopted.

Various AP science exams are added to the list of approved alternatives for students who take the regular state assessment at least once. Scores on the ACT in science and on SAT science subtests may also be used as an alternative once the State Board of Education has sufficient data to identify equivalent scores.

Votes on Final Passage:First Special Session

House	86	10
Senate	41	3

Effective: August 24, 2011

HB 1412

C 25 L 11

Regarding mathematics end-of-course assessments.

By Representatives Santos, Dammeier, Probst, Liias, Kelley, Kenney and Van De Wege; by request of Superintendent of Public Instruction.

House Committee on Education

House Committee on Ways & Means

Senate Committee on Early Learning & K-12 Education

Background: In 2008 legislation was enacted directing the Superintendent of Public Instruction (SPI) to replace the comprehensive state high school mathematics assessment with a series of end-of-course assessments (EOCs) beginning in the 2010-11 school year. The EOCs are to cover standards for first-year mathematics (Algebra I and Integrated I) and also second-year mathematics (Geome-

try and Integrated II). For purposes of high school graduation, students in the graduating class of 2013 and 2014 are permitted to use the results of the EOC for the first year of mathematics plus the EOC for the second year of mathematics, or the results from a comprehensive mathematics assessment. Starting with the class of 2015, only the EOCs will be used as the state high school mathematics assessment. Students must meet the state standard on both mathematics EOCs to earn a Certificate of Academic Achievement (CAA), which is required for graduation starting with the class of 2013.

The comprehensive mathematics assessment was offered to students in the 10th grade. The EOCs are designed to be offered to students after they take the respective mathematics course. The SPI estimates that approximately 60,000 10th grade students in the class of 2013 took Algebra I or Integrated I as freshmen and are enrolled in Geometry or Integrated II in the spring of 2011. Some took the first year of high school mathematics in eighth grade. This class will be expected to take two mathematics EOCs in the spring of 2011 in order to meet graduation requirements. A comprehensive high school mathematics assessment is no longer being offered.

Summary: Students in the graduating classes of 2013 and 2014 must meet the state standard on one high school EOC mathematics assessment rather than two in order to earn a CAA, which is required for graduation. The option for these students to use results from a comprehensive mathematics assessment is replaced by an option to use results from a retake assessment. It is clarified that students, beginning with the class of 2015, have the option to meet the state standard on both high school EOC mathematics assessments or use results from one or more retake assessments to earn a CAA.

Votes on Final Passage:

House	96	1
Senate	47	0

Effective: July 22, 2011

HB 1413

C 154 L 11

Extending the expiration date of the invasive species council and the invasive species council account from December 31, 2011, to June 30, 2017.

By Representatives Blake, Chandler, Tharinger and Hinkle; by request of Recreation and Conservation Office.

House Committee on Agriculture & Natural Resources
House Committee on General Government
Appropriations & Oversight

Senate Committee on Natural Resources & Marine Waters

Background: Invasive Species Council. The Invasive Species Council (Council) provides policy level direction, planning, and coordination for combating harmful

invasive species throughout the state and preventing the introduction of other harmful invasive species. The Council is a joint effort between local, tribal, state, and federal governments, as well as the private sector and non-governmental interests. The Recreation and Conservation Office provides administrative support for the Council. The Council expires on December 31, 2011.

Invasive Species Council Account. Funding for the Council is provided by member agencies, federal grants, and the Vessel Response Account. Expenditures from the Invasive Species Council Account (Account) may be used only to carry out the purposes of the Council. The Account expires on December 31, 2011.

Summary: Invasive Species Council and Invasive Species Council Account. The expiration dates of the Council and Account are changed from December 31, 2011, to June 30, 2017.

Votes on Final Passage:

House	97	0
Senate	46	0

Effective: July 22, 2011

HB 1418

C 351 L 11

Concerning evaluating military training and experience toward meeting certain professional licensing requirements.

By Representatives Rolfes, McCune, Appleton, Kirby, Kelley, Zeiger, Seaquist, Finn, Haigh, Dammeier, Angel, Jinkins, Stanford and Smith.

House Committee on Business & Financial Services
Senate Committee on Labor, Commerce & Consumer Protection

Background: The Department of Licensing (Department) regulates certain businesses and professions. Each regulated business and profession has a separate set of laws and separate licensing requirements. Some businesses and professions are under the authority of the Director of the Department (Director) and others are under a board or commission charged with regulating the particular business or profession.

The professions that are regulated directly by the Department include auctioneers, cosmetologists, barbers, estheticians, manicurists, real estate brokers and managing brokers, real estate appraisers, court reporters, private investigators, security guards, bail bond and bail bond recovery agents, home inspectors, body piercing and tattooing licensees, camping resort salespersons, notaries public, driver training school instructors, timeshare salespersons, and professional athletics licensees.

The following professions are regulated by a board:

- architects, State Board for Architects;

- engineers, land surveyors, and on-site wastewater treatment system designers, Board of Registration for Engineers and Land Surveyors;
- embalmers and funeral directors, Funeral and Cemetery Board;
- landscape architects, State Board of Licensure for Landscape Architects;
- geologists, Geologist Licensing Board;

Licensing requirements for these professions vary considerably. Some of the licenses require college level coursework (or equivalent) and experience requirements. These professions include architects, engineers, land surveyors, embalmers, funeral directors, landscape architects, on-site wastewater treatment system designers, and geologists.

Other professions require some level of training or work experience to be licensed. These include cosmetologists, barbers, estheticians, manicurists, real estate brokers and managing brokers, real estate appraisers, court reporters, security guards, home inspectors, and driver training school instructors.

Other professions might require an examination, a surety bond, minimum safety standards, or other requirements, but do not require that applicants have specific training or experience to be licensed. These professions include auctioneers, bail bond and bail bond recovery agents, body piercing and tattooing licensees, camping resort salespersons, notaries public, and timeshare salespersons.

Summary: Military training or experience is considered to satisfy training and experience requirements of certain professional licenses unless the Department or other regulatory body determines that the training and experience is not substantially equivalent to the standards of the state.

The designated professions are architects, cosmetologists, barbers, manicurists, estheticians, engineers, land surveyors, security guards, auctioneers, embalmers and funeral directors, real estate brokers and managing brokers, landscape architects, appraisers, court reporters, private investigators, bail bond agents, on-site wastewater treatment system designers, geologists, home inspectors, body piercing and tattooing licensees, camping resort salespersons, notaries public, driver training school instructors, timeshare salespersons, and professional athletic licensees.

Votes on Final Passage:

House	92	0	
Senate	46	0	(Senate amended)
House	96	0	(House concurred)

Effective: July 22, 2011

Allowing the department of early learning and the department of social and health services to share background check information.

By Representatives Kagi, Roberts and Dickerson; by request of Department of Early Learning.

House Committee on Early Learning & Human Services
Senate Committee on Human Services & Corrections

Background: Criminal History Background Checks. The Department of Social and Health Services (DSHS) and the Department of Early Learning (DEL) are both authorized to examine state and national criminal information regarding any person who may have unsupervised access to children or vulnerable adults in licensed care. National criminal history information is obtained through the Federal Bureau of Investigation (FBI) via fingerprints. The DEL is required to obtain a fingerprint-based background check on applicants who have not resided in Washington for three years. Background checks conducted on behalf of the DSHS and the DEL are completed in coordination with the DSHS Background Check Central Unit, which processes and stores the information. Background check results requested by one agency are not shared with another.

Commercial Sexual Abuse of Minor. The crime of Patronizing a Juvenile Prostitute was changed to Commercial Sexual Abuse of a Minor in 2007. Commercial Sexual Abuse of a minor is a class B felony.

Summary: Criminal History Background Checks. The DSHS's authorization to examine state and national criminal identification data is changed to a requirement to complete fingerprint-based background checks through both the Washington State Patrol and the FBI. The DEL and the DSHS are required to share federal fingerprint-based background check results in order to fulfill their joint responsibility to check the background of any individual who may have unsupervised access to vulnerable children or adults.

A peer counselor is not considered to have unsupervised contact with a child under the age of 16 when the contact is incidental contact and the contact occurs at the location where the peer counseling takes place. With regard to peer counselors, incidental contact is defined as minor or casual contact with a child in an area accessible to and within visual and auditory range of others. Incidental contact could include passing a child while walking down a hallway but would not include being alone with a child for any period of time in a closed room or office. A peer counselor is defined as a nonprofessional person who has equal standing with another person and provides advice on a topic about which the nonprofessional person is more experienced or knowledgeable; a peer counselor must be a counselor for a peer counseling program that

contracts with or is otherwise approved by the DSHS, another state or local agency, or the court.

Commercial Sexual Abuse of a Minor. Patronizing a Juvenile Prostitute is deleted from the list of crimes against children and Commercial Sexual Abuse of a Minor is added.

Votes on Final Passage:

House	95	0	
Senate	46	1	(Senate amended)
House	96	0	(House concurred)

Effective: July 22, 2011

ESHB 1421

C 216 L 11

Providing authority to create a community forest trust.

By House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Rolfes, Lytton, Moscoso, Van De Wege, Green, Sells, Blake, Sullivan, Eddy, Fitzgibbon, Frockt, Dunshee, Ryu, Upthegrove, Kenney, Reykdal and Tharinger; by request of Commissioner of Public Lands).

House Committee on Agriculture & Natural Resources
 House Committee on Capital Budget
 Senate Committee on Natural Resources & Marine Waters
 Senate Committee on Ways & Means

Background: The Department of Natural Resources (DNR) manages state land for a number of different purposes. Some land must be managed to generate revenue for named beneficiaries. The DNR is also charged with the responsibility of managing aquatic lands, Natural Area Preserves, and Natural Resource Conservation Areas. State law directs the DNR to manage state lands for multiple uses, including recreation, when those uses do not conflict with the management goals of the land. Public uses of state land include camp sites, picnic areas, trails, and educational and scientific research areas.

The Board of Natural Resources (Board) has been delegated the responsibility to direct the management of state lands that are held in trust for identified trust beneficiaries. Beneficiaries of these land trusts include the state's public schools, higher education institutions, and counties. Each land trust has a specific beneficiary that financially benefits from the land management activities of the DNR.

Summary: The DNR is authorized to create and manage the Community Forest Trust (CFT). The CFT must be a discrete category of non-fiduciary trust lands held by the DNR and actively managed to generate financial support for the CFT and to sustain working forest conservation objectives.

The DNR must identify goals for the CFT before identifying lands for inclusion into the CFT. These goals must include the following:

- protecting in perpetuity working forest lands that are at a significant risk of conversion to another land use;
- securing financial and social viability through sound management plans and objectives that are consistent with the values of the local community;
- maintaining the land in a working status;
- generating revenue at levels that are, at a minimum, capable of reimbursing the DNR for management costs;
- providing for ongoing, sustainable public recreational access; and
- providing educational opportunities for local communities regarding the benefits that working forests provide to Washington's economy, communities, environment, and quality of life.

The DNR may acquire parcels for the CFT through purchase, gift, donation, grant, transfer, or other means other than eminent domain. If state trust lands are transferred into the CFT, then the value of that transfer must be provided to the beneficiaries of the trust.

The DNR is required to develop criteria for identifying and prioritizing forest land that is suitable for potential inclusion in the CFT. Priority considerations are to be given to lands that meet certain values or conditions. These values and conditions include the active participation of community partners, risk of conversion, buffering of commercial forest lands from development, and enhancing the forest products manufacturing infrastructure.

The DNR must submit biennially to the Office of Financial Management and the Legislature a prioritized list that identifies nominated parcels of state land or state forest land that are suitable for transfer into the CFT. The list of nominated parcels must reflect consideration of local nominations. Prior to actually acquiring land for a CFT, the DNR must obtain a commitment from the local community to preserve the land as a working forest. This community commitment must be demonstrated by a reimbursable financial contribution of at least 50 percent the difference between the parcel's fair market value and its timber value. Each parcel added to the CFT must be accompanied by a management plan developed in cooperation with a local advisory committee.

Revenue produced from CFT lands must first be used to reimburse the DNR for its management costs and for funding the management objectives of the land. The Board may, if it chooses, reimburse the state government and the local partners with any remaining revenue. If reimbursement is provided, it must be provided equally to the state and local partners.

In addition to local advisory committees for individual parcels, the DNR may establish a statewide advisory committee for the entire CFT program. Members to the advisory committee are not to be paid or be reimbursed for travel costs. Also discretionary to the DNR is the creation of local working forest districts. These districts would be

partnerships with local governments in order to synchronize the management of CFT lands with other public and private lands located near one another to accomplish a common set of community goals.

Certain existing funds and accounting mechanisms available to the DNR are expanded to allow the inclusion of CFT funds. These include the Real Property Replacement Account, the Park Land Trust Revolving Fund, and the Resource Management Cost Account.

Votes on Final Passage:

House	55	43
Senate	39	10

Effective: July 22, 2011

SHB 1422

C 217 L 11

Authorizing a forest biomass to aviation fuel demonstration project.

By House Committee on Technology, Energy & Communications (originally sponsored by Representatives Stanford, Orcutt, Chandler, Warnick, Van De Wege, Green, Smith, Jacks, Blake, Sullivan, McCoy, Kretz, Tharinger, Ryu, Short, Sells, Lytton, Liias, Frockt, Moscoso, Billig, Probst, Rolfes, Dunshee, Maxwell, Upthegrove and Kenney; by request of Commissioner of Public Lands).

House Committee on Technology, Energy & Communications

Senate Committee on Natural Resources & Marine Waters

Background: State Trust Lands. The Department of Natural Resources (DNR) manages 5.6 million acres of forest, range, agricultural, aquatic, and commercial lands for the people of Washington. The DNR manages approximately 2.3 million acres of forested state trust lands.

Under a mix of authorities, including state law, the state Constitution, and the state's federal Enabling Act, these state trust lands are held by the state for specified trust beneficiaries. In total, there are 18 trust beneficiaries that derive some level of economic benefit from the management of these trust lands. The beneficiaries include common schools, the state universities, community colleges, counties, and the state's capital budget.

Biomass Energy Pilot Projects. In 2009 legislation was enacted authorizing the DNR to implement biomass energy pilot projects in eastern and western Washington. The purpose of the pilot projects is to demonstrate that removing biomass feedstock in ecologically sustainable ways to produce energy (liquid fuels or heat and electricity) may provide income for forest landowners while improving forest health, creating rural jobs, reducing wild-fires and greenhouse gas emissions, and aiding in the production of renewable energy.

In January 2010 the following four biomass projects were selected:

- Parametrix (Bingen, Washington) is developing a transportable system that uses fast pyrolysis technology to rapidly convert forest biomass to liquid fuels and bio-char.
- Borgford Bioenergy, LLC (Colville, Washington) is installing a slow pyrolysis system to generate bio-char, bio-oil, and syngas.
- Atlas Pellets (Omak, Washington) proposed to purchase, install, and operate off-the-shelf debarkers, grinders, and chippers to produce fuel pellets from forest biomass.
- Nippon Paper (Port Angeles, Washington) is replacing an existing oil-fired boiler with a high-efficiency biomass boiler and turbine-generator unit at its paper mill, and plans to sell electricity generated by the unit to an electric utility as a renewable energy resources.

Long-term Biomass Supply Contracts. In 2010 the DNR was authorized by statute to enter into long-term contracts to supply forest biomass from DNR-managed lands. Under this authorization, the DNR may: (1) conduct separate sales within valuable materials contracts; (2) enter into long-term competitive contracts of five years which may be renewed up to three times; (3) carry out direct sales contracts without public auction; (4) offer 15-year contracts for entities making a qualifying capital investment of \$50 million; and (5) lease state lands for the purpose of integrated biomass supply area and facility siting.

Forest Biomass Supply Assessment. Before entering into long-term contracts for forest biomass from state-managed lands, the DNR must first assess the available supply of biomass in the contract area. In 2010 the DNR received a grant from the United States Forest Service to perform a statewide forest biomass supply assessment. The DNR selected the University of Washington's School of Forestry to conduct the assessment.

The Forest Biomass Supply Assessment will assess forest biomass availability and sustainability throughout Washington on all forest land ownerships, including state-owned lands. The Forest Biomass Supply Assessment is scheduled for completion by August 2011.

For these purposes, "forest biomass" means the by-products of prescribed or permitted forest management practices; forest protection treatments; or forest health treatments. "Forest biomass" does not include wood pieces that have been treated with chemical preservatives such as: creosote, pentachlorophenol, or copper-chrome-arsenic; wood from old growth forests, except wood removed for forest health treatments; or municipal solid waste.

Summary: The Department of Natural Resources (DNR) and the Department of Commerce are directed to cooperate and consult with the University of Washington (UW)

and Washington State University in their development of forest biomass to aviation fuel by:

- identifying opportunities for state lands to generate trust income;
- identifying how to manage trust lands with potential for contributing to biomass to aviation fuel projects in a manner consistent with any findings by the UW concerning operationally and ecologically sustainable feedstock supply;
- identifying the most cost-effective, efficient, and ecologically sound techniques to deliver forest biomass from the forest to the production site;
- addressing and planning to ensure sustainability of forest biomass supply;
- exploring linkages with other biofuel efforts;
- identifying any barriers to developing aviation biofuel in Washington;
- entering into partnerships with research universities and the private sector to conduct a pilot project;
- collaborating with the federal government, other states, and Canadian provinces; and
- identifying and applying for funding sources.

The DNR must report to the Governor and the Legislature:

- by December 1, 2011, on activities pertaining to forest biomass to aviation fuel, including expenditures and revenue sources;
- by December 1, 2011, and December 1, 2012, a summary of research activities, scientific reports, and pilot projects pertaining to forest biomass to aviation fuel by state research institutions, including the status of ongoing activities and summaries of the findings with their implications for management of forest trust lands; and
- by December 1, 2011, and December 1, 2012, on the progress of the Forest Practices Board's Forest Biomass Policy Work Group consideration of the science, policy, available technologies, and best management practices related to forest biomass harvest, including final recommendations to the Forest Practices Board.

A percentage of the income, proportionate to the percent of state resources, derived from the investment of state resources in the development of patents, copyrights, proprietary processes, or licenses developed by the forest biomass to aviation fuel demonstration project must be deposited in the State General Fund.

Votes on Final Passage:

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

Effective: July 22, 2011

HB 1424

C 26 L 11

Regarding administrative consistency in student financial aid programs.

By Representatives Jacks, Haler and Upthegrove; by request of Higher Education Coordinating Board.

House Committee on Higher Education
Senate Committee on Higher Education & Workforce Development

Background: Health Professional Loan Repayment and Scholarship Program. The Health Professional Loan Repayment and Scholarship Program (Health Professionals Program) was created to attract and retain health professionals to serve in workforce shortage areas in Washington. Students who receive a scholarship or educational loan repayment assistance must commit to serve in shortage areas for at least three but no more than five years.

The Department of Health (Department), in consultation with the Higher Education Coordinating Board (Board) and the Department of Social and Health Services, is required to determine eligible health care professions, shortage areas, and annual award amounts for each health profession. Awards are limited to a maximum of five years per individual. The Department also determines the length of service commitment. For prospective physicians seeking a scholarship, priority is given to those who live in rural areas.

Health Professionals Program: Repayment Obligations. Recipients who do not complete their full service commitment must repay twice the amount received from the Health Professionals Program in addition to any payments on the principal and interest that are still owing. The interest rate on the conditional scholarship is 8 percent for the first four years and 10 percent beginning in the fifth year. The interest rate is not addressed for the loan program. The period for repayment starts no later than nine months after completion or discontinuation of study or required residency. Participants may be released from their obligations to repay their scholarship or loan if the Board deems there are circumstances beyond the individual's control.

In the Health Professionals Program there is an 8 percent default rate on service contracts and promissory notes by the loan and scholarship recipients. The average amount owed is just under \$22,000 for loan repayment recipients who did not meet their service commitments, and just over \$28,000 for the conditional scholarship recipients who failed to complete the required education or meet service commitments.

Future Teachers Conditional Scholarship and Loan Repayment Program. Legislation enacted in 2004 modified an existing, but inactive, conditional scholarship program to target teacher shortage areas. The Future Teachers Conditional Scholarship and Loan Repayment

Program (Future Teachers Program) is designed to encourage outstanding students and paraprofessionals to become teachers and to encourage current teachers to obtain additional endorsements in teacher shortage subjects. The Future Teachers Program is administered by the Board.

Recipients agree to teach in an approved educational program in Washington K-12 public schools in return for conditional scholarships or loan repayments. Selection criteria emphasize excellence and include academic ability, community contribution, bilingual ability, and willingness to commit to teaching in shortage areas. Priority is given to individuals seeking an additional certification or an additional endorsement in math, science, technology education, agricultural education, business and marketing education, family and consumer science education, or special education. Participants are eligible to receive future teachers scholarships or loan repayments for a maximum of five years.

Future Teachers Program: Repayment Obligations. If a conditional scholarship recipient does not meet his or her service commitment, the recipient is obliged to repay the scholarship amount plus interest and an equalization fee. The repayment amount is prorated depending on the amount of service already provided. The Board sets the minimum payment amount and determines the interest annually. The maximum period for repayment is 10 years. The Board sets terms of payment, including interest rates, fees, and deferment, by rule.

Summary: Terms for repayment are adjusted for students who do not meet their service obligations for the Health Professional Program or the Future Teachers Program. Repayment terms for the Health Professionals Program are more closely aligned with those for the Future Teachers Program.

For the Health Professionals Program, the Board has the authority to establish the interest rate on repayments. The ability to assess interest is added to the loan repayment portion of the Health Professionals Program. Language is added to clarify that the penalty is based on the remaining principal.

For the Future Teachers Program, the Board retains the authority to establish the interest rate and is no longer required to establish the rate annually. Quarterly interest accrual is removed for both the Health Professionals Program and the Future Teachers Program.

Repayment for the Health Professionals Program is changed to start no later than six months, rather than nine months, after completion or discontinuation of study or postgraduate training. A maximum repayment period for the Health Professionals Program is set at 10 years.

The Board is required to establish an appeals process by rule for both the Health Professionals Program and the Future Teachers Program.

A technical correction removes a section regarding eligibility for the Health Professionals Program that was only applicable until June 1, 1992. "Residency training"

is replaced with "postgraduate training" to apply to eligible health professions, not just physicians.

Votes on Final Passage:

House	94	0
Senate	46	0

Effective: July 22, 2011

HB 1425

C 155 L 11

Concerning the higher education coordinating board's responsibilities with regard to health sciences and services authorities.

By Representative Haler; by request of Higher Education Coordinating Board.

House Committee on Higher Education
Senate Committee on Higher Education & Workforce Development

Background: Health Sciences and Services Authority. Legislation enacted in 2007 authorized the creation of a Health Sciences and Services Authority (Authority) to promote bioscience-based economic development and advance new therapies and procedures to combat disease and promote public health. Initially, just a single Authority was authorized, and only in a county with a population of less than one million persons. Subsequently, legislation was enacted to allow up to two Authorities in the state, both of which had to be located east of the crest of the Cascade Mountains.

An individual local government, or local governments joining together, may establish such an Authority by ordinance or resolution. The ordinance or resolution must specify the powers of the Authority, establish an administrative board, clarify the geographic boundaries of the Authority, and provide investment guidelines. An Authority is overseen by a board of not more than 14 members and has all the general powers necessary to carry out its purposes and duties, such as the power to make and execute agreements and contracts, establish special funds, hire staff, incur general indebtedness, leverage the Authority's public funds with moneys received from other public and private sources, hold funds received by the Authority in trust, and make grants to entities to promote bioscience-based economic development.

The legislative authority of a local jurisdiction that created an Authority prior to January 1, 2010, may impose a sales and use tax of 0.020 percent which is deducted from the state's portion of the sales and use tax collected by the Department of Revenue (DOR). The DOR is required to collect the tax on behalf of the Authority. The amounts received by the Authority may only be used as specified in the Authority's powers and duties and to retire indebtedness.

To date, there is just a single Authority and it is located in Spokane County.

Higher Education Coordinating Board. The Higher Education Coordinating Board (HECB) has authority to approve or reject applications submitted by local governments for an area's designation as an Authority. The HECB is also charged with adopting any rules necessary for implementation and given responsibility for developing evaluation and performance measures in order to evaluate the effectiveness of the programs in the Authorities that are funded with public resources. The HECB is required to report its evaluation to the Legislature on a biennial basis beginning December 1, 2009. The HECB is also tasked with developing evaluation criteria that enable the local governments to measure the effectiveness of an Authority's programs.

Summary: Certain responsibilities of the HECB are removed. The HECB is no longer responsible for developing evaluation and performance measures in order to evaluate the effectiveness of the programs in the Authorities or for reporting to the Legislature on a biennial basis. It remains responsible, however, for developing evaluation criteria that enable the local governments to measure the effectiveness of an Authority's program.

Votes on Final Passage:

House	98	0
Senate	48	0

Effective: July 22, 2011

SHB 1431

C 192 L 11

Addressing financial insolvency of school districts.

By House Committee on Education (originally sponsored by Representatives Anderson and Haigh).

House Committee on Education

House Committee on Education Appropriations & Oversight

Senate Committee on Early Learning & K-12 Education

Senate Committee on Ways & Means

Background: After experiencing severe financial problems, Vader School District No. 18 (Vader) was dissolved and annexed to Castle Rock School District No. 401 in 2007. Prior to that event, it had been almost 25 years since the last school consolidation in Washington took place.

In November of 2009, Jon Molohon, Educational Service District (ESD) 113 Assistant Superintendent for Fiscal Services, ESD Fiscal Officer, and the Administrator of Vader Binding Conditions published a report titled, *The Vader School District Closing In Retrospect* (Vader report). Primarily, the Vader report identifies and makes recommendations to address the lack of a clear legal framework and process for dissolving a school district for

financial reasons, including the lack of clear legal authority for the Office of the Superintendent of Public Instruction (OSPI) or an ESD Regional Committee to determine and manage the myriad financial and practical issues that such an event presents.

School District Dissolution. Statutory provisions emphasize voluntary and negotiated reorganization of school districts. There are only two references to dissolution of a district in statute:

1. School district boundaries may be altered by the dissolution and annexation to an existing district of a part or all of another district.
2. A Regional Committee is required to dissolve any school district that, in the prior year:
 - has an annual enrollment of fewer than five K-8 students; or
 - has not made a reasonable effort to provide the minimum 180-day school year.

No statutes provide for dissolution of a school district in any other fashion or for any other reason. The dissolution of Vader occurred under the second of the two laws referenced above, but only because the district agreed not to make up some days missed in the prior year due to an emergency closure in order to fall under the provisions of this statute.

Binding Conditions. School districts must annually submit a budget to the OSPI when expected expenditures for the upcoming school year do not exceed expected revenues from all sources. If a school district cannot submit a balanced budget, it may petition the OSPI to be allowed to include revenues from a future school year (in other words, borrow against future state apportionment payments) only if the district agrees to certain binding conditions that are intended to improve the district's financial condition.

There are nine ESDs in the state. The ESD Financial Officer for the ESD in which the school district is located is assigned to be the administrator of the binding conditions. The administrator has limited authority and primarily serves as a financial consultant to the school district. According to a Joint Legislative Audit and Review Committee analysis, there have been 12 districts in binding conditions at some point over the last 10 years. Most have resolved their finances in one to two years. All but two of these districts have had fewer than 2,000 students.

Vader Report Recommendations. The recommendations made in the Vader report can be summarized as follows:

1. The OSPI or a school district should be authorized to initiate the dissolution of a district due to financial insolvency and the Regional Committee should make the determination and oversee the dissolution.
2. Various financial and legal issues associated with dissolution should be addressed, including determining

what is the appropriate length of time to permit a district to solve its own problems without outside intervention.

- 3. Technical amendments should be made to other laws dealing with district reorganization and dissolution.

Summary: The Superintendent of Public Instruction (Superintendent) is tasked with convening the ESDs for the purpose of analyzing options and making recommendations for a clear legal framework and process for dissolution of a school district on the basis of financial insolvency. The analysis must include:

- a definition of financial insolvency;
- a timeframe, criteria, and process for initiating dissolution of a district;
- roles and responsibilities of various entities, including the OSPI, the ESDs, and regional committees on school district organization; and
- recommendations with respect to various issues such as terminating staff contracts, liquidation of liabilities, and dealing with bonded indebtedness.

In conducting the analysis, the ESDs must consult with individuals with legal and financial expertise. The ESDs may recommend a financial early warning system for consistent, early identification of school districts with potential fiscal difficulties. The recommendations must address amendments to current law as well as propose new laws as necessary.

The Superintendent must submit the final report and recommendations to the Governor and the fiscal committees of the Legislature by January 5, 2012.

This act is null and void if not funded in the State Omnibus Operating Appropriations Act.

Votes on Final Passage:

House	97	0	
Senate	49	0	(Senate amended)
House	96	0	(House concurred)

Effective: July 22, 2011

HB 1432
C 144 L 11

Permitting private employers to exercise a voluntary veterans' preference in employment.

By Representatives Rodne, Kelley, Shea, Green, Van De Wege, Ahern and Orwall.

House Committee on Labor & Workforce Development
Senate Committee on Labor, Commerce & Consumer Protection

Background: Both federal and state law provide preferences for honorably discharged veterans in employment in federal, state, and local government. For some public employment positions, applicants must take a competitive

examination. In those cases, preference is given to veterans by adding a percentage to the passing mark, grade, or rating of an examination.

Under the Washington Law Against Discrimination (WLAD), it is an unfair practice to discriminate in employment based on age, sex, marital status, sexual orientation, race, creed, color, national origin, honorably discharged veteran or military status, sexual orientation, the presence of any sensory, mental, or physical disability, or the use of a trained guide dog or service animal by a person with a disability.

Title VII of the Civil Rights Act of 1964 (Title VII) makes it illegal for an employer to discriminate against any individual because of the individual's race, color, religion, sex, or national origin. The federal law also states that nothing in the law "shall be construed to repeal or modify any federal, state, territorial, or local law creating special rights or preferences for veterans."

Summary: The Legislature's intention to establish a permissive preference in private employment for certain veterans is stated. In private, nonpublic employment veterans and their widows or widowers may be preferred for employment. Spouses of honorably discharged veterans with a service-connected permanent and total disability may also be preferred for employment. These preferences are not considered violations of any state or local equal employment opportunity law, including the WLAD.

A "veteran" includes a person who has received a honorable discharge, is actively serving honorably, or received a discharge for physical reasons with a honorable record and who has:

- served between World War I and World War II or during any period of war; or
- received the Armed Forces Expeditionary Medal, or Marine Corps and Navy Expeditionary Medal, for opposed action on foreign soil.

The term "veteran" also includes a person who has received a honorable discharge or received a discharge for medical reasons with a honorable record, and who has served as:

- a member in any branch of the United States Armed Forces, including the National Guard and Armed Forces Reserves, and has fulfilled his or her initial military service obligation;
- a member of the Women's Air Forces Service Pilots;
- a member of the Armed Forces Reserves, National Guard, or Coast Guard, and has been called into federal service by a presidential select reserve call up for at least 180 cumulative days;
- a civil service crewmember with service aboard a U.S. Army Transport Service or U.S. Naval Transportation Service vessel in oceangoing service from December 7, 1941, through December 31, 1946;

- a member of the Philippine Armed Forces/scouts during the period of armed conflict from December 7, 1941, through August 15, 1945; or
- a U.S. documented Merchant Mariner with service aboard an oceangoing vessel operated by the Department of Defense, or its agents, from both June 25, 1950, through July 27, 1953, in Korean territorial waters, and from August 5, 1964, through May 7, 1975, in Vietnam territorial waters, and who received a military commendation.

Votes on Final Passage:

House	94	4
Senate	49	0

Effective: July 22, 2011**SHB 1438**

C 135 L 11

Concerning the interstate compact for adult offender supervision.

By House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Kelley and Dammeier).

House Committee on Public Safety & Emergency Preparedness
Senate Committee on Human Services & Corrections

Background: Many offenders are subject to some form of supervision once they are released from the Department of Corrections (DOC). While offenders may be permitted to travel to other states, courts have held that an individual's constitutional right to travel is extinguished by a valid conviction followed by imprisonment, and it remains so while the offender is on parole or probation.

The United States Congress has expressly authorized states to enter into compacts or agreements such as the Interstate Compact for Adult Offenders Supervision (Interstate Compact). In 2001, pursuant to Substitute Senate Bill 5118, the Interstate Compact was enacted into Washington law. The Interstate Compact provides a formal means for controlling the interstate movement of offenders who are under the supervision of a member state's department of corrections. All 50 states plus Puerto Rico, the United States Virgin Islands, and the District of Columbia are members of the Interstate Compact.

Under the Interstate Compact, an Interstate Commission (Commission) was created which establishes uniform procedures to manage the movement between states of adults placed under supervision. The Commission has the power to adopt bylaws governing the management and operation of the Commission and to make rules which have the force and effect of statutory law. Such rules are binding upon the states that are members of the Interstate Compact.

Pursuant to the Interstate Compact statute enacted in 2001 and the bylaws enacted by the Commission, once effective the Interstate Compact continues in force and remain binding upon the member state unless the member state withdraws. Under the Interstate Compact, a member state may only withdraw by repealing the statute which enacted the compact into law.

If the Commission determines that any member state has defaulted on any of its obligations or responsibilities under the Interstate Compact or its bylaws, it may impose penalties, such as fines, fees, or a suspension, and may seek judicial action to enforce any penalties.

By the end of the year 2010, the DOC was supervising approximately 2,342 felony offenders on behalf of other states under the Interstate Compact, while other states were supervising approximately 803 offenders on Washington's behalf.

Summary: The Legislature has determined that it is necessary to examine patterns related to the exchange of out-of-state offenders needing supervision.

Following the enactment of this act, at the next meeting of the Commission, Washington's representatives on the Commission must seek a resolution regarding any inequitable distribution of costs, benefits, and obligations affecting Washington under the Interstate Compact.

Votes on Final Passage:

House	97	0
Senate	48	0

Effective: July 22, 2011**ESHB 1449**

C 23 L 11 E1

Establishing a processing fee for educator certificates.

By House Committee on Education Appropriations & Oversight (originally sponsored by Representatives Hunter, Haigh, Anderson, Maxwell, Sullivan and Dammeier; by request of Superintendent of Public Instruction).

House Committee on Education Appropriations & Oversight
House Committee on Ways & Means
Senate Committee on Ways & Means

Background: The Office of the Superintendent of Public Instruction (OSPI) administers the certification process for educators in Washington. In 2008-09 the certification office within the OSPI processed approximately 38,753 certification actions. Total certification actions have remained relatively stable over recent years, staying in the range of 38,000 to 40,000 per year. Certification actions include the following types of processing: processing new certificates, issuing emergency substitute certifications, issuing certification renewals, and processing address changes. Assuming a \$33 processing fee for each certifi-

cation action, the OSPI would generate approximately \$1,287,849 each year.

The certification system at the OSPI is a paper-based system, and relies on hand-coding of data and use of microfiche to store data. The OSPI spends approximately \$855,437 to administer educator certifications.

An initial certification fee of \$35, as well as other fees for a variety of actions, are levied by the Professional Educator Standards Board (PESB). By statute, those funds support precertification training programs, program evaluation, and other professional in-service activities. Proceeds from this fee are split between the PESB and the college of education or educational service district from which the action was initiated.

Summary: The Superintendent of Public Instruction (Superintendent) may charge a fee for processing initial educator certificates and other certification-related activities. The OSPI must set the fee amount through the rule-making process. The fee amount must be set at a level sufficient "to defray the costs of administering the educator certification program." The Educator Certification Processing Account (Account) is created into which all proceeds from the fee must be deposited. Disbursements from the Account may only be made by the Superintendent or a designee, and the Account does not require appropriation from the Legislature for expenditure.

Votes on Final Passage:

House 50 42

First Special Session

House 52 36

Senate 35 7 (Senate amended)

House 50 41 (House concurred)

Effective: July 1, 2011

SHB 1453

C 194 L 11

Regarding commercial shellfish enforcement.

By House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Rolfes, Chandler, Blake, Van De Wege, Upthegrove, Stanford, Jinkins and Kretz; by request of Department of Health).

House Committee on Agriculture & Natural Resources
Senate Committee on Natural Resources & Marine Waters

Background: The Department of Health (DOH) is the state agency responsible for providing licenses to commercial shellfish operations. Commercial shellfish growers must be licensed and must be able to match certificates of compliance with the state's sanitary standards to shellfish sold or offered for sale. The sanitary shellfish standards are established in rule by the Board of Health.

Commercial shellfish may legally be removed only from shellfish beds that have been certified by the DOH as an area that meets all sanitation standards. A person

intending to commercially harvest shellfish must apply to the DOH for a certificate for the growing area. An approved certificate is valid for 12 months, but is subject to revocation should the sanitation of the area degrade. Shellfish being harvested that are not intended for human consumption must also be monitored by the DOH to ensure that the shellfish being harvested are not diverted for human consumption.

Once issued, the DOH can deny, revoke, or modify a license or a certificate of approval if the holder fails or refuses to comply with all relevant rules. In the event of a denial or revocation, the affected person is prohibited from participating in any shellfish operation.

A violation of the sanitary shellfish rules is punishable as a gross misdemeanor. The rules are enforceable by both personnel of the DOH and the enforcement personnel of the Washington Department of Fish and Wildlife (WDFW).

Washington is a participant in the National Shellfish Sanitation Program (NSSP), which is a cooperative program between states and the federal government for the sanitary control of shellfish. The stated purpose of the NSSP is to promote and improve the sanitation of shellfish moving in interstate commerce through uniformity of state shellfish programs and regulations. Components of the NSSP include program guidelines, growing area classification and dealer certification programs, and the evaluation of state program elements by the United States Food and Drug Administration.

Summary: A specific requirement is added to the state's sanitary shellfish requirements that require an approved shellfish tag or label be affixed to each container of shellfish prior to removal from the growing area. The approved tag must meet the requirements of the NSSP model ordinance and may be applied in bulk to mollusks still in their shells. Any shellfish removed from a growing area without a tag may be seized by the DOH or the WDFW.

The authority to modify a license or certificate of approval is removed from the DOH if a person is found operating in violation of the rules governing shellfish production. However, the DOH may still deny, revoke, or suspend the license or certificate of approval. In addition, a denial, revocation, or suspension may occur should a person harass or threaten an employee of the DOH.

Persons found in violation of shellfish requirements are prohibited from brokering the sale of shellfish or in any way participating in the shellfish sales. This is in addition to the prohibition against working in shellfish production. Any person found engaging in any of the prohibited activities following a license revocation may be prosecuted for a class C felony and have his or her license revoked for at least five years.

Votes on Final Passage:

House 96 2

Senate 49 0

Effective: July 22, 2011

HB 1454

C 232 L 11

Regarding testing for bloodborne pathogens.

By Representatives Van De Wege, Hinkle, Green, Jinkins, Cody, Takko, Hurst, Liias, Hope, Stanford and Overstreet.

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

Background: Law enforcement officers, firefighters, health care providers, health care facility staff, Department of Corrections staff, jail staff, and other categories of employment that the State Board of Health determines are at risk of substantial exposure to human immunodeficiency virus (HIV) (collectively, "at-risk employees"), upon a substantial exposure to another person's bodily fluids in the course of their employment, may request a state or local health official to order testing for HIV upon the person to whose bodily fluids they were exposed. If the state or local health official refuses, then the at-risk employee may petition the superior court for a hearing as to whether or not testing should be ordered. The standard of review for the superior court is whether substantial exposure occurred and whether it presents a possible risk of transmission of HIV. If testing is ordered by the state or local health officer, the person who is to be tested may also petition the superior court, under the same standard of review, to have the request for testing denied.

Summary: Law enforcement officers, firefighters, health care providers, health care facility staff, Department of Corrections staff, jail staff, and other categories of employment that the State Board of Health determines are at risk of substantial exposure to human immunodeficiency virus (HIV) (collectively, "at-risk employees") who are eligible to request an order for HIV testing upon a person to whose bodily fluids he or she has been exposed may also request a state or local health official to order testing for bloodborne pathogens. Court orders for the mandatory testing of an individual for HIV may also include additional testing for other bloodborne pathogens. The exception to privacy laws regarding the disclosure of information related to HIV for at-risk employees also applies to the disclosure of test results for bloodborne pathogens.

Votes on Final Passage:

House	93	0
Senate	49	0

Effective: July 22, 2011

HB 1455

C 193 L 11

Concerning where an individual may petition to restore firearm possession rights.

By Representative McCune.

House Committee on Judiciary
Senate Committee on Judiciary

Background: A person loses the right to possess a firearm if the person is convicted of any felony offense and certain non-felony crimes committed against a family or household member. Involuntary commitment for mental health treatment also results in the loss of the right to possess a firearm. The right to possess may be restored only by a court order after the person has met certain eligibility requirements.

Restoration Following an Involuntary Commitment.

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 petitioner must show by a preponderance of the evidence that he or she is no longer required to participate in court-ordered treatment, is successfully managing the condition related to the commitment, does not present a danger to self or the public, and is not reasonably likely to suffer a recurrence of the symptoms related to the commitment.

A petition for restoration of firearm rights lost because of an involuntary commitment may be filed in the superior court that ordered the commitment or where the petitioner resides.

Restoration Following a Criminal Conviction. Generally, firearm possession rights lost because of a criminal conviction may be restored if certain conditions are met by the offender and certain time periods have passed. In the case of a conviction for a class A felony or for any sex offense, however, the right to possess can never be regained. For other offenses, a person may petition a court for restoration if the person is not currently charged with any crime, has no convictions that continue to count as criminal history under the Sentencing Reform Act, and has spent a specified amount of time in the community without a new conviction, depending on the class of offense.

There is no requirement as to where the petition for restoration of firearm rights under this provision must be brought.

Summary: A petition for restoration of the right to possess a firearm where the loss of rights was based on a criminal conviction must be brought in the court of record that ordered the petitioner's prohibition on possession or the superior court in the county in which the petitioner resides.

The petition process applicable to restoration of firearms following a loss of the right based on an involuntary mental health commitment is amended to provide that the petition must, rather than may, be filed in the superior

court that ordered the commitment or the superior court where the petitioner resides.

The clerk of the superior court must keep a record of the number of petitions for restoration of the right to possess a firearm and the outcome of the petitions.

Votes on Final Passage:

House	94	0	
Senate	49	0	(Senate amended)
House	96	0	(House concurred)

Effective: July 22, 2011

HB 1465

C 195 L 11

Modifying conditions and restrictions for liquor licenses.

By Representatives Hunt, Taylor, McCoy, Appleton, Condotta, Miloscia and Dunshee; by request of Liquor Control Board.

House Committee on State Government & Tribal Affairs
Senate Committee on Labor, Commerce & Consumer Protection

Background: The Liquor Control Board (Board) issues various types of licenses, including winery, microbrewery, domestic brewery, restaurant, and nightclub licenses. In certain circumstances, the Board may impose conditions or restrictions on a license. For example, some grocery stores have a restricted license allowing the sale of only beer and table wine, and not strong beer (more than 8 percent alcohol by weight) or fortified wine. All conditions and restrictions the Board imposes must be listed on the face of the license along with the trade name, address, and expiration date of the license. A licensee must post its license in a conspicuous place on the premises.

A spirits, beer, and wine restaurant license allows the sale of spirits by the drink, beer, and wine. To qualify as a "restaurant," an establishment must be approved by the Board and must be maintained in a substantial manner as a place for preparing, cooking, and serving of complete meals. Fry orders and such food as sandwiches, hamburgers, or salads do not constitute complete meals.

A nightclub license also allows the sale of spirits by the drink, beer, and wine. A nightclub is an establishment that provides entertainment and has as its primary source of revenue the sale of alcohol, cover charges, or both, and has an occupancy load of 100 or more persons. Local governments may request the Board to impose restrictions on a nightclub license.

Some licensees may sell beer in a sanitary container brought to the premises by the purchaser and filled at the tap at the time of sale (e.g., growlers). Licensees with this privilege are: (1) breweries and microbreweries; and (2) beer and wine restaurants, and taverns (those that also hold a "combined" license).

Beer and/or wine specialty shops may sell beer and/or wine for off-premises consumption. With an endorsement from the Board, these licensees may also sell kegs.

Domestic breweries and microbreweries may act as retailers and sell beer they produce. With a retailer license, such as a beer and/or wine restaurant license, a domestic brewery and microbrewery may also sell beer produced by others.

Summary: Conditions and restrictions imposed by the Board are no longer required to be listed on the face of the license and may be included in official correspondence. Any additional correspondence with conditions and restrictions must be posted on the premises in addition to the license.

The specification that fry orders, and such food as sandwiches, hamburgers, or salads do not constitute "complete meals" for purposes of qualifying as a restaurant is removed. Instead, the Board must determine requirements for complete meals in rule.

The 100 persons or more occupancy load requirement to qualify for a nightclub license is removed.

Beer and/or wine specialty shops that exceed 50 percent beer and/or wine sales may, with Board approval, receive an endorsement to sell beer in a sanitary container brought to the premises by the purchaser, or provided by the licensee or manufacturer, and filled at the tap at the time of sale (e.g., growlers). The Board may waive the 50 percent requirement if the beer and/or wine specialty shop maintains alcohol inventory in excess of \$15,000.

Domestic breweries and microbreweries may sell beer produced by another domestic brewery or microbrewery for on- and off-premises consumption as long as the other brands do not exceed 25 percent of the brewery or microbrewery's offering on-tap of its own brands.

Votes on Final Passage:

House	97	0	
Senate	47	2	(Senate amended)
House	96	0	(House concurred)

Effective: July 22, 2011

SHB 1467

C 196 L 11

Modifying the definition of a well for the purposes of chapter 18.104 RCW.

By House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Buys, Blake, Chandler, Pearson, Fagan, Overstreet, Harris, Wilcox, Johnson, Haler, Warnick, McCune and Kelley).

House Committee on Agriculture & Natural Resources
Senate Committee on Environment, Water & Energy

Background: The Washington Well Construction Act (WWCA) governs the design, construction, alteration, and

decommissioning of wells in this state. The Department of Ecology regulates well design, construction, and maintenance. Wells are defined in the WWCA.

Under the WWCA, a well is defined to include water wells, resource protection wells, dewatering wells, and geotechnical soil borings. A well does not include an excavation made for the purpose of: obtaining or prospecting for oil, natural gas, geothermal resources, minerals, or products of mining; quarrying; inserting media to re-pressure oil or natural gas bearing formations; or storing petroleum, natural gas, or other products.

Summary: The definition of a well, as defined in the WWCA, is modified to exempt the following types of excavation from the definition:

- siting and constructing an on-site sewage disposal system or a large on-site sewage system; or
- inserting any device or instrument less than 10 feet in depth into the soil for the sole purpose of performing soil or water testing or analysis or establishing soil moisture content as long as there is no withdrawal of water in any quantity other than as necessary to perform the intended testing or analysis.

Votes on Final Passage:

House	97	0	
Senate	47	0	(Senate amended)
House	96	0	(House concurred)

Effective: July 22, 2011

HB 1473

C 197 L 11

Concerning the use of existing fees collected for the cost of traffic schools.

By Representatives Parker, Hurst, Ormsby and Billig.

House Committee on Transportation
Senate Committee on Transportation

Background: In Washington, individuals may defer one moving and one non-moving traffic violation every seven years. As a condition of this deferral, a court may impose such conditions as the court finds appropriate, which often includes attendance at a driver improvement school or traffic school. If the individual meets all of the required conditions and has not committed another infraction, the court may dismiss the infraction at the end of the deferral period.

With certain limited exceptions, the Washington Supreme Court prescribes the schedule of monetary penalties for traffic infractions. Infraction Rule for Courts of Limited Jurisdictions 6.2 contains this schedule of monetary penalties and prescribes a base penalty of \$42 for unscheduled infractions, which increases to \$124 when various penalties and assessments are added to the base amount.

Summary: The fees collected for attending a traffic school provided by a city, town, or county that are in excess of the cost of providing the traffic school may be used for the following activities:

- safe driver education materials and programs;
- safe driver education promotions and advertising; and
- costs associated with the training of law enforcement officers.

A traffic school established by a city, town, or county may not charge a fee in excess of the penalty for an unscheduled traffic infraction established by the Washington Supreme Court, which is defined to include all assessments and other costs that are required by statute or rule to be added to the base penalty.

Votes on Final Passage:

House	98	0	
Senate	41	7	(Senate amended)
House	96	0	(House concurred)

Effective: July 22, 2011

HB 1477

C 136 L 11

Authorizing the board of trustees at Eastern Washington University to offer educational specialist degrees.

By Representatives Schmick, Sells, Springer, Haler, Roberts and Kenney.

House Committee on Higher Education
House Committee on Education Appropriations & Oversight
Senate Committee on Higher Education & Workforce Development

Background: One of the primary purposes of regional universities is to offer undergraduate and graduate education programs through the master's degree. The regional universities are specifically authorized by law to grant any degree through the master's degree to any student who has completed a program of study in those areas which are determined by the faculty and the board of trustees of the institution to be appropriate for the granting of such degree. Before being offered, all degree programs are also subject to the review and approval of the Higher Education Coordinating Board (HECB).

In 2001 legislation was enacted authorizing Eastern Washington University (EWU) to offer applied, but not research, doctorate level degrees in physical therapy, subject to review and approval by the HECB. This is the only graduate degree above a master's that a regional university has been authorized to offer.

An educational specialist degree (ED.S.) is an advanced degree for people who already have a master's degree with a teaching or educational focus. It is an intermediate degree between a master's and a doctorate. Some common ED.S. specialties include school psychology,

ESHB 1478

curriculum and instruction, special education, and educational administration.

Summary: The Board of Trustees of the EWU is authorized to offer an ED.S. degree, subject to review and approval by the HECB.

Votes on Final Passage:

House	96	0
Senate	49	0

Effective: July 22, 2011

ESHB 1478

C 353 L 11

Delaying or modifying certain regulatory and statutory requirements affecting cities and counties.

By House Committee on Local Government (originally sponsored by Representatives Springer, Asay, Takko, Orcutt, Haler, Rivers, Eddy, Hunt, Klippert, Sullivan, Goodman, Clibborn, Armstrong, Probst, Jacks, Johnson and Kenney).

House Committee on Local Government
Senate Committee on Government Operations, Tribal Relations & Elections

Background: Growth Management Act. The Growth Management Act (GMA) is the comprehensive land use planning framework for counties and cities in Washington. Originally enacted in 1990 and 1991, the GMA establishes land use designation and environmental protection requirements for all Washington counties and cities, and a significantly wider array of planning duties for the 29 counties, and the cities within those counties, that are obligated to satisfy all requirements of the GMA.

The GMA directs jurisdictions that fully plan under the GMA to adopt internally consistent comprehensive land use plans that are generalized, coordinated land use policy statements of the governing body. Comprehensive plans are implemented through locally adopted development regulations, both of which are subject to review and revision requirements. With limited exceptions, fully-planning jurisdictions must review and, if needed, revise their plans and development regulations every seven years according to a schedule set forth in the GMA.

The GMA includes numerous requirements relating to the use or development of land in urban and rural areas. Among other requirements, counties that fully plan under the GMA (planning counties) must designate urban growth areas (UGAs) or areas within which urban growth must be encouraged and outside of which growth may occur only if it is not urban in nature. Planning counties and the cities within these counties must include within their UGAs areas and densities that are sufficient to permit the urban growth projected to occur in the county or city for the succeeding 20-year period.

Each county that designates UGAs must review, at least every 10 years, its designated UGAs, and the associated permitted densities in the incorporated and unincorporated portions of each UGA. In conjunction with this county review, each city located within a UGA must review the densities permitted within its boundaries, and the extent to which the urban growth occurring within the county has located within each city and the unincorporated portions of the UGAs.

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 to identify reasonable measures, subject to statutory provisions, that will be taken to comply with GMA requirements. Evaluations must be completed every five years.

Publicly Owned Vehicles and Fuel Usage. By June 1, 2015, to the extent determined practical by rules adopted by the Department of Commerce (Commerce), all state agencies and local government subdivisions of the state must satisfy 100 percent of their fuel usage for operating publicly owned vessels, vehicles, and construction equipment from electricity or biofuel. Although the Commerce was required to adopt rules by June 1, 2010, to define practicability and clarify how state agencies and local governments would be evaluated in determining whether they had met this objective, the agency has not done so.

Transitional Housing Operating and Rent Program. The Transitional Housing Operating and Rent Program (THOR Program) assists individuals and families who are homeless or at risk of becoming homeless with rental assistance, housing-related case management services, and other actions. The Commerce is charged with administering the THOR Program and providing grants to organizations, including counties and cities, who serve eligible and participating persons. By law, organizations that receive more than \$500,000 from the THOR Program and other specified sources must apply to the Washington State Quality Award Program once every three years for an independent assessment of its quality management, accountability, and performance systems.

Preservation Rating Reports. In 2003, finding that the state's investment in its transportation infrastructure represented public assets worth over \$100 billion but that many of these facilities were in poor condition, Senate Bill (SB) 5248 was enacted to create stronger accountability to ensure that cost-effective maintenance and preservation is provided for transportation facilities. Among other mandates, for the 2003-2005 biennium, SB 5248 required cities and towns to provide to the Washington State Transportation Commission preservation rating information on at least 70 percent of the total city and town arterial network. After the 2003-2005 biennium, the preservation rating reporting requirement increased at a rate of 5 percent per biennium. According to the Washington State

Department of Transportation, the requirement is for 85 percent of the total city and town arterial network.

Impact Fees. Counties, cities, and towns that fully plan under the GMA may impose impact fees on development activity as part of the financing for public facilities.

Impact fees:

- may be imposed only for system improvements that are reasonably related to the new development;
- may not exceed a proportionate share of the system improvements; and
- must be used for system improvements that will reasonably benefit the new development.

Impact fees must be expended or encumbered within six years of receipt, unless there exists an extraordinary and compelling reason for fees to be held for a longer period of time. If, absent such a reason, the county or city fails to expend or encumber the impact fees within six years, the current owner of property on which an impact fee has been paid may receive a refund.

Provisions for school impact fees generally authorize the funds to be expended or encumbered within 10 years of receipt.

Annexation Sales and Use Tax. A city in a county with more than 600,000 persons that annexes an area may impose an annexation sales and use tax for qualifying annexations. The tax is credited against the sales tax, so it is not an additional tax to a consumer. All revenue from the tax must be used to provide, maintain, and operate municipal services for the annexation area. The revenues may not exceed the difference between that which the city deems necessary to provide services for the annexation area and the general revenue received from the annexation.

With limited exceptions, the rate of the tax is 0.1 percent for each annexed area with a population greater than 10,000, but less than 20,000, and 0.2 percent for an annexed area over 20,000 persons. Effective July 1, 2011, the maximum rate of tax a city may impose under annexation sales and use tax provisions is 0.85 percent for an annexed area in which the population is greater than 18,000. To qualify for this maximum rate, the annexed area also must have been officially designated as a potential annexation area by more than one city, one of which has a population of at least 400,000 persons.

Reclaimed Water and Greywater. By December 31, 2010, and in coordination with the Department of Health and an advisory committee composed of stakeholders that utilize or are potentially impacted by the use of reclaimed water, the Department of Ecology (DOE) must adopt rules addressing all aspects of reclaimed water use, including the following:

- commercial and industrial uses;
- land applications;
- direct groundwater recharge;
- wetland discharge;
- surface percolation;

- constructed wetlands; and
- streamflow or surface water augmentation.

National Pollutant Discharge Elimination System Permits. The federal Clean Water Act (CWA) sets effluent limitations for discharges of pollutants. "Pollutant" is defined in the CWA to include a variety of materials that may be discharged into water through human activities, construction or industrial processes, or other methods. The DOE is the delegated federal CWA authority by the United States Environmental Protection Agency (EPA). The DOE also is the agency authorized by state law to implement state water quality programs.

The CWA establishes the National Pollutant Discharge Elimination System (NPDES) permit system to regulate wastewater discharges from point sources to surface waters. "Point sources" are defined generally as discernable, discrete, and confined conveyances from which pollutant discharges can or do occur. The NPDES permits are required for anyone who discharges wastewater to surface waters or who has a significant potential to impact surface waters. The NPDES permits also are required for storm water discharges from certain industries, construction sites of specified sizes, and municipalities operating municipal separate storm sewer systems that meet specified criteria.

The federal CWA and implementing EPA storm water regulations established two phases for the NPDES permits to control storm water discharges from certain industries and construction sites, and from municipalities operating municipal separate storm sewer systems.

The DOE rules limit the terms of the NPDES permits to five years. A permit holder must apply for a replacement permit at least 180 days prior to the expiration of its existing permit.

Shoreline Management Program. The Shoreline Management Act (SMA) involves a cooperative regulatory approach between local governments and the state. The DOE and local governments are authorized to adopt necessary and appropriate rules for implementing the provisions of the SMA. At the local level, SMA regulations are developed in local shoreline master programs (master programs). All counties and cities with shorelines of the state are required to adopt master programs that regulate land use activities in shoreline areas of the state.

A master program, or a segment thereof, becomes effective when approved by the DOE. In accordance with a schedule established in the SMA, counties and cities must develop or amend master programs every seven years.

Summary: Growth Management Act. The comprehensive plan review and revision schedule of the Growth Management Act is modified to require counties and cities to take such action every eight years, rather than every seven years, and to reallocate review and revision years for some jurisdictions. An additional two years for meeting the review and requirements is granted to smaller and slow

growing counties and cities. The date by which the initial review and revision requirements must be completed for the first bloc of counties and cities is June 30, 2015, rather than December 1, 2014. County reviews of designated urban growth areas must also be completed according to this schedule, and evaluation requirements for the buildable lands program must be completed by counties and cities one year before the applicable review and revision deadline.

Publicly Owned Vehicles and Fuel Usage. The requirement that, to the extent determined practicable by rules adopted by the Department of Commerce (Commerce), all state agencies and local government subdivisions of the state fuel their publicly owned vehicle fleet with electricity or biofuel by June 1, 2015, is modified to grant local government subdivisions three additional years to comply with the requirement. By June 1, 2015, the Commerce must adopt rules to define practicability and clarify how local government subdivisions of the state will be evaluated to determine whether they have met associated goals.

Transitional Housing Operating and Rent Program. Until 2018 counties and cities that receive more than \$500,000 from the Transitional Housing Operating and Rent Program and other specified sources are exempt from requirements otherwise obligating them to apply to the Washington State Quality Award Program once every three years.

Preservation Rating Reports. The requirement for a city or town to inform the Washington State Transportation Commission of the preservation rating of at least 70 percent of its arterial network is reset to the 2013-2015 biennium. After the close of that biennium, the preservation rating reporting requirement increases in 5 percent increments in subsequent biennia, but it is capped at 80 percent.

Impact Fees. The requirement for a county or city to expend or encumber impact fees within six years of receipt is modified to require expenditure or encumbrance within 10 years of receipt.

Annexation Sales and Use Tax. The population threshold for cities to impose the 0.85 percent maximum annexation sales and use tax for qualifying areas is reduced from 18,000 to 16,000. The resident population of the annexed area must be determined in accordance with generally applicable methods for determination populations that are prescribed in annexation statutes.

Reclaimed Water and Greywater. The requirements for the Department of Ecology (DOE) to adopt rules relating to reclaimed water use by December 31, 2010, are modified to prohibit adoption of such rules prior to June 30, 2013.

By July 31, 2012, the DOE is required to extend for a term of one year and without modification any National Pollutant Discharge Elimination System municipal storm

water general permit first issued on January 17, 2007. Additionally, the DOE must issue an updated permit for any such permit, and the update permit must become effective on August 1, 2013.

Shoreline Management Act. Counties and cities must review and revise their shoreline master programs according to a newly established schedule every eight years, rather than every seven years. The DOE is required to strive to achieve final action on a submitted master program within 180 days of receipt and to post an annual assessment of its own performance on its website.

Votes on Final Passage:

House	86	11	
Senate	49	0	(Senate amended)
House			(House refused to concur)
<u>Conference Committee</u>			
Senate	33	13	
House	90	6	

Effective: July 22, 2011

HB 1479

C 156 L 11

Revising the publication requirements of the statute law committee.

By Representatives Goodman and Rodne; by request of Statute Law Committee.

House Committee on Judiciary
Senate Committee on Judiciary

Background: The Statute Law Committee (SLC) is responsible for compiling and printing a number of publications, including the session laws, the Revised Code of Washington (RCW), the Washington Administrative Code (WAC), and the Washington State Register (Register). The SLC has an obligation to promote widespread access to its materials in both digital and print formats.

The session laws consist of all the bills that were enacted into law during the legislative session and initiatives adopted by the people in the preceding year. The RCW is the compilation of all permanent laws in force. The WAC is a codification of regulations of executive branch agencies, arranged by subject or agency.

The Register is a publication, published twice a month, that includes a variety of information relating to the activities of state government, such as notices of proposed rules, emergency and permanently adopted rules, and public meetings of state agencies.

The SLC distributes free copies of the session laws and the RCW to designated persons and entities. The SLC may publish the Register on the legislative or Code Reviser website, but must provide a paper copy of any issue of the Register upon request.

Summary: Each member of the Legislature may receive one set of the RCW on digital media, as opposed to paper

copies, without charge during his or her term of office. Current digital copies of the session laws, the RCW, the WAC, and the Register will be made available on the legislative or Code Reviser website without charge for permanent public access. The SLC will provide digital authentication for any publication in a digital format if such authentication does not interfere with public access.

The SLC may publish the official copy of the WAC and session laws in digital format, but the Code Reviser must provide paper copies upon request. The Code Reviser may charge a minimal fee to cover the cost of printing and mailing paper copies. The Code Reviser must provide a limited number of free paper copies of the WAC to libraries or institutions for access and archival purposes. Free digital or printed copies of the session laws may be provided to selected federal, state, and local agencies with special consideration given to institutions and libraries where internet access is limited or unavailable.

The Register may be purchased in print or digital form at a fixed price. Access to the Register, as required by state law, is satisfied when the Register or compilation is published on the legislative or Code Reviser website. The Register is no longer required to be made available, in printed form, to state elected officials, the Secretary of the Senate, the Chief Clerk of the House, county boards of law library trustees, and to the Olympia press corps library.

Votes on Final Passage:

House	97	0	
Senate	44	3	(Senate amended)
House	94	2	(House concurred)

Effective: July 22, 2011

SHB 1483

C 233 L 11

Modifying the form for a notice of traffic infraction.

By House Committee on Transportation (originally sponsored by Representative Pearson).

House Committee on Transportation
Senate Committee on Transportation

Background: A notice of a traffic infraction is a determination that a person has committed the traffic infraction, and the determination is final unless the person contests the infraction. A person who receives a notice of a traffic infraction may either pay the fine or request a hearing to contest the notice. If the person fails to pay the fine or fails to appear at a requested hearing, the court will enter an order assessing the monetary penalty for the traffic infraction. Monetary penalties imposed by the court for traffic infractions are payable immediately. If payment is still not made within the granted time, the court must notify the Department of Licensing (DOL), and the DOL must suspend the person's driver's license until the penalty is paid.

If a court determines, in its discretion, that a person is unable to pay immediately, the court must enter into a payment plan with the person if less than a year has passed since the infraction became due. If the person has previously been granted a payment plan for the same fine or if the person is in noncompliance with any previous or existing payment plan, the court has the discretion to enter into a payment plan with the person. If a court administers a payment plan, the fee for the plan may not be more than the lesser of \$10 per infraction or \$25 per payment plan. A court may contract with outside entities to administer the payment plan.

If a person fails to comply with the payment plan, the court must notify the DOL, and the DOL must suspend the person's driver's license. If a community restitution program is available in the jurisdiction, the court may substitute community restitution for all or part of the amount due for the fine.

Summary: A form for a notice of traffic infraction printed after the effective date of the act must include a statement that the person may be able to enter into a payment plan with the court.

Votes on Final Passage:

House	98	0
Senate	48	0

Effective: July 22, 2011

SHB 1485

C 199 L 11

Regarding charitable solicitations.

By House Committee on Judiciary (originally sponsored by Representatives Rodne, Kirby, Pedersen, Johnson and Kelley; by request of Secretary of State).

House Committee on Judiciary
Senate Committee on Labor, Commerce & Consumer Protection

Background: Under the Charitable Solicitations Act (CSA), charitable organizations and commercial fund raisers that solicit contributions from the public must first register with the Office of the Secretary of State (OSOS) before conducting any solicitations. Registration under the CSA is effective for one year or longer, as established by the OSOS. The Secretary of the OSOS (Secretary) must send notices to renew registrations to the entities by mail.

Certain entities are not considered charitable organizations, such as churches, political organizations, and entities that are strictly volunteer-run and raise less than \$25,000 in any accounting year. However, those entities exempt from registering must still comply with certain requirements when making charitable solicitations.

The CSA includes disclosure requirements and prohibits certain kinds of representations during solicitations.

The OSOS makes certain information, such as financial disclosures, about charitable organizations available to the public. The Secretary may establish a tiered requirement for financial reporting based on the charitable organization's revenues.

The CSA provides additional requirements for commercial fundraisers, which are entities that are paid to solicit funds on behalf of a charity. Certain commercial fundraisers must execute surety bonds equal to no less than \$15,000. The Secretary may, by rule, reduce the amount of the bond required. Commercial fundraisers may subcontract with other commercial fundraisers. The primary commercial fundraiser must register with the OSOS and must disclose the name of any subcontracting entity that will receive more than 10 percent of the total anticipated fundraising costs.

Summary: Various sections of the CSA are reorganized for clarity and readability. Certain terms are changed for consistency. Terms, such as "gross revenue," are defined and other amendments to the CSA are made.

Registration. An entity is considered registered 20 days after receipt of the registration form and may commence soliciting contributions from the public. Volunteer-run charitable organizations raising less than \$50,000 in any accounting year are exempt from registration requirements. The Secretary or the Attorney General may publish, on the Internet or in a press release, notifications that an entity is soliciting without registering.

Disclosure of Information. Charitable organizations that are required to file certain federal tax forms do not have to file a copy of the tax form with the OSOS if the form is available for public inspection under federal tax law.

A commercial fundraiser must disclose whether it is using a subcontractor, regardless of whether the subcontractor is expected to receive a certain percentage of the anticipated fundraising costs. It is made explicit that Social Security numbers and financial account numbers are not public information.

Secretary's Discretion. The Secretary is given discretion to: (1) send renewal or other notices electronically; (2) set the principal amount of the surety bond required of certain commercial fundraisers; and (3) establish how long registrations are effective.

In-person Collections. An entity is prohibited from collecting on contributions in person unless: (1) the contributions are noncash items; (2) the solicitation for the contribution is made in person and the collection of the contribution is made at the same time as the solicitation; or (3) the contributor has agreed to purchase goods in connection with the solicitation and the collection is made at the time the goods are delivered.

Votes on Final Passage:

House	97	0	
Senate	48	0	(Senate amended)
House	96	0	(House concurred)

Effective: July 22, 2011

HB 1488

C 27 L 11

Updating the authority of the state board of health.

By Representatives Jinkins, Schmick, Cody, Hinkle, Moeller and Roberts; by request of Board of Health.

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

Background: The Washington State Board of Health (Board) is a constitutionally created forum for the development of public health policy. The Board is authorized to recommend to the Secretary of Health (Secretary) means for obtaining appropriate citizen and professional involvement in all public health policy formulation. While the Board does not have any enforcement authority, it is responsible for adopting rules on such topics as: drinking water quality; control of health hazards and nuisances related to waste disposal; disease prevention and control; public health related to environment conditions; and isolation and quarantine. In addition, the Board prepares a biennial State Public Health Report that assesses the state's health status and outlines priority health goals.

The Board is composed of 10 members including the Secretary, four individuals with experience in matters of health and sanitation; an elected city official and an elected county official who are members of their local boards of health; a local health officer; and two consumer representatives. All of the members, other than the Secretary, are appointed by the Governor.

Summary: The requirement that the Washington State Board of Health (Board) convene regional forums to gather citizen input on public health issues is removed. The requirement that the Board prepare the State Public Health Report every two years is eliminated.

The Board's authority to adopt rules relating to solid and liquid waste, and standards and procedures for design, construction, and operation of solid waste collection, treatment, and disposal facilities, is limited to rules and standards regarding the disposal of human and animal excreta and animal remains.

The Board's authority to adopt rules controlling public health as related to environmental conditions in institutions and places of work is eliminated.

A reference to the Department of Social and Health Services as the entity responsible for adopting rules necessary to allow the state to participate in federal public health

programs is changed to the Department of Health and the Board.

The requirement that the Board approve all contracts of local health departments that involve the sale or purchase of health services is eliminated.

The Board's responsibilities are repealed as they relate to:

- providing grant-in-aid to local health jurisdictions to assist with the cost of general operations;
- redistributing federal funding to "promote the hygiene and welfare of maternity and infancy;" and
- adopting rules providing services to disabled children.

Votes on Final Passage:

House	93	0
Senate	47	0

Effective: July 22, 2011

ESHB 1489
PARTIAL VETO
C 73 L 11

Protecting water quality through restrictions on fertilizer containing phosphorus.

By House Committee on Environment (originally sponsored by Representatives Billig, Morris, Frockt, Carlyle, Crouse, Ryu, Finn, Jinkins, Fitzgibbon, Tharinger, Rolfes, Liias, Moscoso, Stanford, Dunshee, Pettigrew, Ladenburg, Ormsby, Van De Wege, Moeller, Hunt, Pedersen, Maxwell, Roberts, Reykdal, Kagi, Darneille, Clibborn, Jacks and Kenney).

House Committee on Environment
Senate Committee on Environment, Water & Energy

Background: Only commercial fertilizer that has been registered with the Washington State Department of Agriculture (WSDA) may be distributed. Registering with the WSDA includes the creation of a label for each product. Most packaged commercial fertilizers must have, placed on or affixed to the package, a conspicuous label stating in a clear, legible form the product name, the net weight, the brand, and the grade. Both the registration form submitted to the WSDA and label must identify if the products are waste-derived fertilizers, micronutrient fertilizers, or fertilizer materials containing phosphate.

It is unlawful to distribute misbranded commercial fertilizer.

Summary: The sale and application to turf of turf fertilizer that is labeled as containing phosphorus is prohibited. These prohibitions do not apply if the fertilizer is being used to establish or repair grass during a growing season, for adding phosphorus to soils with deficient plant-available phosphorus levels, or for application to pasture lands,

houseplants, flower or vegetable gardens, or agricultural or silvicultural lands.

Retailers may not display turf fertilizers labeled as containing phosphorus unless the product is also labeled for one of the permitted uses. Retailers may continue to display otherwise prohibited turf fertilizers that were in stock prior to 2012.

Local governments are prohibited from adopting less restrictive ordinances on the use of phosphorous-containing fertilizer.

Votes on Final Passage:

House	58	39	
Senate	32	16	(Senate amended)
House	56	37	(House concurred)

Effective: January 1, 2013

Partial Veto Summary: The Governor vetoed the section that exempted violations of the prohibitions on the use and sale of certain fertilizers from civil enforcement by the WSDA.

VETO MESSAGE ON ESHB 1489

April 14, 2011

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

Ladies and Gentlemen:

I am returning herewith, without my approval as to Section 4, Engrossed Substitute House Bill 1489 entitled:

"AN ACT Relating to protecting water quality through restrictions on fertilizer containing phosphorus."

This bill limits the use, sale, and retail display of turf fertilizer that contains phosphorus, as of January 1, 2013.

Section 4 would prevent the Department of Agriculture from enforcing the bill through the issuance of civil penalties. Without this tool, the Department would be unable to effectively implement the bill.

For this reason, I have vetoed Section 4 of Engrossed Substitute House Bill 1489.

It is unfortunate that the final bill did not include the exemption for fertilizers made from biosolids, manure and other organic materials. These products provide a valued and beneficial use of materials that would otherwise need to be managed as waste. Since the bill is not effective until January 2013, I would entertain legislation in 2012 to exempt these organic products from the limits established in the bill.

With the exception of Section 4, Engrossed Substitute House Bill 1489 is approved.

Respectfully submitted,



*Christine O. Gregoire
Governor*

ESHB 1492

C 74 L 11

Concerning the Uniform Commercial Code Article 9A on secured transactions.

By House Committee on Judiciary (originally sponsored by Representatives Pedersen and Rodne; by request of Uniform Laws Commission).

House Committee on Judiciary
Senate Committee on Judiciary

Background: The Uniform Commercial Code (UCC), organized into 11 articles, is a model code drafted by the National Conference of Commissioners on Uniform State Laws (NCCUSL) for the purpose of providing a consistent and integrated framework of rules to deal with commercial transactions. All 50 states have adopted the UCC.

Article 9 of the UCC governs the creation and operation of security interests in various types of personal property and fixtures. A security interest is the interest of a creditor in property of a debtor used to secure payment of a debt. Article 9 provides methods of creating a security interest and the manner in which a security interest may be "perfected." Perfection of a security interest is the means by which a secured creditor obtains priority over other creditors who have a security interest in the same collateral. There are different mechanisms for perfecting a security interest depending on the type of collateral involved. One common method of perfection is by the filing of a financing statement that indicates the debtor, the secured party, and the property subject to the security interest. Article 9 also provides remedies and procedures in the event that a debtor defaults on an obligation.

In 1998 the NCCUSL adopted revised Article 9, which was a substantial overhaul and expansion of the article. Washington enacted revised Article 9 in 2000, which is codified in state law as Article 9A. Last year, the NCCUSL adopted amendments to revised Article 9 and recommends that states adopt the amendments effective July 1, 2013. According to comments from the NCCUSL, the purpose of these latest amendments to Article 9 are to clarify areas of ambiguity, address problems that have arisen since adoption of the revised Article 9, and correct errors and conform provisions of the article to amendments to other articles of the UCC. In addition to amendments to some provisions of the official text of Article 9, the NCCUSL adopted revisions to the Official Comments for many provisions of Article 9 without amending the underlying text.

Summary: Article 9A of the UCC is amended to incorporate the 2010 amendments to Article 9 adopted by the NCCUSL. The amendments address various aspects of the article.

Control of Electronic Chattel Paper. A general test for control of electronic chattel paper is established. A secured party has control of electronic chattel paper if a

system employed for evidencing the transfer of interests in the chattel paper reliably establishes the secured party as the person to which the chattel paper was assigned. The test for control under current law is designated as a sufficient, but not necessary, means of establishing control of electronic chattel paper.

Perfection of Security Interests. Rules are established regarding the perfection of security interests that attach within four months after the debtor changes its location to a new jurisdiction. In addition, rules are established governing security interests that attach within four months after a new debtor (a successor) becomes bound by a security agreement entered into by an original debtor, and the priority contests that may arise when both the original debtor and the successor each have a secured creditor.

Sufficiency of Debtor's Name. Standards regarding the sufficiency of a debtor's name on a financing statement are revised.

With respect to an individual, the name of the debtor is sufficient if the financing statement provides the individual name of the debtor, the surname and first personal name of the debtor, or the name of the individual indicated on an unexpired Washington driver's license or identification card.

With respect to registered organizations, the name on the financing statement is sufficient if it is the name of the registered organization stated on the most recent public organic record filed with or issued by the registered organization's jurisdiction of organization.

With respect to collateral being administered by the personal representative of a decedent, the financing statement sufficiently provides the name of the debtor if it provides the name of the decedent as the debtor and also indicates that the collateral is being administered by a personal representative.

With respect to collateral held in a trust that is not a registered organization, the financing statement must indicate the name specified in the organic record of the trust and that the collateral is held in trust. Where the organic record does not specify a name the financing statement must indicate the name of the settler or testator, additional information sufficient to distinguish the trust from other trusts that may have the same settlers or testator, and an indication that the collateral is held in a trust.

Other Changes. Other changes made by the amendments include: removing some types of additional information that must be included in a financing statement; allowing a secured party of record to file an information statement with the filing office in response to another filed record relating to the financing statement; providing additional rules regarding the enforceability of contractual provisions restricting the assignment of receivables; and providing that when collateral consists of a mortgage note, there must be a default in the obligation that secures the

mortgage before the secured party may exercise any right the debtor has to non-judicially foreclose the mortgage.

Definitions of the terms "authenticate," "certificate of title," "public organic record," and "registered organization" are modified. Conforming amendments are made to the statutory forms for the initial financing statement and the amendment form. Various other clarifying and conforming amendments are made, and rules for transition to the amended provisions of the article are provided.

Changes Not Included in the Model Act. The definition of "person related to" is amended to include state-registered domestic partners and persons who are related by law.

The Code Reviser is directed to number sections and subsections in Article 9A consistently with the numbering system used by the NCCUSL for UCC Article 9.

Votes on Final Passage:

House	96	1
Senate	49	0

Effective: July 1, 2013

SHB 1493

C 157 L 11

Providing greater transparency to the health professions disciplinary process.

By House Committee on Health Care & Wellness (originally sponsored by Representatives Pedersen, Bailey, Kagi, Clibborn, Ryu, Jinkins, Hinkle, Moeller, Van De Wege, Roberts, Stanford and Kenney).

House Committee on Health Care & Wellness

House Committee on Health & Human Services
Appropriations & Oversight

Senate Committee on Health & Long-Term Care

Background: Overview of the Health Professions Disciplinary Process. Credentialed health care providers are subject to professional discipline under the Uniform Disciplinary Act (UDA). Under the UDA, the disciplining authority may take action against a provider for a variety of reasons, including unprofessional conduct, unlicensed practice, and the mental or physical inability to practice skillfully or safely. The Department of Health is the disciplining authority for many providers, and various boards and commissions are the disciplining authority for the remainder.

The UDA allows (and in some cases requires) individuals and organizations to file reports or complaints about health care providers. Once a disciplining authority receives a complaint, it makes a threshold determination as to whether the conduct in the complaint constitutes a violation of the law and whether the disciplining authority has the legal authority to take action. If a complaint does not meet this threshold, it is closed. If it does, the disciplining authority conducts an investigation.

After the investigation, if the evidence supports the complaint, the disciplining authority may institute disciplinary proceedings against the provider. Disciplinary proceedings may be resolved in a variety of ways, including a formal hearing (pursuant to the Administrative Procedures Act) or a stipulated agreement.

Disclosure of Documents Related to Disciplinary Proceedings. A complaint submitted to a disciplining authority is exempt from public disclosure until a determination of whether to investigate is made. Complaints determined to warrant no cause of action after an investigation must include an explanation of the decision to close the complaint. Disciplinary files are generally open to public inspection and copying, except for certain information such as patient information and the name, address, and Social Security number of the provider.

Notifications to Complainants. A disciplining authority must provide notification to a complainant in several stages of a disciplinary proceeding. For example, the disciplining authority must provide a complainant with notice as soon as the initial assessment of the complaint is complete. Also, the disciplining authority must report the issuance of statements of charges and final orders to the complainant.

Summary: A disciplining authority must:

- provide a complainant with a reasonable opportunity to supplement or amend the contents of the complaint and must allow the license holder to respond;
- promptly respond to inquiries as to the status of the complaint; and
- provide the complainant or the license holder, following the investigation or closure of the complaint, with a copy of the file relating to the complaint upon request, including any response submitted by the subject of the complaint. Provision of the file is subject to the Public Records Act. The disciplining authority may not disclose any confidential or privileged information or any information exempt from public disclosure. The complainant or license holder may be charged a fee for copying the file.

Prior to any final decision in any disciplinary proceeding, the disciplining authority must provide the complainant or his or her representative an opportunity to be heard through an oral or written impact statement. If the license holder who is the subject of the proceeding is not present at the proceeding, the disciplining authority must transmit the impact statement to him or her. The license holder must certify to the disciplining authority that he or she has received and read it.

The disciplining authority must inform the complainant and the license holder in writing of the final disposition of the complaint. If the complaint was closed prior to a statement of charges or allegations being filed, the complainant may, within 30 days of receiving the notice of final disposition, make a request for reconsideration on the

basis of new information. Within 30 days of receiving the request for reconsideration, the disciplining authority must notify the license holder of the request and provide the license holder with 30 days to respond. The disciplining authority must notify the complainant and the license holder in writing of its final decision on the request for reconsideration, including an explanation of the reasoning behind the decision. A request for reconsideration may only be made once.

Votes on Final Passage:

House	68	29	
Senate	47	1	(Senate amended)
House	61	35	(House concurred)

Effective: July 22, 2011

ESHB 1494

C 357 L 11

Concerning vulnerable adult referral agencies.

By House Committee on Health Care & Wellness (originally sponsored by Representative Moeller).

House Committee on Health Care & Wellness
House Committee on General Government
Appropriations & Oversight
Senate Committee on Health & Long-Term Care

Background: There are several types of facilities and service agencies that provide a broad spectrum of housing and services to seniors.

The Department of Social and Health Services licenses three primary types of residential long-term care settings for seniors: nursing homes, boarding homes, and adult family homes.

Nursing Homes. Nursing homes provide continuous 24-hour convalescent and chronic care. Such care may include the administration of medications, preparation of special diets, bedside nursing care, application of dressings and bandages, and carrying out treatment prescribed by licensed health care providers.

Boarding Homes. Boarding homes are facilities that provide housing and basic services to seven or more residents. Services provided by boarding homes include housekeeping, meals, snacks, laundry, and activities. They may also provide domiciliary care including assistance with activities of daily living, health support services, and intermittent nursing services.

Adult Family Homes. Adult family homes are facilities licensed to care for up to six individuals who need long-term care. These homes provide room, board, laundry, necessary supervision, and assistance with activities of daily living, personal care, and nursing services.

The Department of Health licenses in-home services agencies which may provide a range of services to people in their place of residence, including home health services,

home care services, hospice care services, and hospice care center services.

Home Health Services. Home health services are services provided to sick, disabled, or vulnerable individuals, including nursing, home health aid, physical therapy, occupational therapy, speech therapy, respiratory therapy, nutritional therapy, medical social services, and home medical supplies or equipment.

Home Care Services. Home care services are non-medical services and assistance provided to sick, disabled, or vulnerable individuals to allow them to stay in their residences. These services include personal care, home-maker assistance, respite care assistance, or other nonmedical services or delegated nursing tasks.

Hospice Services. Hospice services are symptom and pain management for terminally ill individuals as well as emotional, spiritual, and bereavement support for the individual and his or her family. These services may include home health and home care services.

Hospice Care Center Services. Hospice care center services are hospice services provided in a "home-like" noninstitutional facility.

Summary: "Elder and vulnerable adult referral agencies" (referral agencies) are defined as businesses or persons that receive a fee from either: (1) a vulnerable adult seeking a referral for supportive housing or care services providers (providers), or (2) a provider as a result of referral services provided to a vulnerable adult. "Supportive housing" is defined as any type of housing that includes services or care for residents who are vulnerable adults and includes nursing homes, boarding homes, adult family homes, and continuing care retirement communities. "Care services" are defined as any combination of services designed to allow vulnerable adults to receive care at home or in a home-like setting and includes home health agencies and in-home service agencies.

General Regulation. As of January 1, 2012, any entity that operates a referral agency must comply with requirements related to fees and refunds, recordkeeping, disclosures, and intake forms. A violation of the regulations is an unfair or deceptive act in trade or commerce and an unfair method of competition under the Consumer Protection Act. These regulations do not apply to entities providing general information about providers without giving the person the names of specific providers.

Agencies are prohibited from establishing exclusivity agreements between the agency and a client or provider. Agencies may not provide the client with only names of providers in which the agency, its employees, or immediate family members have a financial interest.

Agencies must maintain at least \$1 million of general and professional liability insurance. Agencies are not liable for the acts or omissions of a provider.

Agency owners, operators, and employees who have contact with vulnerable adults must pass a criminal background check every two years and must not have been

found to have abused, neglected, financially exploited, or abandoned a minor or vulnerable adult. Agency owners, operators, and employees are considered mandated reporters under the Vulnerable Adults Act.

Fees and Refunds. Referral agencies must disclose fee and refund policies to clients and providers. Minimum requirements for referral agency refund policies are established for situations in which the vulnerable adult dies, is hospitalized, or is transferred to a setting with a more appropriate level of care within the first 30 days of admission. The refund must be a prorated portion of the agency's fees based upon a per diem calculation.

Recordkeeping Requirements. Agencies must keep records of all services provided to the client for at least six years. Such records are covered by the state health information privacy regulations. The records must include:

- the name, address, and phone number of the client;
- the kind of supportive housing or care services that were sought;
- the location and probable duration of the care services or supportive housing;
- the monthly or unit cost of the supportive housing or care services;
- the amount of the agency's fee to the client or the provider;
- the dates and amounts of any refunds to the client and the reason;
- the client's disclosure and intake forms; and
- any contract or written agreement with a provider for services to the vulnerable adult.

Disclosure Statements. Clients must be provided with a disclosure statement by the agency, and the client must acknowledge its receipt. If the vulnerable adult refuses to acknowledge receipt of the statement, the referral professional must document that refusal.

A disclosure statement must include:

- the name and contact information of the referral agency;
- the name of the client;
- the amount of the fee to be received from the client or, if the fee is received from the provider, the method of computing the fee, and the time and method of payment;
- a description of the services that the referral agency generally provides and those to be provided specifically to the client;
- a provision that the referral agency may not request clients to sign waivers of potential liability;
- a provision that the referral agency works with both the client and the provider and that the client's authorization will be needed to disclose confidential health information;

- a statement regarding the frequency of agency tours of provider facilities and the most recent date of touring a provider that is the subject of a referral;
- a provision that the client may discontinue the relationship with the referral agency at any time;
- an explanation of the agency's refund policy;
- a statement that the client may file a complaint with the Office of the Attorney General; and
- if the agency, its employees, or immediate family members have a financial interest with a provider to which the client is being referred, a statement explaining that interest.

Intake Forms. Referral agencies must use a standardized intake form for each vulnerable adult. Information gathered in the intake form is covered by state health care information confidentiality laws. The intake form must include at least the following information:

- recent medical history as relevant to the referral process;
- known medications and medication management needs;
- known diagnoses, health concerns, and the reason for seeking supportive housing or care services;
- behaviors or symptoms that may cause concern or require special care;
- mental illness, dementia, or developmental disabilities;
- assistance needed for daily living;
- cultural or language access needs and accommodations;
- activity preferences;
- sleeping habits;
- understanding of the clients financial situation and existence of long-term care insurance and financial assistance;
- the client's current living situation;
- geographic location preferences; and
- preferences regarding other issues that are important to the client.

Referral Process. The referral agency must provide a referral to a client by either giving the names of specific providers who may meet the vulnerable adult's needs or submitting the name of the client to the provider. Before a referral agency makes a referral to a provider, the referral agency must obtain information from the provider including the type of license held by the provider; the provider's authority to care for individuals with mental illness, dementia, or developmental disabilities; accepted payment sources; level of medication management services and personal care services provided; cultural accommodations; primary languages spoken; activities provided; behavioral conditions that cannot be met; and food preference accommodations. In addition, within 30 days of

making a referral, the referral agency must also search the Department of Social and Health Services' website and the Department of Health's website to determine the existence of any enforcement actions against the provider.

Exclusions. The regulations for referral agencies do not apply to: home health or hospice agencies providing counseling to patients on placement options; government entities providing information and assistance to vulnerable adults; professional guardians; providers who make referrals to other providers without charge; social workers, discharge planners or other social service workers helping vulnerable adults in their regular employment activities; or persons providing information to another person.

Work Groups. The Department of Licensing is required to convene a work group of stakeholders to determine the feasibility of establishing a licensing program for elder and vulnerable adult referral agencies and provide recommendations to the Legislature by December 1, 2011.

By January 1, 2012, the Department of Social and Health Services and the Department of Health must convene a work group of stakeholders to collaborate in the development of a uniform standard for elder and vulnerable adult referral agencies to collect information regarding the enforcement status of providers.

Votes on Final Passage:

House	53	43	
Senate	32	17	(Senate amended)
House	60	37	(House concurred)

Effective: January 1, 2012

SHB 1495
C 98 L 11

Regarding the unfair competition that occurs when stolen or misappropriated information technology is used to manufacture products sold or offered for sale in this state.

By House Committee on Judiciary (originally sponsored by Representatives Eddy, Rodne, Kirby, Armstrong, Hunter, Hinkle, Chandler, Pettigrew, Carlyle, Springer, Maxwell, Anderson, Clibborn, Kelley and Kenney).

House Committee on Judiciary
Senate Committee on Labor, Commerce & Consumer Protection

Background: Intellectual Property. Federal and state laws protect certain intellectual property rights in creations, such as computer software (programs) and hardware (equipment). A federal copyright gives the owner of an original work that expresses ideas, such as certain software, exclusive rights to copy, distribute, and adapt the work. A federal patent may protect a publicly disclosed computer-related invention for a period of time. Federal and state trade secret laws prohibit misappropriation of trade secrets, such as formulas, programs, and techniques.

Consumer Protection Act. The state's Consumer Protection Act (CPA) prohibits unfair or deceptive acts or practices and unfair methods of competition in the conduct of trade or commerce that directly or indirectly affect the people of Washington.

Either private plaintiffs or the Attorney General may bring civil actions to enjoin future violations of the CPA or to recover damages caused by an unfair act. Private plaintiffs may recover actual damages and costs, including reasonable attorneys' fees. Courts also may award private plaintiffs damages of as much as three times actual damages, in an amount not to exceed \$25,000.

"Personal" vs. "In Rem" Jurisdiction. In order for a court to hear and determine a controversy, it must have jurisdiction over the matter. Often, courts have "personal" jurisdiction over a person sued in a civil lawsuit because the person made certain minimum contacts with the state; for purposes of the CPA, this includes transacting business within Washington.

Foreign defendants whose actions give rise to a lawsuit in a Washington court but who have never visited the state and who have no assets within Washington might not be subject to personal jurisdiction. Yet state courts may have jurisdiction to enter judgment regarding property located within the state, even if the courts do not have personal jurisdiction over that defendant. Such actions against property are called proceedings "in rem."

Summary: A business that manufactures a product while using stolen or misappropriated information technology ("stolen IT") in its business operations engages in an unfair act when the product is sold in Washington, either separately or as a component of another product, in competition with a product made without using stolen IT. A new cause of action is created to allow private plaintiffs or the Attorney General to sue businesses that engage in these unfair acts.

"Stolen or misappropriated" IT is defined as hardware or software that a business acquired, appropriated, or used unlawfully, unless the hardware or software was not available for stand-alone retail purchase at or before the time it was stolen. A business uses stolen IT in a business operation if it uses the stolen IT to design, manufacture, distribute, market, or sell products.

Notice. Before a plaintiff can file suit, the owners of the stolen IT must provide written notice to the person allegedly using the stolen IT allowing that person to prove it is not using stolen IT or giving the person 90 days to stop using it, subject to any extensions approved by the owner. The notice must state: (1) the identity of the IT; (2) the identity of the lawful owner; (3) the law allegedly violated and that the notifier reasonably believes the person has acquired, appropriated, or used the IT unlawfully; (4) the manner in which the IT is being used, if known; (5) the products to which the IT relates; and (6) the basis and evidence supporting the allegation.

Jurisdiction. A court may proceed *in rem* against certain products only when a court is unable to obtain personal jurisdiction over a party who violated the act.

Elements of a Claim. A person is injured by the sale of a product if the person establishes by a preponderance of the evidence that the person:

- manufactures products sold or offered for sale in Washington in competition with articles or products made using stolen IT;
- makes articles or products not manufactured using stolen IT; and
- suffered economic harm, which may be shown by evidence that the retail price of the stolen IT was at least \$20,000.

Remedy. If the use of stolen IT continues despite the owner of the stolen IT providing the 90 days' notice, an injured person or the Attorney General may bring an action against a person making products using stolen IT to ask the court to enjoin violations of the act's provisions, including ordering a person not to sell products in Washington. A plaintiff also may ask for the greater of actual damages or an amount of no more than three times the retail price of the stolen IT.

A court may award three times the damages normally allowed when it finds that the defendant willfully used stolen IT. A court also may award costs and reasonable attorneys' fees to the prevailing party in actions brought by an injured person.

In addition, the plaintiff may add to the action a claim for actual damages against a third party who sells the products made with stolen IT, but only if a court has already entered judgment against the person making the products using stolen IT and:

- the third party seller received a copy of the written notice at least 90 days before entry of the judgment;
- the person who made the products in violation of the act did not make an appearance or lacks sufficient attachable assets to satisfy a judgment against him or her;
- such a person either made the final product or a component of it equal to 30 percent or more of the product's final value; and
- the person has a direct contractual relationship with the third party seller.

Damages against a third party must be the lesser of the retail price of the stolen IT or \$250,000.

Before a plaintiff may seek to enjoin products or have a court proceed *in rem*, he or she must show economic injury, defined as a 3 percent price difference, occurring over a four-month period, between the product made in violation of the act designed to harm competition and a product that was manufactured without the use of stolen IT.

If a court determines that a person who violated the act's provisions lacks sufficient attachable assets in Washington, the court may enjoin sale of products made using stolen IT, subject to certain exceptions.

Exceptions. A person may not sue under this cause of action when: (1) the end product sold or offered for sale in Washington is copyrightable; (2) the product consists of merchandise made by or for a copyright owner displaying elements of copyrighted work or of certain materials; (3) the allegation that the IT is stolen is based on a claim that the IT infringes on patents or misappropriates trade secrets; or (4) the allegation is based on a claim that the use of the IT violates the terms of an open source software license.

A person may avoid liability by proving by a preponderance of the evidence that: (1) the person is an end consumer or user or acquired the product after sale to an end consumer or user; (2) the person is a business with annual revenues of no more than \$50 million; or (3) the person does not have a contractual relationship with the alleged violator.

A third party may avoid liability by showing that it acquired the products in good faith reliance on a code of conduct governing its manufacturers or on written assurances from a manufacturer, or pursuant to an agreement with a manufacturer entered into no later than 180 days after the act's effective date. The code of conduct or assurances must contain certain provisions to, for example, ensure that commercially reasonable efforts will be taken to confirm the manufacturer is not using stolen IT or to require the manufacturer to cease any theft. If the third party relies on an agreement with a manufacturer, the third party also must make these commercially reasonable efforts to require the manufacturer to cease theft or to stop acquisition from that manufacturer. As an alternative, a third party may avoid liability by showing that it made commercially reasonable efforts to implement practices and procedures to require direct manufacturers not to use stolen IT. A third party may satisfy this by adopting a code of conduct that prohibits use of stolen IT subject to audit rights or adopting a code of conduct that prohibits use of stolen IT and undertaking procedures to address compliance with that code of conduct.

A court may not enforce a damage award against a third party for a period of 18 months from the act's effective date.

Consumer Protection Act. The remedies provided in the act are the exclusive remedies for the parties and the Consumer Protection Act does not apply.

Votes on Final Passage:

House	90	4	
Senate	39	8	(Senate amended)
House	85	11	(House concurred)

Effective: July 22, 2011

ESHB 1497
PARTIAL VETO
 C 48 L 11 E1

Regarding the capital budget.

By House Committee on Capital Budget (originally sponsored by Representatives Dunshee and Warnick; by request of Governor Gregoire).

House Committee on Capital Budget

Background: The programs and agencies of state government are funded on a two-year basis, with each biennium beginning on July 1 of each odd-numbered year. The state omnibus capital appropriations act (capital budget) includes appropriations for the acquisition, construction, and repair of capital assets such as state office buildings, prisons, juvenile rehabilitation centers, residential habilitation centers, mental health facilities, military readiness centers, and higher education facilities. The capital budget also funds a variety of environmental and natural resource projects, parks and recreational facilities, public K-12 school construction, and grant and loan programs that support housing, public infrastructure, community service facilities, and art and historical projects.

The sources of funding for the capital budget primarily are state general obligation bonds, trust revenues, and dedicated fees and taxes.

Summary: The 2011-13 Capital Budget authorizes \$1.7 billion in new capital projects from sources other than bond proceeds. Reappropriations of \$1.0 billion are authorized for projects approved in prior biennia. State agencies are also authorized to enter into a variety of alternative financing contracts. The 2011 Supplemental Capital Budget reduces 2009-11 capital budget appropriations by \$547,000.

Votes on Final Passage:

First Special Session

House	94	0
Senate	47	0

Effective: June 15, 2011

July 1, 2011 (Sections 7022-7025 and 7027)

Partial Veto Summary: The Governor vetoed a proviso directing the Salmon Recovery Funding Board to terminate its contract for restoration of the Bear River Estuary. A proviso requiring the Fish and Wildlife Commission to transfer to the City of Olympia its three parcels of property located in downtown Olympia is vetoed. In addition, two sections containing technical errors are also vetoed.

VETO MESSAGE ON ESHB 1497

June 15, 2011

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 5028; 6001; 7018; and 7031, page 83, lines 32-35, and 7031, page 83, line 36, and page 84, lines 1-3 of Engrossed Substitute House Bill 1497 entitled:

"AN ACT Relating to the capital budget."

Section 5028, page 50, Central Washington University -- Combined Utilities

The appropriation of \$273,000 erroneously references the State Building Construction Account instead of the Central Washington University Building Account. ESHB 1497 is comprised of cash and dedicated fund sources, and does not otherwise include bond accounts. Therefore, I am vetoing Section 5028 so that the fund source can be corrected in the 2012 supplemental capital budget.

Section 6001, page 58, Salmon Recovery Funding Board Programs, Termination of Contract for Restoration of Bear River Estuary

This proviso language conflicts with the existing statutory process for Salmon Recovery Funding Board project review by directing the Board to take action on an existing contract. In addition, the requirement is now moot because the Board terminated this contract in May. For these reasons, I am vetoing Section 6001.

Section 7018, pages 72-73, Department of Fish and Wildlife Land Transfer

This proviso requires the Fish and Wildlife Commission to transfer to the City of Olympia its three parcels of property located in downtown Olympia. The Department of General Administration is directed to obtain an appraisal, and negotiate a contract with the City of Olympia to develop a plan for preparing the land for mixed use retail and market rate housing.

This requirement precludes the possibility of other parties offering competitive bids for these properties. Therefore, I am vetoing Section 7018.

Section 7031, page 83, lines 32-35, Treasurer Transfers

Section 7031, page 83, line 36, and page 84, lines 1-3, Treasurer Transfers

The Legislature's reduction of the existing transfers from the State Toxics Control Account and the Local Toxics Control Account to the state General Fund was meant to accompany a statutory change directing toxics account revenues into the General Fund. Because the offsetting statutory change was not made, the transfers in Section 7031 would result in an unintended loss of \$103.5 million to the General Fund. Therefore, I am vetoing Section 7031, page 83, lines 32-35; and Section 7031, page 83, line 36, and page 84, lines 1-3.

For these reasons, I have vetoed Sections 5028; 6001; 7018; and 7031, page 83, lines 32-35, and 7031, page 83, line 36, and page 84, lines 1-3, of Engrossed Substitute House Bill 1497.

With the exception of Sections 5028; 6001; 7018; and 7031, page 83, lines 32-35, and 7031, page 83, line 36, and page 84, lines 1-3, Engrossed Substitute House Bill 1497 is approved.

Respectfully submitted,



Christine O. Gregoire
 Governor

SHB 1502

C 158 L 11

Concerning manufactured housing and mobile homes.

By House Committee on Community Development & Housing (originally sponsored by Representatives Ormsby, Kenney, Smith, Moeller, Sells, Condotta, Ryu, Billig and Roberts).

House Committee on Community Development & Housing

House Committee on General Government Appropriations & Oversight

Senate Committee on Financial Institutions, Housing & Insurance

Background: Office of Manufactured Housing. The Office of Manufactured Housing (Office), in the Department of Commerce, provides general assistance to manufactured/mobile home resident organizations, tenant organizations, and manufactured/mobile home community owners. Among its duties, the Office provides technical assistance to tenants who are participating in the conversion of a mobile home park to resident ownership under the Park Purchase Program and, under this program, may also provide secured loans where a significant number of the residents are low-income or infirm.

A \$15 fee collected on the title transfer of manufactured/mobile homes is deposited in the Manufactured Housing Account (MH Account). The MH Account directs \$5,000 annually to fund the cost of registering landlords and collecting fees. The remaining funds are used to fund the Office, except for the funds needed by the Department of Labor and Industries: (1) to be the state administrative agency under the United States Department of Housing and Urban Development's manufactured housing safety and construction standards program; and (2) for the Manufactured Home Installation Training Program.

A Manufactured Housing Task Force was created in 1991 to study and make recommendations on the structure that the state should use to regulate manufactured housing. The task force terminated on December 31, 1992.

Mobile Home Relocation Assistance Program. The Office also administers a Mobile Home Relocation Assistance Program (Relocation Assistance Program) that provides monetary assistance on a first-come, first-served basis to low-income persons owning mobile homes located in mobile home parks that are scheduled for closure. If eligible, the mobile home owner could receive reimbursement of relocation expenses up to \$12,000 (\$7,500 for a single-wide home). As of January 2011, the Relocation Assistance Program had a wait list with 12 eligible households.

The Relocation Assistance Program is funded by a \$100 fee on the issuance of a certificate of title for certain manufactured/mobile homes. This fee is deposited in the Mobile Home Park Relocation Fund. The Department of Commerce is allowed to use up to 5 percent of the fees

collected for administration of the Relocation Assistance Program.

Manufactured Home Construction and Installation Programs. The Department of Labor and Industries (L&I) is the designated state administrative agency for purposes of the United States Department of Housing and Urban Development's manufactured housing safety and construction standards program. Under this program, the L&I is responsible for enforcing the federal standards at Washington manufacturing sites. It must also provide a warranty dispute mediation program.

The L&I also administers the Manufactured Home Installation Training Program (Installation Training Program). Under the Installation Training Program, persons wishing to be manufactured home installers may apply for certification. Certification is issued to persons who take the training, pass the examination, pay the required fees, and meet other qualifications.

The L&I may charge fees to cover the costs of the program. Fees are deposited in the Manufactured Home Installation Training Account (Installation Training Account). The Installation Training Account also receives any appropriations, fees received under the warranty dispute mediation program, and any penalties imposed. This funding may be used for any of the manufactured housing programs administered by the L&I under these provisions.

Regulation of Homes in Manufactured Housing Communities. Under the Manufactured/Mobile Home Landlord-Tenant Act, owners of manufactured housing communities are prohibited from preventing the entry or requiring the removal of a manufactured or mobile home or a park model for the sole reason that the home has reached a certain age. Homes may, however, be excluded or expelled for other reasons including failure to comply with fire, safety, and other local ordinances and state laws.

Cities and counties are authorized to adopt residential land use zoning regulations, which may include requirements relating to manufactured homes and manufactured housing communities, such as location, design, lot size, foundation construction and other requirements. Age and dimension requirements may not restrict the location of manufactured homes in manufactured housing communities that were legally in existence before June 12, 2008. With some exceptions, local jurisdictions may not restrict the entry or require the removal of recreational vehicles used as primary residences in manufactured housing communities.

Zoning regulations may also prohibit certain land uses as "nonconforming uses." A state law adopted in 2004 allows a local jurisdiction to designate a new manufactured housing community as a nonconforming use, but prohibits it from ordering the removal or elimination of an existing manufactured housing community based upon its designation as a "nonconforming use."

Summary: Office of Mobile/Manufactured Home Relocation Assistance. The name of the Office of

Manufactured Housing is changed to the Office of Mobile/Manufactured Home Relocation Assistance. References to providing general assistance to manufactured housing community owners or landlords are deleted.

The Office of Mobile/Manufactured Home Relocation Assistance must provide, if funding is appropriated for this purpose, technical assistance to tenants under the Park Purchase Program.

The Manufactured Housing Task Force is repealed.

Manufactured Housing Account. The MH Account is repealed. The \$15 fee collected on title transfers is deposited in the Installation Training Account for use by the L&I for the state administrative agency function and the Installation Training Program. Any residual balance in the MH Account must be transferred to the Installation Training Account.

Relocation Assistance Program. The 5 percent limit on the Department of Commerce's expenditures for administration cost under the Relocation Assistance Program is eliminated.

Regulation of Homes in Manufactured Housing Communities with Nonconforming Use Status. A city or county may not, based on a manufactured housing community's status as a nonconforming use, prohibit the entry or require the removal of a manufactured or mobile home, park model, or recreational vehicle that is allowed in a manufactured housing community under the Manufactured/Mobile Home Landlord-Tenant Act.

Votes on Final Passage:

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

Effective: July 22, 2011

SHB 1506

C 200 L 11

Addressing fire suppression efforts and capabilities on unprotected land outside a fire protection jurisdiction.

By House Committee on Judiciary (originally sponsored by Representatives Chandler, Takko and Johnson).

House Committee on Judiciary
House Committee on General Government
Appropriations & Oversight
Senate Committee on Government Operations, Tribal Relations & Elections

Background: Fire Protection Services. State law authorizes the creation of several types of fire protection and emergency service providers to serve cities, towns, and counties. The types of fire protection service providers include city or town fire departments, fire protection districts, and regional fire protection service authorities.

Each type of fire protection service provider operates within a specified jurisdiction and each has the authority to tax residents for the services provided. Fire protection jurisdictions may enter into interlocal agreements among themselves to provide services outside of their jurisdictional boundaries.

Residents of every area of the state may establish a local fire protection service or a fire protection district to provide fire prevention, suppression, and emergency medical services. However, the creation of a service or district requires either a public vote or legislative action by the appropriate local government. The inability to create a fire protection service or district may result in some areas of the state not being within the jurisdiction of any fire protection service provider. In such areas, residents do not have access to publicly funded fire or emergency services.

Seller Disclosure Forms. Statutes governing real estate transactions require that a seller provide a disclosure statement, on a prescribed form, to the buyer as part of a residential real property sale. The form requires the seller to disclose matters on various issues, such as sewer and septic systems, structural concerns, and hazards such as flooding, based on the seller's personal knowledge.

Summary: Fire Protection Services on Unprotected Land. "Unprotected land" means improved property located outside a fire protection jurisdiction. Property owners of unprotected lands are encouraged to form or annex into a fire protection jurisdiction or to enter into an agreement with a fire protection service agency for fire protection services. Agreements must be in writing and include a risk assessment of the property and a capabilities assessment of the district.

Property owners of unprotected land who choose not to form or annex into a fire protection jurisdiction do so willingly and with full knowledge that a fire protection service agency is not obligated to provide services to unprotected land.

Absent a written contractual agreement, a fire protection service agency may initiate fire protection services on unprotected land outside its jurisdiction when:

- services are specifically requested by a landowner or other fire service protection agency;
- service could reasonably be believed to prevent the spread of fire onto protected lands; or
- service could reasonably be believed to substantially mitigate the risk of harm to life or property by preventing the spread of fire onto other unprotected lands.

The property owner of the unprotected land must reimburse the agency for actual costs that are incurred that are proportionate to the fire itself. If the property owner fails to pay the agency for its services, the agency is entitled to pursue payment through a collection agency or court action.

Liability. Any fire service protection agency and its firefighters, whether paid or volunteer, taking part in fire-fighting efforts outside its jurisdiction or providing emergency care, rescue, assistance, or recovery services at an emergency is not liable for civil damages resulting from any act or omission in rendering services, except for acts or omissions constituting gross negligence or willful or wanton misconduct.

Seller's Disclosure Form. The seller's disclosure form must include a statement regarding whether the property is located within a fire protection district.

Votes on Final Passage:

House	96	0	
Senate	45	3	(Senate amended)
House	96	0	(House concurred)

Effective: July 22, 2011

ESHB 1509
PARTIAL VETO
C 218 L 11

Concerning the forestry riparian easement program.

By House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Blake, Dunshee and Ryu; by request of Commissioner of Public Lands).

House Committee on Agriculture & Natural Resources
House Committee on Capital Budget
Senate Committee on Natural Resources & Marine Waters
Senate Committee on Ways & Means

Background: The Forest Riparian Easement Program (FREP) is a program managed by the Small Forest Landowner Office (SFLO) in the Department of Natural Resources (DNR) to acquire 50-year easements along riparian and other sensitive aquatic areas from small forest landowners who are willing to sell or donate easements to the state. The DNR may purchase easements from small forest landowners and hold the easements in the name of the state. The easements are restrictive only and allow landowners to engage in activities except as necessary to protect the riparian functions of the habitat for the term of the easement.

The easements are intended to represent 50 percent of the value of the unharvested trees, plus participation compliance costs. Once a contract from the FREP is executed, the DNR is required to reimburse the landowner for the actual costs to establish streamside buffers and timber marking.

The value of the easement is determined by the DNR based on the fair market value of the timber volume covered by the easement. This calculation is made by the DNR after it conducts a timber cruise of the entire proposed easement. The data gathered in the timber cruise is then applied to a stumpage value table to calculate the fair market value. Value is calculated only on qualifying

timber. Qualifying timber is timber that is located within a commercially reasonable harvest unit that may not be harvested because of state limitations.

Summary: Qualifying Small Forest Landowner. The minimum requirements for participation in the FREP are changed. All landowners applying for the FREP must still show that they satisfy the definition of "small harvester" in the tax code; however, in order to participate in the FREP, the landowner must be a non-governmental, for-profit legal entity.

Qualifying Timber. In addition to the existing unharvested trees that are eligible for compensation from the FREP, certain other forest trees are added. These include forest trees located within riparian habitats, channel migration zones, and on potentially unstable slopes or landforms.

The DNR must verify, before compensation may be received, that any trees located on unstable slopes are addressed by a forest practices application, are adjacent to a commercially reasonable harvest area, and have the potential to deliver sediment into a public resource or threaten public safety. Compensation for trees left unharvested on unstable slopes may not exceed \$50,000 during any two-year period.

Compensation. The value of compensation determined by the SFLO is to be calculated at the time the FREP application was completed and not at the time of the underlying harvest. The DNR must not use more than 50 percent of the funding dedicated to the FREP for determining the volume of qualifying timber left unharvested. The resulting easement may not be recorded by the DNR until all compensation is paid to the landowner.

A recipient of funding from the FREP must repay the total amount received if the recipient sells his or her land within 10 years to someone who would not qualify for participation in the FREP.

Long-Term Funding. The chair of the Forest Practices Board must invite relevant stakeholders to recommend potential long-term funding sources for the FREP. These recommendations must be delivered to the Legislature by October 31, 2011.

The DNR is required to submit to the Governor biennially a list of all applications to the FREP. Once a list of applicants is received, the Governor must determine the number of applications that are to receive funding and provide that list to the Legislature.

Votes on Final Passage:

House	97	0	
Senate	47	0	(Senate amended)
House	96	0	(House concurred)

Effective: July 22, 2011

Partial Veto Summary: The Governor vetoed the section that contained an emergency clause.

VETO MESSAGE ON ESHB 1509

April 29, 2011

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

Ladies and Gentlemen:

I am returning herewith, without my approval as to Section 7, Engrossed Substitute House Bill 1509 entitled:

"AN ACT Relating to the forestry riparian easement program."

This bill resolves eligibility requirements for participation and compensation in the Forest Riparian Easement Program and fine-tunes what easements to protect riparian habitat the program will purchase if funding is available. There is no emergent need for the bill to become effective immediately, and therefore the emergency clause in Section 7 of this bill is unnecessary.

For this reason I have vetoed Section 7 of Engrossed Substitute House Bill 1509.

With the exception of Section 7 Engrossed Substitute House Bill 1509 is approved.

Respectfully submitted,

Christine O. Gregoire
Governor

EHB 1517

C 159 L 11

Requiring comparable coverage for patients who require orally administered anticancer medication.

By Representatives Jinkins, Hinkle, Green, Harris and Stanford.

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

Background: Oral Chemotherapy Medications. Chemotherapy is a type of cancer treatment involving drugs that target rapidly dividing cells. Most chemotherapy is delivered via parenteral routes. However, some chemotherapy drugs, such as Melphalan and Busulfan, can be delivered orally. Some oral chemotherapy drugs are capable of targeting cancerous cells, leaving healthy cells unharmed. Others are biologic agents or hormones. Some oral chemotherapy medications are the standard of care for certain cancer types and do not have parenteral alternatives.

Mandated Benefit Sunrise Review. In December 2010 the Department of Health (DOH) completed a sunrise review of mandated coverage for oral chemotherapy drugs. The DOH concluded that the proposal is in the best interest of the public and the benefits outweigh the costs. However, the DOH also concluded that there may be some unintended consequences associated with the proposal, such as less favorable coverage for parenteral chemotherapy drugs and lack of coverage for biologic agents.

Summary: Beginning January 1, 2012, health plans (including health plans offered to public employees and their dependents) that provide coverage for chemotherapy

must provide coverage for prescribed, self-administered anticancer medication that is used to kill or slow the growth of cancerous cells on a basis at least comparable to chemotherapy medications administered by a health care provider or facility. This does not prohibit a health plan from administering a formulary or preferred drug list, requiring prior authorization, or imposing other appropriate utilization controls in approving coverage for any chemotherapy. Each health plan offering individual or small group products must report its cost experience to the Legislature by November 1, 2013.

Votes on Final Passage:

House	80	17	
Senate	43	2	(Senate amended)
House	79	17	(House concurred)

Effective: July 22, 2011

2SHB 1519

C 75 L 11

Regarding school assessments for students with cognitive disabilities.

By House Committee on Education Appropriations & Oversight (originally sponsored by Representatives Hope, Dunshee, Anderson, Haler, Pettigrew, Fagan, Sells, Johnson, Orwall, Haigh, Kenney, Kelley and Ormsby).

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

Background: The Washington Alternate Assessment System (WAAS) is an alternate assessment that is an option only for students with significant cognitive challenges. The term "significantly cognitively challenged" is a designation applied to a small number of students, generally 10 percent or less of those eligible for special education and related services, participating in the statewide assessment system.

The decision about how a special education student participates in the statewide assessment system is an individualized educational program (IEP) team decision. There is no limit on the number of students in a district to whom the WAAS may be administered. However, there is a limit upon the number of students who successfully pass the WAAS that may be counted for federal adequate yearly progress purposes. This cap is 1 percent of the total student population being tested in the required grades for the state and 1 percent of the total student population being tested in the required grades for each district.

The WAAS is a portfolio assessment that is individualized by a teacher for each individual student. A task assessment, by contrast, provides a specified test map, along with items or tasks that provide the same basis for scoring and interpreting results.

Summary: The Legislature finds that one of the difficult issues facing states and districts across the country is the inclusion of students with the most significant cognitive disabilities in their state assessment and accountability systems. Assessing academic knowledge and skills of students with unique and significant cognitive disabilities is not only challenging and time consuming, but also may provide only limited information.

The Office of Superintendent of Public Instruction (OSPI) is tasked with continuing to work with teachers and special education programs in the development and implementation of a process to transition from the current portfolio assessment system to a performance task-based assessment.

In the meantime, and within existing resources, the OSPI must also coordinate efforts to:

- align academic goals in a student's IEP with the current assessment system by identifying detailed state-wide alternate achievement benchmarks for use by teachers;
- develop a transparent and reliable scoring process;
- efficiently use technology; and
- develop a sensible approval process to shorten the time involved in developing and collecting assessment data.

Votes on Final Passage:

House	97	0
Senate	49	0

Effective: July 22, 2011

HB 1520

C 201 L 11

Modifying state route number 527.

By Representatives Moscoso, Stanford and Clibborn; by request of Transportation Commission.

House Committee on Transportation
Senate Committee on Transportation

Background: A route jurisdiction transfer is the conversion of a state highway to a local road or the conversion of a local road to a state highway. From 1991 to 2008, the Transportation Improvement Board received and reviewed these transfer requests. In 2009 review of these requests was transferred to the Washington State Transportation Commission (Transportation Commission). If the Transportation Commission agrees that the request meets the criteria established in state law, the Transportation Commission forwards a recommendation for the transfer to the House and Senate Transportation Committees.

On November 19, 2009, the City of Bothell submitted a request to the Transportation Commission that 2.51 miles of State Route 527 be transferred to the city. The

requested transfer lies entirely within the City of Bothell and runs between State Route 522 and Interstate 405. On July 13, 2010, the Transportation Commission approved a preliminary findings report for the request. Although the preliminary recommendation noted that evaluation under some criteria lends support for this section of road to remain a state highway, it also noted that the overwhelming majority of other criteria suggested that the road should not be designated as a state route. On October 20, 2010, the Transportation Commission recommended that the section of road be transferred to the City of Bothell as requested.

Summary: A 2.51-mile section of State Route 527 is transferred from the state to the City of Bothell. The transferred section begins at State Route 522 and ends at Interstate 405.

Votes on Final Passage:

House	98	0
Senate	49	0

Effective: July 22, 2011

HB 1521

C 202 L 11

Recognizing Washington innovation schools.

By Representatives Maxwell, Haigh, Sullivan, Pettigrew, Santos, Kenney, Liias, Frockt, Jacks, Clibborn, Probst, Sells, Lytton, Goodman, Orwall, Van De Wege, Green, Hunt, McCoy, Ladenburg, Billig, Seaquist, Fitzgibbon, Carlyle and Jinkins.

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

Background: In Washington, local school district boards of directors have broad authority to manage and oversee the programs of education offered in their districts. Local districts may: create and configure educational and support services; establish schools that serve special populations of students or offer special magnet programs; create partnerships with community organizations and businesses; enter into inter-local agreements with other districts or Educational Service Districts to deliver programming and services; and implement innovations in staffing, parent involvement, curriculum, and instruction.

There are numerous examples of innovative schools and programs offered by local school districts across the state, but awareness of them by the public or other school districts is limited. There is no central repository of information about innovative schools and programs.

Summary: The Legislature finds that innovation schools accomplish the following objectives:

- provide students and parents with a diverse array of educational options;
- promote active and meaningful parent and community involvement and partnership with local schools;

- serve as laboratories for educational experimentation and innovation;
- respond and adapt to different styles, approaches, and objectives of learning;
- hold students and educators to high expectations and standards; and
- encourage and facilitate bold, creative, and innovative educational ideas.

Examples of innovation schools are provided.

The Office of the Superintendent of Public Instruction (OSPI) is directed to develop basic criteria and a streamlined review process to identify and designate Washington Innovation Schools. Within available funds, the OSPI also creates a logo, certificates, and other recognition strategies to encourage and highlight the schools. A page on the OSPI website must include research literature, best practices, summary information about Washington Innovation Schools, and a link to the schools' websites. The OSPI is encouraged to offer the design and development of the webpage as a project for an administrator intern. The OSPI must publicize the Washington Innovation School designation and encourage additional models of innovation.

Votes on Final Passage:

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

Effective: July 22, 2011

SHB 1524

C 203 L 11

Recognizing the international baccalaureate diploma.

By House Committee on Education (originally sponsored by Representative Orwall).

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

Background: *Graduation Requirements.* The State Board of Education establishes minimum statewide graduation requirements. Students must earn 19 credits in specified course areas, complete a culminating project, and prepare a high school and beyond plan. Beginning with the graduating class of 2012, 20 credits will be required.

In addition, students must meet the standard on the state reading and writing assessments and take additional math classes if they do not meet the standard on the state mathematics assessment. Beginning with the graduating class of 2013, students must meet the standard on the state assessments in reading, writing, mathematics, and science for graduation. In addition, all students must study the United States and Washington Constitutions as a prerequisite to graduation.

School districts may establish other local graduation requirements. High school diplomas are issued by school districts to students who meet state and local graduation requirements.

International Baccalaureate Diploma Programme (IB). The IB is designed as an academically challenging series of courses, student work, and examinations which are usually offered over a two-year period. Students must complete courses in six subjects: primary language, secondary language, individuals and societies, science, mathematics, and either the arts or a second course in one of the other subjects. Students must also complete a Theory of Knowledge course, produce an extended essay, participate in a Creativity, Action, and Service activity, and complete internally and externally-scored assessment tasks.

To earn an IB Diploma, students must also pass end-of-course examinations in each of their six courses. The IB examinations are offered twice a year. The results of the November examinations are issued in January; the results of the May examinations are issued in July.

There are 16 Washington high schools approved to offer the IB. More than 6,600 Washington students enrolled in the IB courses in 2009-10. However, not all students seek the full IB Diploma. Some enroll in the IB but do not complete all of the required components or examinations. According to the IB Organization, 339 Washington students earned the IB Diploma in 2008.

Summary: Students who fulfill specified requirements toward completion of an IB Diploma are considered to have satisfied state minimum requirements for graduation from a public high school, except that:

1. the requirement for students to meet the standard on state assessments still applies to the IB students; and
2. laws requiring students to study the United States and Washington Constitutions as a prerequisite for graduation still apply to the IB students, but the Office of the Superintendent of Public Instruction may adopt a rule allowing the IB students to meet the prerequisite through non-credit based study.

School districts may require the IB students to complete additional local graduation requirements before issuing a high school diploma, but are encouraged to waive local requirements for students to pursue an IB Diploma.

To receive a high school diploma under the act, students must complete the following aspects of the IB:

- complete and pass all required IB courses, as scored at the local level;
- submit and pass all internal assessments, as scored at the local level;
- successfully complete all required projects and products, as scored at the local level; and
- complete the final examinations administered by the IB Organization in all required subjects.

Votes on Final Passage:

House 82 16
Senate 46 2

Effective: July 22, 2011

SHB 1538
PARTIAL VETO
C 204 L 11

Regarding animal health inspections.

By House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Buys, Blake, Chandler, Taylor, Orcutt, Hinkle, Haler, Johnson and Warnick).

House Committee on Agriculture & Natural Resources
Senate Committee on Agriculture & Rural Economic Development

Background: The Director of the Washington State Department of Agriculture (WSDA) is authorized to adopt rules that prevent the introduction or spreading of infectious diseases into the state. This includes the authority to adopt rules regarding the inspection and testing of all animals in the state or being imported into the state. The WSDA may charge a time and mileage fee for livestock inspections and investigations of \$85 per hour, plus mileage. The WSDA has the authority to raise this fee by rule.

It is unlawful for a person to bring livestock into Washington without first obtaining a certificate of veterinary inspection verifying that the animals meet Washington's health requirements. This requirement does not apply to animals that will be delivered to a feed lot, slaughter plant, or livestock market within 12 hours of importation.

Summary: The WSDA is authorized to adopt rules that require the certificate of veterinarian inspection, health papers, permits, or other transportation documents to provide a physical address and a timeline as to when the animals will be transported directly to that address. Unless exempted by the WSDA, it is unlawful to transfer an animal to a location other than the address designated on the transportation documents.

The authority of the WSDA to charge a mileage and hourly fee for violation inspections is changed to allow the WSDA to collect up to \$85 per hour. In addition, the WSDA may adopt, by rule, a fee of no more than 40 cents per head of cattle on all cattle slaughtered in Washington or transported out of Washington. The fee must be deposited into the newly created Animal Disease Traceability Account, which is housed within the Agricultural Local Fund, and is to be used to carry out animal disease traceability activities for cattle and to compensate data and fee collection costs. Failure to pay the fee is a class 1 civil infraction.

The fee must be paid by all cattle sellers in Washington, the owners of cattle slaughtered in the state, and, unless exempted by the WSDA in rule, the owners of cattle exported alive from Washington. If a livestock inspection occurs, the fee must be collected in the same manner as livestock inspection fees. For livestock that is not inspected, the fee must be paid by the fifteenth day of the month following transportation out of state. The fee for slaughtered cattle must be collected by the meat processor.

The Animal Disease Traceability Advisory Committee (Committee) is created to serve in an advisory capacity to the WSDA. The Committee must meet at least twice a year and work with the WSDA to develop a plan to implement the electronic transfer of livestock traceability data and to consult on other livestock traceability issues. The Director of the WSDA must appoint an initial eight members to the Committee representing various aspects of the livestock industry to three-year terms. The membership of the Committee may be expanded by a unanimous vote of the Committee members.

Votes on Final Passage:

House 97 0
Senate 43 4 (Senate amended)
House 95 1 (House concurred)

Effective: July 22, 2011

Partial Veto Summary: The Governor vetoed the section that required the Director of the Department of Agriculture to create an Animal Disease Traceability Advisory Committee.

VETO MESSAGE ON SHB 1538

April 29, 2011

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

Ladies and Gentlemen:

I am returning herewith, without my approval as to Section 5, Substitute House Bill 1538 entitled:

"AN ACT Relating to animal health inspections."

Section 5 of this bill establishes a formal Animal Disease Traceability Advisory Committee to serve in an advisory capacity to the Department of Agriculture for this program. I am vetoing Section 5 of this bill. I understand the importance of involving livestock growers, feeders, farmers, and business interests in guiding this disease traceability program, but that does not necessitate creating a formal committee in statute. However, along with this veto, I am directing the director of the Department of Agriculture to convene an informal advisory group made up of key livestock industry representatives to assist the department as it implements the animal disease traceability program.

For these reasons, I have vetoed Section 5 of Substitute House Bill 1538.

With the exception of Section 5 Substitute House Bill 1538 is approved.

Respectfully submitted,

Christine O. Gregoire

*Christine O. Gregoire
Governor*

HB 1544
C 205 L 11

Restricting the eligibility for the basic health plan to the basic health transition eligibles population under the medicaid waiver.

By Representatives Hunter and Anderson.

House Committee on Health & Human Services Appropriations & Oversight

House Committee on Ways & Means

Senate Committee on Ways & Means

Background: Basic Health Plan. The Health Care Authority (Authority) administers the Basic Health Plan (BHP), which is a health care insurance program that assists enrollees by providing a state subsidy to offset the costs of premiums. Residents of Washington with incomes below 200 percent of the Federal Poverty Level (FPL) are eligible for enrollment in the BHP. In addition, enrollees must not be: (1) eligible for Medicare; (2) institutionalized; or (3) in school on temporary work visas.

Federal Waiver. Medicaid is a federal-state program that provides health care services to specified categories of low-income individuals pursuant to federal standards. States may request waivers from federal requirements for experimental, pilot, or demonstration projects. The 2010 Supplemental Operating Appropriations Act directed the Authority to seek a waiver from the federal government to support some of the enrollees on the BHP. As of January 2011, the federal government issued the terms and conditions for granting a waiver. Under the terms of the waiver, the federal government will provide matching funds to Washington for adults under age 65 in the BHP whose incomes are at or below 133 percent of the FPL and who are citizens or eligible qualified aliens.

Summary: Starting in March 2011, individuals who are not eligible for federal support under the Medicaid waiver for the BHP are no longer eligible for the BHP. This restriction does not apply to foster parents.

The Legislature intends to define eligibility for the BHP after the waiver expires based upon recommendations from the Joint Select Committee on Health Reform Implementation.

Votes on Final Passage:

House	96	2	
Senate	45	2	(Senate amended)
House	75	23	(House concurred)

Effective: April 29, 2011

E2SHB 1546
C 260 L 11

Authorizing creation of innovation schools and innovation zones focusing on arts, science, technology, engineering, and mathematics in school districts.

By House Committee on Ways & Means (originally sponsored by Representatives Hargrove, Hunt, Dammeier, Pettigrew, Lias, Smith, Anderson, Fagan, Kretz, Dahlquist, Angel, Zeiger, Jinkins and Finn).

House Committee on Education

House Committee on Ways & Means

Senate Committee on Early Learning & K-12 Education

Background: In 1987 the Schools for the 21st Century was established in legislation as a pilot program intended to foster change in the public school system. The State Board of Education (SBE), in consultation with a Governor-appointed task force, selected 33 pilot schools which then received funding for 10 supplemental days of staff time and additional funding for training, curriculum development, and other resources. Pilot schools could also seek waivers of state laws regarding length of the school year, student-to-teacher ratios, instructional hour requirements, restrictions on funding for categorical programs, and other administrative rules. The Schools for the 21st Century law expired in 1995.

In 1995 legislation was enacted that authorized any school district to apply for waivers of specified state laws, similar to waivers that had existed for the Schools for the 21st Century. A school district may apply to the SBE or the Office of the Superintendent of Public Instruction (OSPI) for a waiver in order to "implement a plan for restructuring its educational program." Another law allows the SBE to grant waivers of the Basic Education program requirements, as necessary to implement a local plan designed to enhance the educational program for each student. Eighty-three school districts have a waiver of the 180-day school year under these laws. The SBE also grants waivers from credit-based graduation requirements; two districts have received these waivers.

Laws that require school districts to separately account for funds to support categorical programs such as the Learning Assistance Program, Transitional Bilingual Instructional Program, or Highly Capable Program are not addressed in this waiver process.

Summary: The OSPI must establish a process for school districts to apply to have schools designated as Innovation Schools. Groups of schools in one district or all schools in multiple districts may apply for designation as an Innovation Zone. A priority is placed on schools focused on the arts, science, technology, engineering, and mathematics (A-STEM) that actively partner with the community, business, and higher education and that use project-based or hands-on learning. Applications for designation must be developed by educators, parents, and communities in participating schools. School districts must ensure that each

school has substantial opportunity to participate in developing an application. The OSPI develops common criteria for reviewing applications and for reviewing the need for waivers of state laws and rules.

Initial applications with proposed innovation plans must be submitted to Educational Service Districts (ESDs) by January 6, 2012. Each ESD reviews applications using the common criteria and recommends no more than three plans, including at least one Innovation Zone. At least two of the three recommended plans must be A-STEM program models and not more than one may be another program model. An ESD with more than 350,000 students recommends up to 10 plans for designation, with at least half being A-STEM models and no more than half being other models. Innovation plans must be able to be implemented without supplemental state funds. The OSPI designates the recommended plans for six years, beginning in the 2012-13 school year.

An innovation plan must contain a number of elements, including:

- why designation would enhance student achievement and close the achievement gap;
- research-based activities and innovations to be carried out;
- justification for waiver of state statutes and rules that are authorized;
- justification of any request for additional waivers beyond those authorized;
- a budget for the plan and anticipated sources of funding;
- evaluation and accountability processes that rely on multiple measures of student achievement;
- district support for waiver of local rules and modification of collective bargaining agreements if necessary to implement the plan;
- letters of support from the district, school staff, and community; and
- approval of the plan by a majority of the staff assigned to the school or schools.

Laws that authorize the SBE or the OSPI to grant waivers from laws and rules pertaining to Basic Education requirements, student-to-teacher ratios, and length of the school year are amended to include Innovation Schools or Innovation Zones. In addition, Innovation Schools and Innovation Zones may apply for waivers of laws pertaining to comingling of state funds for categorical programs and flexibility in calculating course credits for high school courses. The SBE and the OSPI must conduct an expedited review of waiver requests, and may deny a request if the waiver would decrease student achievement, jeopardize a district's receipt of state or federal funds, or violate state or federal laws or rules.

Annual progress reports are required from each Innovation School and Innovation Zone, and the OSPI

must report biennially to the Education Committees of the Legislature. The report must include recommendations for additional waivers of laws and rules as identified in innovation plans. The OSPI may revoke designation as an Innovation School or Innovation Zone based on a determination that progress is not increasing over time on the multiple measures of evaluation and accountability included in the innovation plan.

The provisions of the act expire June 30, 2019.

Votes on Final Passage:

House	94	2	
Senate	46	1	(Senate amended)
House			(House refused to concur)
Senate	46	1	(Senate amended)
House	96	0	(House concurred)

Effective: July 22, 2011

ESHB 1547

PARTIAL VETO

C 206 L 11

Concerning the deportation of criminal alien offenders.

By House Committee on Ways & Means (originally sponsored by Representatives Darneille, Hunter, Dickerson, Cody, Hunt, Kagi, Sullivan and Kenney).

House Committee on Ways & Means
Senate Committee on Human Services & Corrections

Background: Any alien offender who has been sentenced in Washington under the Sentencing Reform Act of 1981 and who has been found by the United States Attorney General to be subject to a final order of deportation or exclusion may be placed on conditional release status. If placed on conditional release status, the offender is transferred to the custody of the Immigration and Customs Enforcement (ICE) division of the U.S. Department of Homeland Security.

An offender may not be released on a conditional release status unless the Secretary of the Department of Corrections (Secretary) finds that such a release is in the best interest of the state. Conditional release status may only be allowed with the approval of the sentencing court and the prosecuting attorney of the county of conviction.

If an offender is serving a sentence for a violent offense, a sex offense, or an offense that is a crime against a person, he or she may not be placed on conditional release status. Once an offender is released to the ICE, the Department of Corrections (DOC) must issue a warrant for the offender's arrest within the United States which will remain in effect until the expiration of the conditional release. The unserved portion of an offender's term of confinement is tolled when the offender is released to the ICE. If the offender is arrested, the DOC must seek extradition as necessary, and the offender must be returned to

the DOC for the completion of the unserved portion of his or her term of total confinement.

Prior to acceptance of a plea of guilty, the state court must determine that the defendant has been advised that the potential consequences of conviction include deportation, exclusion from admission to the United States, or denial of naturalization.

Summary: The placement of an alien offender on conditional release status no longer requires the Secretary to find that such placement is in the best interest of the state. The approval of the sentencing court and the prosecuting attorney is no longer needed.

If an offender is serving a sentence for a violent offense or a sex offense, he or she may not be placed on conditional release status. Before an offender is placed on conditional release status, the Secretary is required to enter into an agreement with the ICE that once an alien offender has been released to the ICE and placed on conditional release status, that offender will remain in total confinement at a facility operated by the ICE pending the offender's return to his or her country of origin.

A warrant for the arrest of an offender issued upon release of the offender to the ICE remains in effect indefinitely. If an offender is arrested after being placed on conditional release status, the DOC may, but is not required to, seek extradition to have the offender returned to the DOC.

The provisions related to conditional release apply to persons convicted before, on, or after the effective date of the act.

Prior to accepting a defendant's guilty plea, a state court must advise the defendant that he or she may be subject to early release for removal as a consequence of conviction and that he or she may be able to contest removal.

The DOC must provide written notice of rights in removal proceedings to all offenders who are subject to early release. The notice must be provided as early in the removal process as feasible. The DOC must work with a nonprofit legal services organization that is qualified to appear in immigration court to create the written notice.

Votes on Final Passage:

House	85	11	
Senate	48	1	(Senate amended)
House			(House refused to concur)
Senate	47	0	(Senate amended)
House	56	41	(House concurred)

Effective: April 29, 2011

Partial Veto Summary: The Governor vetoed the sections requiring a state court to advise a defendant that he or she may be subject to early release for removal as a consequence of conviction, and requiring the DOC to provide written notice of rights in removal for all offenders who are subject to early release.

VETO MESSAGE ON ESHB 1547

April 29, 2011

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

Ladies and Gentlemen:

I am returning herewith, without my approval as to Sections 2 and 3, Engrossed Substitute House Bill 1547 entitled:

"AN ACT Relating to the deportation of criminal alien offenders."

Section 2 requires the Department of Corrections to provide written notice of rights in removal proceedings to all offenders in the department's custody subject to potential conditional release under this statute. Advising offenders of these rights is the responsibility of the federal government at the time removal proceedings are initiated.

Section 3 requires a court to advise a defendant that he or she may be subject to early release from custody for removal from the United States as a consequence of conviction and that the defendant may be able to contest a removal order. Current law and court practices and procedures provide defendants with adequate notice of potential deportation consequences of a plea of guilty.

For these reasons, I have vetoed Sections 2 and 3 of Engrossed Substitute House Bill 1547.

With the exception of Sections 2 and 3 Engrossed Substitute House Bill 1547 is approved.

Respectfully submitted,



Christine O. Gregoire
Governor

ESHB 1548

C 31 L 11 E1

Concerning the implementation of long-term care worker requirements regarding background checks and training.

By House Committee on Ways & Means (originally sponsored by Representatives Hunter, Darneille and Kenney; by request of Department of Social and Health Services).

House Committee on Ways & Means

Background: Long-term care (LTC) workers provide care to elderly and disabled clients, many of whom are eligible for publicly funded services through the Department of Social and Health Services' (DSHS) Aging and Disabilities Services Administration. These workers provide their clients personal care assistance with various tasks such as bathing, eating, toileting, dressing, ambulating, meal preparation, and household chores.

The services may be provided: (1) by LTC workers employed in various regulated residential settings; or (2) in the client's home by individual providers who contract directly with the DSHS or by agency providers who are employees of a licensed home care agency. A paid individual provider may be a relative or a household member, although the parent of a client who is a minor or the client's spouse may not be a paid individual provider under most programs.

The term "long-term care worker" does not include persons employed in nursing homes, hospitals, hospice agencies, or adult day care or day health care centers.

Training/Certification Requirements for LTC Workers. Various statutory and administrative training requirements apply to LTC workers. In Initiative 1029 (I-1029) adopted in November 2008, mandatory training requirements were increased and home care aide certification was required for certain LTC workers. This law, as amended in 2009, requires the following:

- an increase from 35 hours of basic training under administrative rules to 75 hours of basic training, to be completed within 120 days of hire for LTC workers hired on or after January 1, 2011. Individual providers must be compensated for training time. Exceptions from the training requirements include:
 1. parents caring for only their developmentally disabled adult child, who must have 12 hours of relevant training within 120 days of becoming an individual provider; and
 2. individual providers caring only for their adult child or their parent and, until 2014, certain respite providers, who must have 35 hours of training within 120 days of becoming an individual provider;
- certification as home care aides for all LTC workers hired on or after January 1, 2011, except for supported living providers and individual providers caring only for their adult child or parent; and
- increased continuing education requirements for LTC workers beginning July 1, 2011, from 10 hours required in administrative rules to 12 hours. Exemptions from continuing education requirements are provided for individual providers caring only for their adult child and, until 2014, certain respite providers. Individual providers must be compensated for training time.

Advanced training opportunities must be offered to LTC workers beginning January 1, 2012, and a peer mentorship program must begin on July 1, 2011.

As of January 1, 2010, for individual providers represented by an exclusive bargaining representative, all required training and peer mentoring is provided by a training partnership. As of July 1, 2009, contributions to the training partnership are made pursuant to a collective bargaining agreement negotiated with the Governor.

Background Checks for LTC Workers. Under various laws, the DSHS is responsible for investigating the suitability of applicants or service providers who provide in-home services under DSHS programs. These investigations include an examination of state criminal history record information, and under some statutes applicants must be fingerprinted through both the Washington State Patrol and the Federal Bureau of Investigation (FBI).

The passage of I-1029 in 2008, as amended in 2009, requires all LTC workers hired after January 1, 2012, to be screened through state and federal background checks, including checking against the FBI fingerprint identification records system and the National Sex Offenders Registry.

Summary: Implementation of the new basic training and certification requirements for LTC workers is delayed as follows:

- The new basic training requirements begin with LTC workers hired on or after January 1, 2014, instead of January 1, 2011. Agency rules are to be adopted by August 1, 2013. The exemption for respite workers until January 1, 2014, is deleted.
- The home care aide certification requirement begins January 1, 2014, instead of January 1, 2011. Agency rules are to be adopted by August 1, 2013.
- The increase to 12 hours of continuing education begins July 1, 2014, instead of July 1, 2011, and advanced training is offered beginning January 1, 2014, instead of January 1, 2012.
- Peer mentoring begins January 1, 2014, instead of July 1, 2011.

Persons who are exempt from home care aide certification because they hold a health credential are also exempt from the requirement for 12 hours of continuing education.

The requirement to conduct FBI fingerprint-based background checks for LTC workers applies to those hired after January 1, 2014, instead of January 1, 2012.

Votes on Final Passage:

First Special Session

House	83	13
Senate	34	12

Effective: June 15, 2011

August 24, 2011 (Sections 6, 10, and 14-17)

SHB 1560

C 287 L 11

Concerning the health insurance partnership.

By House Committee on Health Care & Wellness (originally sponsored by Representatives Cody and Jinkins).

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

Background: The Health Care Authority administers the Health Insurance Partnership (HIP). The HIP offers premium subsidies to the employees of small employers who employ mostly low-wage workers. Specifically, the small employer must: (1) not currently offer insurance benefits; (2) have no more than 50 employees; and (3) have at least half of its workforce comprised of low-wage workers. To participate in the HIP, the small employer must enroll at

least 75 percent of its employees and contribute at least 40 percent of the cost of premiums. In addition, the employer must establish a cafeteria plan that allows employees to use pretax dollars to pay their share of the health benefit plan premium. Employees of participating small employers may be eligible for a subsidy for their portion of the premiums if they are Washington residents and they have a family income that is less than 200 percent of the federal poverty level. Subsidies are to be based upon a sliding scale depending on income.

The law creating the HIP was enacted in 2007, and the HIP was originally due to begin accepting applications on January 1, 2009. In 2009 the program was suspended until January 1, 2011, subject to available funding. In August 2009, the federal government approved a five-year grant to the Health Care Authority, through the Office of Financial Management, which would begin funding subsidies from January 1, 2011, through 2014. Enrollment in the plan began on September 1, 2010, and coverage began on January 1, 2011.

Summary: The eligibility requirement for the Health Insurance Partnership (HIP) that a small employer must not currently offer health insurance is expanded to also require that the small employer not have offered insurance for the previous six months. The requirement for participation in the HIP that a small employer establish a cafeteria plan that allows employees to use pretax dollars for health benefit plan premiums is eliminated.

It is clarified that funding for the HIP may come from federal sources.

Votes on Final Passage:

House	56	41	
Senate	31	18	(Senate amended)
House	56	42	(House concurred)

Effective: July 22, 2011

SHB 1565

C 137 L 11

Concerning the modification and termination of domestic violence protection orders.

By House Committee on Judiciary (originally sponsored by Representatives Frockt, Rodne, Pedersen, Eddy, Goodman, Roberts, Walsh, Green, Jacks, Fitzgibbon, Reykdal, Kenney, Stanford, Billig and Kelley).

House Committee on Judiciary
Senate Committee on Human Services & Corrections

Background: A victim of domestic violence (the petitioner) may obtain a domestic violence protection order against a respondent. The court may provide several types of relief, including electronic monitoring, domestic violence perpetrator treatment, and a requirement that the respondent refrain from contacting the petitioner. Violation of a domestic violence protection order is a gross

misdemeanor unless the respondent has two prior convictions for violating a domestic violence protection order or other similar federal or out-of-state order, in which case the violation is a class C felony.

If the court grants a protection order for a fixed time period, the petitioner may apply for renewal of the order. The court must grant a renewal unless the respondent proves by a preponderance of the evidence that the respondent will not resume acts of domestic violence.

The court may issue an order exceeding one year or issue a permanent order if it finds that the respondent is likely to resume acts of domestic violence. A temporary or permanent order may be modified or terminated upon a motion by either the petitioner or respondent. However, the statute does not specify the grounds upon which modification should be granted or assign the burden of proof to one party or the other.

In a 2010 case, *In Re Marriage of Freeman*, the Washington Supreme Court (Court) reviewed the denial of a respondent's motion for termination of a protection order. The Court determined that a respondent bears the same burden of proof in a motion for termination or modification as is required to overcome a petition for renewal. The respondent must prove by a preponderance of the evidence that he or she will refrain from resuming acts of domestic violence. In granting the motion to terminate, the Court considered many factors, including the passage of time since the order was entered and the relocation of the respondent to a geographic area far from the petitioner. The Court declined to order the respondent to pay the petitioner's costs and attorneys' fees.

Summary: The Legislature finds that some of the factors articulated in the Court's decision in *In Re Marriage of Freeman* place an improper burden on petitioners and are not demonstrative of a respondent's likelihood to resume acts of domestic violence. A procedure is set forth for bringing a motion to modify or terminate a permanent domestic violence protection order or an order issued for a period of greater than two years. Standards are established regarding motions by respondents for modification and termination of permanent domestic violence protection orders and orders issued for a period of greater than two years.

Service. A motion to modify or terminate an order must be personally served on the nonmoving party no fewer than five days prior to the hearing.

When a respondent files a motion for modification or termination, a licensed process server, sheriff, or other local law enforcement must personally serve the petitioner. If a petitioner files the motion, he or she may achieve service through another private party.

Motion and Affidavit. A respondent's motion for modification or termination must include an affidavit stating the facts in support of modification or termination. The petitioner may file opposing affidavits. Upon

reviewing the affidavits, the court must dismiss the motion unless there is adequate cause for a hearing.

Standard of Proof. If a respondent's motion is for termination, the respondent bears the burden of proving by a preponderance of the evidence that there has been a substantial change in circumstances such that he or she is not likely to resume acts of domestic violence. In determining whether there has been a "substantial change in circumstances," the court may consider the list of provided factors.

The court may not grant a motion solely based on the fact that time has passed without violations or the fact that the respondent or petitioner has relocated to an area more distant from the other party. Regardless of whether there is a substantial change in circumstances, the court may decline to terminate a protection order if it finds that the acts of domestic violence that brought about the order were of such severity that the order should not be terminated.

If a respondent's motion is for modification, the respondent bears the burden of proving by a preponderance of the evidence that modification is warranted and would not diminish the protections provided to the petitioner. If modifying the protection order would reduce the duration of the order or would eliminate provisions that restrain the respondent from harassing, stalking, threatening, or committing other acts of domestic violence, the court must consider the list of provided factors relating to whether there has been a substantial change in circumstances.

A petitioner bears no burden of proving that he or she has a current reasonable fear of imminent harm by the respondent in either a motion for modification or termination.

Costs and Attorneys' Fees. The court may require a respondent to pay court costs and service fees in addition to a petitioner's costs and attorneys' fees incurred in responding to a motion.

Votes on Final Passage:

House	97	0
Senate	48	0

Effective: July 22, 2011

SHB 1567

C 234 L 11

Requiring background investigations for peace officers and reserve officers as a condition of employment.

By House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Ross, Hurst, Upthegrove, Kelley and Moscoso; by request of Criminal Justice Training Commission).

House Committee on Public Safety & Emergency Preparedness
Senate Committee on Human Services & Corrections

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

An applicant offered a conditional offer of employment as a peace officer or reserve officer must pass a psychological exam and a polygraph test as a condition of continuing employment. The tests must be administered by the hiring county, city, or state law enforcement agency. The psychological exam must be administered by a Washington licensed psychiatrist or psychologist, and the polygraph test must be administered by an experienced, accredited polygrapher.

The CJTC is authorized to receive criminal history record information that includes non-conviction data for employment by the CJTC or for certification of peace officers.

Under certain circumstances, the CJTC may deny or revoke certification of a peace officer. The CJTC must deny certification to an officer who has lost certification as a result of a break in law enforcement work of more than two years if the officer failed to pass the psychological exam and polygraph test.

Summary: An applicant offered a conditional offer of employment as a peace officer or reserve officer must submit to a background investigation, including a check of criminal history, as a condition of continuing employment. The results of the background investigation must be used to determine the applicant's suitability for employment. The background investigation must be administered by the agency that made the conditional offer of employment. The polygraph test must be administered by an experienced, accredited polygrapher in compliance with CJTC rules.

The CJTC must deny certification to an officer who has lost certification as a result of a break in law enforcement work of more than two years if the officer failed to comply with requirements regarding the background investigation, psychological exam, and polygraph test.

Votes on Final Passage:

House	98	0	
Senate	49	0	(Senate amended)
House	96	0	(House concurred)

Effective: July 22, 2011

SHB 1570

C 261 L 11

Providing notice to the department of defense before siting energy facility projects.

By House Committee on Technology, Energy & Communications (originally sponsored by Representatives Chandler and Morris).

House Committee on Technology, Energy & Communications

Senate Committee on Environment, Water & Energy

Background: Electrical generating facilities in Washington may sited through local permitting processes or through the Energy Facility Site Evaluation Council (EFSEC) certification process.

The EFSEC is the permitting and certificating authority for the siting of major energy facilities in Washington. An EFSEC site certification authorizes an applicant to construct and operate an energy facility in lieu of any other permit or document required by any other state agency or subdivision of the state.

The EFSEC's jurisdiction includes the siting of large energy facilities, such as thermal electric power plants with a generating capacity of 350 megawatts or greater. Energy facilities of any size that exclusively use alternative energy resources, such as wind power, may opt-in to the EFSEC review and certification process.

Summary: Written Notice to the United States Department of Defense. The EFSEC and local governments must provide written notice to the United States Department of Defense (DOD) when they receive a siting application for an energy plant or alternative energy resource facility if the plant or facility is connected to a transmission line of a nominal voltage of at least 115 kilovolts (kV). The EFSEC must post on its website the appropriate information for contacting the DOD.

Purpose and Contents of the Notice. The purpose of the written notification is to give the DOD the opportunity to identify potential issues relating to the placement and operations of the plant or facility before an application is approved. The time period set forth by the EFSEC or a local government for receiving comments may not extend the time period for processing the application.

The notification to the DOD must include the following: (1) a description of the proposed plant or facility; (2) the location of the site; (3) the placement of the plant or facility on the site; (4) the date and time by which comments must be received; and (5) contact information for the EFSEC or the local government permitting agency and the applicant.

Votes on Final Passage:

House	94	0	
Senate	45	0	(Senate amended)
House	96	0	(House concurred)

Effective: July 22, 2011

SHB 1571

C 28 L 11

Limiting regulation of electric vehicle battery charging facilities.

By House Committee on Technology, Energy & Communications (originally sponsored by Representatives Eddy, McCoy, Crouse, Frockt, Kelley, Short, Jacks, Fitzgibbon and Billig; by request of Utilities & Transportation Commission).

House Committee on Technology, Energy & Communications

Senate Committee on Environment, Water & Energy

Background: Utilities and Transportation Commission. The Utilities and Transportation Commission (UTC) is a three-member commission that has broad authority to regulate in the public interest the rates, services, and practices of privately owned utilities and transportation companies. The UTC regulates these utilities under a "rate of return" system, in which a regulated utility is generally allowed to charge rates to cover its costs, plus reasonable compensation for the services rendered. The retail sale of electricity is generally subject to regulation by the UTC, unless a legal exception applies.

Electric Vehicles. Electricity can be used as a transportation fuel to power electric vehicles. Electric vehicles are propelled by an electric motor powered by rechargeable battery packs. These vehicles typically have limited energy storage capacity, which must be replenished by plugging the vehicle into an electrical source to recharge the battery.

Battery Charging Stations. In 2009 legislation was enacted to support the planning for, and development of, electric vehicle infrastructure in the state, including the deployment of stations to charge electric vehicle batteries. Under this act, a battery charging station generally refers to a code-compliant electric assembly designed to charge electric vehicle batteries. A rapid charging station is generally defined as a code-compliant, industrial grade electrical outlet that provides faster recharging of electric vehicle batteries.

The Utilities and Transportation Commission's Electric Vehicles Work Session. In October of 2010, the UTC held a work session to consider its regulatory role related to electric vehicles. The work session included discussion of regulatory issues relating to the resale of electricity at public charging stations and whether such activity should be subject to economic regulation by the UTC.

Summary: The UTC may not regulate the rates, services, facilities, and practices of any entity that offers battery charging facilities to the public for hire if that entity: (1) is not otherwise subject to the UTC's jurisdiction as an electrical company; or (2) is otherwise subject to the UTC's jurisdiction as an electrical company, but its battery charging facilities are not subsidized by any regulated

service. An electrical company may offer battery charging facilities as a regulated service, if the UTC approves.

Votes on Final Passage:

House	93	0
Senate	48	0

Effective: July 22, 2011

ESHB 1572

C 29 L 11

Authorizing public utility districts to request voluntary contributions to assist low-income customers with payment of water and sewer bills.

By House Committee on Local Government (originally sponsored by Representatives Pettigrew, Kagi, Reykdal, Haigh, Takko, Kenney, Moscoso, Hasegawa, Moeller and Frockt).

House Committee on Local Government
Senate Committee on Environment, Water & Energy

Background: Public utility districts (PUDs) are created by and for the communities they serve and may provide water, electricity, conservation, and telecommunications services. Washington has 28 PUDs that serve more than 2.2 million customers. A board of three elected commissioners manages each PUD. Commissioners serve staggered six-year terms.

Public utility districts may receive revenue from the following sources:

- service fees;
- property tax levies;
- general obligation funds;
- revenue bonds;
- special assessments; and
- special assessment bonds.

Public utility districts may include a request for voluntary contributions on their service billing statements for the purpose of assisting qualified low-income residential customers pay their electricity bills. Contributions are managed and distributed by one of the following entities:

- the district;
- the Department of Commerce; or
- a charitable organization within the district's service area.

Summary: Public utility districts may request voluntary contributions to assist qualified customers to pay their water and sewer bills on their service billing statements. Contributions resulting from this request may be administered by the PUD or a charitable organization.

Votes on Final Passage:

House	97	1
Senate	48	0

Effective: July 22, 2011

SHB 1575

C 76 L 11

Clarifying which surgical facilities the Washington state department of health is mandated to license pursuant to chapter 70.230 RCW.

By House Committee on Health Care & Wellness (originally sponsored by Representatives Cody, Green, Van De Wege, Moeller and Jenkins).

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

Background: The Department of Health began licensing ambulatory surgical facilities in 2009. An "ambulatory surgical facility" is defined as a distinct entity that primarily provides specialty or multispecialty outpatient surgical services and discharges patients within 24 hours of admission. There are three exemptions from this definition for: (1) dental offices; (2) hospital-affiliated ambulatory surgical facilities; and (3) outpatient surgical services that are routinely performed in the office of a practitioner that do not require general anesthesia. In implementing the licensing program, the Department of Health issued an interpretive statement that limited the licensing requirement to only those facilities that perform outpatient surgeries and use general anesthesia.

The Medical Quality Assurance Commission adopted rules in September 2010 that regulate office-based surgery. These rules establish standards for the performance of surgery in a physician's office where the physician uses moderate sedation, deep sedation, or major conduction anesthesia. The rules do not apply to procedures that: (1) use very low levels of sedation or anesthesia; (2) are performed in a hospital or ambulatory surgical facility setting; or (3) use general anesthesia.

Summary: For licensing purposes, "ambulatory surgical facilities" are defined to include surgical suites that are adjacent to the office of a practitioner if the primary purpose of those suites is to offer specialty or multispecialty outpatient surgical services, regardless of the type of anesthesia used. The definition further specifies that the surgical suites may share certain features with the office of a practitioner, including a reception area, restroom, waiting room, and walls.

The exemption from ambulatory surgical facility regulation for outpatient surgical services routinely performed in a practitioner's office is limited by the condition that specialty and multispecialty services not be the primary purpose of the office. The exemption is further limited by providing that any surgical services in which the use of general anesthesia is planned must be performed in an ambulatory surgical facility or a hospital.

Entities that had been licensed by the Department of Health as ambulatory surgical facilities as of July 1, 2009, and were later declared not to meet the definition of an ambulatory surgical facility are to be deemed as having

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complied with the survey requirement for their initial license applications as ambulatory surgical facilities.

Votes on Final Passage:

House	97	0
Senate	45	3

Effective: January 1, 2012

HB 1582

C 207 L 11

Concerning forest practices applications leading to conversion of land for development purposes.

By Representatives Lytton, Morris, Chandler, Blake, Wilcox, Orcutt, Tharinger, Hinkle, McCune, Pearson and Van De Wege.

House Committee on Agriculture & Natural Resources
Senate Committee on Natural Resources & Marine Waters

Background: The Forest Practices Act establishes four classes of forest practices based on the potential for the proposed operation to adversely affect public resources. The Forest Practices Board (Board) establishes standards that determine which forest practices are included in each class. The different classes determine the level of Department of Natural Resources (DNR) involvement in the permitting process.

The four classes are:

- Class I forest practices are those determined by the Board to have no direct potential for damaging a public resource.
- Class II forest practices have a less than ordinary potential for damaging a public resource.
- Class III forest practices are more substantial than Class II, but less substantial than Class IV.
- Class IV forest practice activities have the potential for substantial environmental impacts and require compliance with the State Environmental Protection Act (SEPA).

Class IV forest practices include: activities where forestland is to be converted to another use; activities on lands likely to be converted to urban development; and activities on lands platted after January 1, 1960.

Class IV forest practices are assumed to be related to land uses other than forestry. These forest practices may require a license or permit from a local government. The local government assumes lead agency status for purposes of ensuring compliance with the SEPA.

Summary: References in the Forest Practices Act to lands that were platted after January 1, 1960, are removed. These lands are no longer defaulted into the Class IV forest practices categorization and are no longer automatically assumed to be lands that will be converted to a non-forestry land use.

Votes on Final Passage:

House	97	0	
Senate	48	0	(Senate amended)
House	96	0	(House concurred)

Effective: July 22, 2011

SHB 1585

C 79 L 11

Establishing the intrastate mutual aid system.

By House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Eddy, Springer and Ryu).

House Committee on Public Safety & Emergency Preparedness

Senate Committee on Government Operations, Tribal Relations & Elections

Background: Mutual aid is a term in organizational theory used to signify a voluntary reciprocal exchange of resources and services for mutual benefit. In emergency services, mutual aid is an agreement among emergency responders to lend assistance across jurisdictional boundaries. This may occur due to an emergency response that exceeds local resources, such as a disaster or a multiple-alarm fire. Mutual aid may be ad hoc and requested only when such an emergency occurs. It may also be a formal standing agreement for cooperative emergency management on a continuing basis, such as ensuring that resources are dispatched from the nearest fire station, regardless of which side of the jurisdictional boundary the incident is on. Various state and local governmental entities in Washington are involved in emergency management and preparedness.

The Emergency Management Division. The Emergency Management Division of the Washington Military Department administers emergency management and disaster relief programs. The Director of the Washington Military Department (Director) is appointed by the Governor and is required to develop a comprehensive emergency management plan including an analysis of the natural, technological, or human-caused hazards that could affect the state. Local jurisdictions are directed to establish comprehensive local emergency management plans, and submit their plans to the Director for recommendations. Local jurisdictions may also establish and operate joint local emergency management organizations.

The Emergency Management Council. The Emergency Management Council (Council) is a 17-member Council appointed by the Governor to advise the Governor and the Director on state and local emergency management matters. The Council includes representatives from various state and local agencies, as well as emergency medical personnel and private industry. Among other duties, the Council must ensure the

Governor receives an annual assessment of statewide emergency preparedness. In the event of a disaster beyond local control, the Governor, through the Director, may assume operational control over all or any part of emergency management functions in the state. In addition to using state and local agencies and employees for emergency response, the Governor and the chief executives or emergency management directors of counties, cities, and towns have authority to press citizens into emergency management service if the Governor proclaims a disaster.

The Washington State Emergency Response Commission. The Washington State Emergency Response Commission (SERC) was created in accordance with a federal law that establishes requirements for federal, state and local governments, and private industry regarding emergency response planning. The membership of the SERC includes representatives from private industry, and state and local agencies. The SERC is a subcommittee of the Council and deals with hazardous chemical type emergency hazards. Among other purposes, the SERC designates and oversees local emergency planning districts or committees and facilitates preparation and implementation of emergency planning and preparedness.

The Washington State Patrol Fire Protection Bureau. The Washington State Patrol Fire Protection Bureau provides training to first responders on hazardous material incidents and is the Incident Command Agency if an incident occurs along any state route or interstate freeway. The terrorism unit offers training and information regarding terrorism response and extremist groups. The training is meant for all first responders, but the terrorism unit also provides information to agencies and people on these topics.

Summary: The Intrastate Mutual Aid System is established to provide mutual assistance in an emergency among political subdivisions and federally recognized Indian tribes that choose to participate in the system. Mutual assistance may be requested by any member jurisdiction for: (1) response, mitigation, or recovery activities related to an emergency; or (2) participation in drills or exercises in preparation for an emergency.

Membership of the Intrastate Mutual Aid Agreement. Member jurisdictions of the Intrastate Mutual Aid System include all political subdivisions and any federally recognized Indian tribe that has provided a declaration of its intention to participate in the system. A member jurisdiction that chooses to no longer participate in the Intrastate Mutual Aid System may submit a notice to the Washington Military Department declaring that it does not want to participate in the Intrastate Mutual Aid System. These provisions do not affect other mutual aid agreements permitted by law, including the Washington State Fire Services Mobilization and the Law Enforcement Mobilization plans.

Request for Assistance. Member jurisdictions of the Intrastate Mutual Aid System may request and receive

assistance from other member jurisdictions for response, mitigation, or recovery activities related to an emergency or participate in drills or exercises in preparation for an emergency, provided that:

- Prior to requesting assistance, a requesting jurisdiction must: (1) have determined an emergency exists within its territorial limits; or (2) anticipate undertaking drills or exercises in preparation for emergency.
- The chief executive officer of a requesting jurisdiction (or his or her designee) must request assistance directly from the chief executive officer of another member jurisdiction. A verbal request for assistance will suffice; however, it must be confirmed in writing within 30 days.
- Assistance requested from another jurisdiction may be withheld or withdrawn at any time and for any reason.
- A responding jurisdiction designates in writing all assistance it provides to a requesting member jurisdiction at the time so long as it is consistent with the guidelines and procedures developed by the Interstate Mutual Aid Oversight Committee (Committee). This document must be delivered to the requesting jurisdiction within 30 days after the assistance is provided.
- The jurisdiction requesting assistance only has operational control of the assistance provided and may not interfere with a responding member jurisdiction's right to withdraw assistance.

Reciprocity of Professional Qualifications. There is reciprocity for any emergency responder holding a license, certificate, or other permit evidencing qualification in a professional, mechanical, or other skill, issued by Washington or a political subdivision. That person is deemed to be licensed, certified, or permitted in the requesting member jurisdiction for the duration of the emergency, drill, or exercise, subject to any limitations and conditions that the chief executive officer of the requesting member jurisdiction has prescribed in writing.

Injuries Under the Mutual Aid Agreement. If an emergency responder employee dies or is injured during the course of his or her employment while providing emergency responder assistance under the Intrastate Mutual Aid System, such an employee is only eligible for benefits that would otherwise be available for death or injuries sustained in the course of employment with the responding member jurisdiction. An emergency responder is not an employee of the requesting member jurisdiction and is not entitled to any right, privilege, or benefit of employment from the requesting member jurisdiction, including but not limited to, compensation, wages, salary, leave, pensions, or health benefits.

Mutual Aid Reimbursement. A requesting member jurisdiction must reimburse a responding member ju-

jurisdiction for the true and full value of all assistance provided under the Intrastate Mutual Aid System. However, a responding member jurisdiction may donate assistance to a requesting member jurisdiction under the mutual aid agreement.

If a dispute regarding reimbursement arises between member jurisdictions, the member jurisdiction asserting the dispute shall provide written notice to the other jurisdiction identifying the dispute. If a resolution is not resolved within 90 days after receipt of the dispute notice by the other party, either party may invoke binding arbitration to resolve the reimbursement dispute by giving written notice to the other party. Within 30 days after receipt of the notice invoking binding arbitration, each party must furnish the other with a list of acceptable arbitrators. The parties shall select an arbitrator. If there is a failure to agree on an arbitrator, each party shall select one arbitrator and the two arbitrators shall select a third arbitrator for an arbitration panel. Costs of the arbitration, including compensation for the arbitrator's services, must be borne equally by the parties participating in the arbitration. Each party bears its own costs and expenses, including legal fees and witness expenses, in connection with the arbitration proceeding.

Immunity. For purposes of tort liability or immunity, an emergency responder of a responding member jurisdiction is considered an agent of the requesting member jurisdiction. A responding jurisdiction providing assistance under the Intrastate Mutual Aid System is not liable for any act or omission while providing or attempting to provide assistance in good faith. Good faith does not include willful misconduct, gross negligence, or recklessness.

The Intrastate Mutual Aid Oversight Committee. The Intrastate Mutual Aid Oversight (Committee) is created as a subcommittee of the Council. The Committee consists of a maximum of five members who must be appointed by the Council chair from Council membership. The chair of the Committee is the Washington Military Department representative appointed as a member of the Council. Meetings of the Committee must be held at least annually.

The Committee must develop and update guidelines and procedures to facilitate implementation of the Intrastate Mutual Aid System. This includes, but is not limited to, projected or anticipated costs, checklists and forms for requesting and providing assistance, recordkeeping, reimbursement procedures, and other necessary implementation issues.

Votes on Final Passage:

House	97	0
Senate	47	0

Effective: July 22, 2011

Regarding the provision of doctorate programs at the research university branch campuses in Washington.

By Representatives Seaquist, Haler, Jacks, Dammeier, Moscoso, Carlyle, Zeiger, Moeller, Probst, Kenney, Stanford, Kelley, Dahlquist and Jinkins; by request of Higher Education Coordinating Board.

House Committee on Higher Education
House Committee on Education Appropriations & Oversight
Senate Committee on Higher Education & Workforce Development

Background: A joint study conducted by the Higher Education Coordinating Board (HECB), the State Board for Community and Technical Colleges, and the Workforce Training and Education Coordinating Board compares total supply of workers at three levels of education to the demand for workers educated at those levels. The 2009 report found that to prepare Washington residents to meet employer demand and be competitive in the labor market by 2016, there was a gap of over 5,000 degrees at each level: sub-baccalaureate, baccalaureate, and graduate.

In 2009 the HECB examined the system of higher education and proposed a strategic framework to guide future investments. The HECB found that institutions' planned growth for graduate degrees was insufficient to meet Washington's higher education goals in all but two regions: the southwest region and the central and southeast region. Completed in December 2009, the System Design Plan offers a framework for making decisions about how to reach the goal of increasing educational attainment in Washington.

The Washington State University (WSU) and the University of Washington (UW) are the only two public institutions of higher education authorized to award research doctorate degrees in Washington. Eastern Washington University is authorized to award an applied doctorate in physical therapy. The UW Bothell, the UW Tacoma, the WSU Vancouver, and the WSU Tri-Cities are branch campuses of the two research universities authorized to award baccalaureate and master's level degrees.

The HECB has a comprehensive and ongoing assessment process to determine the need for additional degree programs and locations for degree programs. If the HECB determines that there is a need for a change in level of degree, an examination of the viability of the change is conducted. The HECB's recommendation on whether to proceed is then presented to the Governor and the Legislature.

Summary: Subject to HECB approval, the UW and the WSU are authorized to develop doctoral degree programs at their branch campuses. The mission of branch campuses is expanded to include the full range of graduate

degrees. The HECB will use its assessment process to determine whether the proposed doctoral level programs are needed and viable. In place of monitoring and evaluating the addition of lower division institutions, the HECB must monitor and evaluate the growth of branch campuses and make recommendations to the Legislature as needed.

Votes on Final Passage:

House	97	0
Senate	47	0

Effective: July 22, 2011

HB 1594

C 262 L 11

Concerning the membership and work of the financial education public-private partnership.

By Representatives Santos and Anderson.

House Committee on Education
House Committee on Education Appropriations & Oversight

Senate Committee on Early Learning & K-12 Education

Background: The Financial Education Public-Private Partnership (Partnership) is made up of four legislators, four representatives from the financial services sector, four educators, one designee from the Department of Financial Institutions, and two representatives from the Office of the Superintendent of Public Instruction.

The duties of the Partnership include:

- communicating financial education standards and strategies for improving financial education to school districts;
- reviewing and developing a procedure for endorsing financial education curriculum;
- identifying assessments and outcome measures that schools can use to determine whether students meet financial education standards; and
- monitoring and providing guidance for professional development.

As a result of legislation enacted in 2007, "understanding the importance of work and finance...." appears as one of the goals of Basic Education. In 2008 financial literacy was included within Washington's 7th grade Grade Level Expectations for social studies and economics. There are no separate Essential Academic Learning Requirements (EALRs) for financial education.

The JumpStart Coalition is a national organization that promotes financial education and is composed of over 180 public and private partners with state affiliates, including one in Washington. The JumpStart Coalition has adopted personal financial literacy learning standards for grades K-12, which the Partnership has recommended for adoption as the EALRs for Washington schools.

Summary: All members of the Partnership are appointed for two-year terms of service except the representative from the Department of Financial Institutions. Excluding legislative members, the terms of service are staggered so that half of the members within each category are appointed for a one-year term, and then a two-year term thereafter. Appointments under these provisions must be made by August 1, 2011.

School districts are encouraged to voluntarily adopt the JumpStart Coalition National Standards in K-12 Personal Finance Education and provide students an opportunity to master them.

Votes on Final Passage:

House	96	0	
Senate	48	0	(Senate amended)
House	96	0	(House concurred)

Effective: July 22, 2011

SHB 1595

C 138 L 11

Regarding graduates of foreign medical schools.

By House Committee on Health Care & Wellness (originally sponsored by Representatives Cody, Appleton and Green).

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

Background: The Medical Quality Assurance Commission (MQAC) is responsible for the licensure and discipline of physicians. A physician who graduates from a medical school within the United States or Canada must meet a variety of qualifications, including:

- graduation from medical school;
- passage of an examination; and
- completion of two years of post-graduate medical training.

The two years of post-graduate training (which includes internships, residencies, and fellowships) must be in a program acceptable to the MQAC. The MQAC only approves programs accredited by the Accreditation Council for Graduate Medical Education, the Royal College of Physicians and Surgeons of Canada, or the College of Family Physicians of Canada.

Graduates of foreign medical schools (other than those in Canada) must meet the same requirements as graduates from domestic schools, including the two years of post-graduate medical training. In addition, foreign medical school graduates must pass the examination given by the Educational Council for Foreign Medical Graduates and be able to read, write, speak, understand, and be understood in English.

Summary: A foreign medical school graduate is exempt from the two-year post-graduate medical training requirement if he or she has:

- been admitted as a permanent immigrant to the United States as a person of exceptional ability in the sciences pursuant to the rules of the United States Department of Labor or been issued a permanent immigration visa;
- received multiple sclerosis certified specialist status from the Consortium of Multiple Sclerosis Centers; and
- successfully completed at least 24 months of training in multiple sclerosis at an educational institution in the United States with an accredited residency program in neurology or rehabilitation.

Votes on Final Passage:

House	95	1
Senate	48	0

Effective: July 22, 2011

SHB 1596

C 139 L 11

Concerning requirements that cities and towns with ambulance utilities allocate funds toward the total cost necessary to regulate, operate, and maintain the ambulance utility.

By House Committee on Local Government (originally sponsored by Representatives Tharinger, Nealey, Haler, Takko, Walsh and Fitzgibbon).

House Committee on Local Government
Senate Committee on Government Operations, Tribal Relations & Elections

Background: The legislative authority of a city or town (city) may establish an ambulance service utility under limited circumstances. If a private licensed ambulance service exists in the city, the legislative authority may establish an ambulance utility only after first determining that the existing private ambulance service does not adequately serve the city or a substantial portion of the city. The city must then allow the existing private ambulance service at least 60 days to meet generally accepted medical standards and reasonable levels of service. If the existing private ambulance service fails to meet this standard within the required timeframe, the city may either issue a call for bids or establish an ambulance service utility. A city that establishes an ambulance service utility is authorized to set and collect rates and charges in an amount sufficient to regulate, operate, and maintain the utility. Before establishing rates and charges, the legislative authority must complete a cost of service study and identify the portion of the total costs that are attributable to availability of ambulance service and those that are attributable to the demand for ambulance service. Availability costs relate to the costs of basic infrastructure needed to respond to calls for service. Demand costs relate to the

burden placed on the ambulance service by individual calls for ambulance service.

The fee charged by the utility must reflect a combination of the availability cost and the demand cost, and they must reflect exemptions for persons who are Medicaid-eligible and who reside in a nursing facility, boarding home, adult family home, or receive in-home services.

A city operating the ambulance service utility is obligated to support the utility with a substantial contribution of emergency medical services (EMS) levy funds and general fund revenues. The EMS levy funds must be applied to an ambulance service utility in an amount proportionate to the percentage of ambulance service costs to the total combined operating costs for EMS and ambulance services. General fund revenues must be applied as follows:

- A city that operated an ambulance service prior to May 5, 2004, must maintain at least 70 percent of its prior local general fund support for ambulance service.
- A city that operated an ambulance service before May 6, 2004, and that co-mingled general fund dollars and ambulance fund dollars may reasonably estimate the portion of general fund dollars applied toward the operation of the service. It must continue to apply at least 70 percent of that estimated amount toward the support of the ambulance utility.
- A city that established an ambulance utility after May 6, 2004, must allocate, from its general fund or emergency service levy funds or a combination of both, an amount equal to at least 70 percent of the total costs necessary to regulate, operate, and maintain the ambulance service as of May 5, 2004, or the date the utility is established.

Revenue generated by the utility must be deposited in a separate fund or funds to be used only for regulating, operating, and maintaining the utility. Total revenue generated by the utility must not exceed the total costs necessary for regulating, operating, and maintaining the utility service.

Summary: After January 1, 2012, the legislative authority of a city or town that operates an ambulance service utility may reduce its allocation of general fund revenues to the utility below the level required prior to the effective date of the act.

However, before reducing its general fund allocation, the city's legislative body must hold a public hearing, preceded by at least 30 days' notice provided with ratepayers' utility bills. At the public hearing, the legislative body must allow for public comment and present the utility's most recent cost of service study, a summary of the utility's current revenue sources, a proposed budget reflecting the reduced allocation of general fund revenues, any proposed change to utility rates, and any anticipated impact on the ambulance service utility's level of service.

Votes on Final Passage:

House	63	33
Senate	45	3

Effective: July 22, 2011

E2SHB 1599
PARTIAL VETO
C 288 L 11

Establishing the pay for actual student success dropout prevention program.

By House Committee on Ways & Means (originally sponsored by Representatives Probst, Haler, Maxwell, Orwall, Haigh, Santos, Dammeier, Seaquist, Liias, Reykdal, Kagi, Roberts, Kenney and Ormsby).

House Committee on Education
House Committee on Ways & Means
Senate Committee on Early Learning & K-12 Education
Senate Committee on Ways & Means

Background: A 2007 report entitled *The Costs and Benefits of an Excellent Education for All of America's Children* found that the benefit to taxpayers of a prevented dropout, over the adult working lifetime of the individual, has a present value of approximately \$236,000 in 2009 dollars. This represents a savings of public expense of approximately \$10,500 per year for that individual.

There are a number of ways to represent high school dropout and graduation rates. According to the Office of the Superintendent of Public Instruction (OSPI), in the 2009-10 school year:

- An average of 4.6 percent of students in each of grades nine through 12 drop out each year.
- Annual drop-out rates are higher for 12th grade students (7.3 percent) than for ninth grade students (3.4 percent).
- For the class of 2010, 76.5 percent of students graduated with a high school diploma within four years of entering high school.
- If students who took longer than four years to earn a diploma are included, the extended graduation rate for the class of 2010 was 82.6 percent.
- There are significant differences in dropout and graduation rates across groups of students and across school districts.

The Building Bridges Dropout Prevention and Intervention Program (Building Bridges) has provided state grants to local consortia of high schools and community-based organizations. An evaluation of the grant projects in 2009 found that key interim measures associated with reduced dropout rates include:

- increased earned credits towards graduation;
- increase in the percentage of students on track for on-time graduation; and

- reduction in school risk behaviors (suspensions).

In 2009 the Opportunity Internship Program was created to provide financial incentives for consortia of businesses, high schools, workforce development councils, and others to provide mentoring, internships, and counseling for low-income high school students to encourage them to pursue postsecondary education and high-demand occupations. In 2010 funds were appropriated to the OSPI to support a national dropout prevention program called Jobs for America's Graduates, which includes instruction, employability skills, mentoring, job placement, and leadership training. The College Success Foundation is a Washington non-profit organization that has received state funds to administer various college scholarship programs and provide college and career advising, counseling, and community mentor programs for high school students.

In 2009 the K-12 Data Governance group was established to develop policies, protocols, and definitions for collecting data from school districts and for adding new collection requirements through the student information system.

Summary: The Pay for Actual Student Success Program (PASS) is created to invest in proven dropout prevention and intervention programs and to provide an annual financial award for high schools that demonstrate improvement in dropout prevention indicators.

Dropout Prevention Programs. If funds are appropriated for this purpose, funds are allocated as specified in the budget to support the PASS through the following programs:

1. the Opportunity Internship Program;
2. the Jobs for America's Graduates Program;
3. the Building Bridges, to be used to expand programs that have been determined to be successful in reducing dropout rates or to replicate these programs in new partnerships; and
4. individual student support services provided by a college scholarship organization with expertise in managing scholarships for low-income high potential students, including college and career advising, counseling, and community mentor programs.

Dropout Prevention Indicators. The OSPI, in consultation with the State Board of Education, must annually calculate the following for each high school:

1. the extended graduation rate, which may be statistically adjusted for student demographics in the school;
2. the proportion of students at grade level, calculated based on earned credits and using a standard definition;
3. the proportion of students who are suspended or expelled, not including in-school suspensions; and

- a student attendance measure, beginning in 2012-13, using an indicator adopted by the OSPI and a standard definition of a student absence.

The OSPI may add indicators to the list, but must rely on data collected through the student information system to the maximum extent possible. The K-12 Data Governance group must establish parameters for the collection of student attendance data and student discipline data. School districts must submit attendance and discipline data for high school students for purposes of the PASS beginning in 2012-13.

Performance Metric. The OSPI must develop a metric for measuring performance on the dropout prevention indicators that assigns points and results in a dropout prevention score. The score must be weighted so that no high school qualifies for an award without an increase in its extended graduation rate. The OSPI may establish a minimum level of improvement to qualify for a PASS award.

Award. If funds are appropriated for this purpose, each year beginning in the 2011-12 school year, a high school that demonstrates improvement in its dropout prevention score compared to a baseline year is eligible to receive a PASS award. The award amount is determined by the OSPI based on appropriated funds and eligible high schools. The Legislature's intent is to provide an award commensurate with the degree of improvement and the size of the school. A minimum award amount must be established. The OSPI must establish objective criteria to prioritize awards to high schools with the greatest need for assistance if there are not sufficient funds to provide an award for each school. High schools receiving awards may be required to demonstrate a community match.

Use of Award. Ninety percent of an award is allocated to the high school, and 10 percent is allocated to the school district. Award funds may be used on a variety of listed activities, including strategies to close the achievement gap, graduation coaches, comprehensive guidance and planning programs, parent engagement activities, dropout early warning data systems, and early learning programs for pre-kindergarten students.

Award recipients are encouraged to implement dropout prevention and reengagement strategies in a comprehensive and systematic manner. Graduation coaches are defined as staff who work in consultation with counselors and are assigned to identify and provide specified early intervention services to students.

Support and Accountability. The OSPI regularly informs schools about the PASS and the activities likely to increase the PASS awards. Within available funds, the OSPI develops strategies for identifying and disseminating successful programs and may offer support and assistance through regional networks.

Award funds may be withheld if the OSPI finds that schools or districts have willfully manipulated their

dropout prevention indicators. A non-appropriated High School Completion Account (Account) is established to receive legislative appropriations for the PASS, federal funds, gifts, or grants. Expenditures of funds in the Account are authorized by the OSPI and are used to make investments in the four specified prevention programs and to make PASS awards.

This act is null and void if not funded in the State Omnibus Operating Appropriations Act.

Votes on Final Passage:

House	54	42	
Senate	40	6	(Senate amended)
House	56	41	(House concurred)

Effective: July 22, 2011

Partial Veto Summary: The Governor vetoed the intent section of the act.

VETO MESSAGE ON E2SHB 1599

May 10, 2011

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

Ladies and Gentlemen:

I am returning herewith, without my approval as to Section 1, Engrossed Second Substitute House Bill 1599 entitled:

"AN ACT Relating to establishing the pay for actual student success dropout prevention program."

To the extent funding is provided in the appropriations act by June 30, 2011, this legislation provides resources to schools and school districts that improve various student engagement and success factors that lead to more high school graduations. The legislation sets forth the data used to determine whether schools and districts are eligible for the incentives authorized.

Section 1 is an intent section that discusses various experiences of schools and principles of law, and is not necessary to interpret or implement the substantive provisions of the bill. For this reason, I have vetoed Section 1 of Engrossed Second Substitute House Bill 1599.

With the exception of Section 1, Engrossed Second Substitute House Bill 1599 is approved.

Respectfully submitted,



*Christine O. Gregoire
Governor*

SHB 1600

C 209 L 11

Concerning elementary math specialists.

By House Committee on Education (originally sponsored by Representatives Probst, Anderson, Maxwell and Roberts).

House Committee on Education
House Committee on Ways & Means
Senate Committee on Early Learning & K-12 Education

Background: Professional Educator Standards Board. The purpose of the Professional Educator Standards Board

(PESB) is to establish policies and requirements for the preparation and certification of education professionals, ensuring that they:

- are competent in the professional knowledge and practice for which they are certified;
- have a foundation of skills, knowledge, and attitudes necessary to help students with diverse needs, abilities, cultural experiences, and learning styles that meet or exceed the state learning goals; and
- are committed to research-based practice and career-long professional development.

The PESB also serves as an advisory body to the Superintendent of Public Instruction on issues related to educator recruitment, hiring, mentoring and support, professional growth, retention, evaluation, and revocation and suspension of licensure.

Teaching Endorsements. A teacher must have an endorsement to his or her teaching certificate in order to teach a particular subject. At the secondary level, endorsements are based on specific academic subjects (e.g., mathematics, science, English, etc.). In contrast, a teacher with an elementary education endorsement may teach any academic subject to students in grades kindergarten through 8.

The PESB has created a procedure for adding specialty endorsements that are not required by law for the teacher to teach that subject. To date, there are five specialty endorsements: (1) deaf education; (2) environmental and sustainability education; (3) teacher of the visually impaired; (4) orientation and mobility teacher; and (5) gifted education.

A number of states, including Michigan, Ohio, Virginia, and Arizona, have created some form of endorsement in teaching elementary mathematics. In some cases the state requires this endorsement for teaching certain grade levels; in other cases the endorsement is an optional supplement.

Summary: The PESB is encouraged to develop standards and adopt a specialty endorsement for an Elementary Mathematics Specialist (Specialist). A Specialist is a certificated teacher who has demonstrated the following knowledge and skills:

- enhanced mathematics content knowledge and skills necessary to provide students, in grades kindergarten through 8, with a deep understanding of the essential academic learning requirements and performance expectations in mathematics;
- knowledge and skills in a variety of instructional strategies for teaching mathematics content; and
- knowledge and skills in instructional strategies targeted for students struggling in mathematics.

School districts are encouraged to use Specialists for direct instruction of students using an itinerant teacher model where the Specialist moves from classroom to classroom within the school.

School districts may work with local colleges and universities, educator preparation programs, and educational service districts to develop and offer training and professional development opportunities in the knowledge and skills necessary for a teacher to be considered a Specialist.

Votes on Final Passage:

House	73	24
Senate	46	2

Effective: July 22, 2011

SHB 1614

C 143 L 11

Concerning the traumatic brain injury strategic partnership.

By House Committee on Early Learning & Human Services (originally sponsored by Representatives Dickerson, Rodne, Hope, Goodman, Walsh, Roberts, Green, McCoy, Blake, Kagi, Dunshee, Springer, Appleton, Seaquist, Johnson, Jinkins, Liias, Kelley, Rolfes, Maxwell, Van De Wege and Kenney).

House Committee on Early Learning & Human Services
House Committee on Health & Human Services
Appropriations & Oversight

Senate Committee on Health & Long-Term Care

Background: In 2007 Second Substitute House Bill 2055 was enacted, creating the Washington Traumatic Brain Injury Strategic Partnership Advisory Council (Advisory Council) as an advisory council to the Governor, Legislature, and the Secretary of the Department of Social and Health Services (DSHS).

The Advisory Council is made up of a wide variety of individuals appointed by the Governor as follows:

- the Secretary or the Secretary's designee from the DSHS;
- representatives from the Children's Administration, the Mental Health Division, the Aging and Disability Services Administration, and the Division of Vocational Rehabilitation;
- the Executive Director of a state brain injury association;
- a representative from a nonprofit organization serving individuals with traumatic brain injury (TBI);
- the Secretary or designee of the Department of Health;
- the Secretary or designee of the Department of Commerce;
- a representative from an organization serving veterans;
- a representative from the National Guard;
- a representative of a Native American tribe located in Washington;

- the Executive Director of the Washington Protection and Advocacy System;
- a neurologist who has experience with working with individuals with TBI;
- a neuropsychologist who has experience working with persons with TBI;
- a rehabilitation specialist, such as a speech pathologist, vocational rehabilitation counselor, occupational therapist, or physical therapist who has experience working with persons with TBI;
- two individuals with TBI;
- two family members of individuals with TBI; and
- two members of the public who have experience with issues related to the causes of TBI.

The initial appointments to the Advisory Council were to be made by September 2007. The initial terms were to run for three years and were staggered. The Advisory Council annually elects a chairperson.

Duties of the Advisory Council include:

- collaboration with the DSHS to develop a comprehensive statewide plan to address the needs of individuals with TBI;
- providing recommendations to the DSHS on criteria to be used to select programs facilitating support groups for individuals with TBI and their families;
- by December 2007, submitting a report to the Legislature and Governor on:
 1. the development of a comprehensive statewide information and referral network for individuals with TBI;
 2. the development of a statewide registry to collect data regarding individuals with TBI; and
 3. efforts of the DSHS to provide services for individuals with TBI;
- by December 2007, reviewing the preliminary comprehensive statewide plan developed by the DSHS to meet the needs of individuals with TBI; and
- submitting a report to the Legislature and the Governor containing comments and recommendations regarding the plan.

The Traumatic Brain Injury Account (Account) is funded by \$2 of the fee imposed for certain traffic infractions. Moneys in the Account may only be spent after appropriation and may be used only to provide a public awareness campaign and services relating to TBI, for information and referral services, and for costs of required DSHS staff providing support to the Advisory Council. The Secretary of the DSHS has the authority to administer the funds.

Summary: Composition of the Advisory Council. The composition of the Advisory Council is changed. Some members are to be appointed by the Governor and some members will be representatives from state agencies.

Added to the members who must be appointed by the Governor are the following:

- an individual with expertise in working with children with TBI; and
- a physician who has experience working with persons with TBI.

Changes are made to the agency representatives who shall be members:

- a representative from the Division of Behavioral Health and Recovery Services is added; and
- a designee replaces the Executive Director of the State Brain Injury Association.

If any of the agencies is renamed, reorganized, or eliminated, the Director or Secretary of the agency that assumes the responsibilities of the previous agency must designate a substitute representative.

The provisions regarding staggered appointments are removed.

Duties of the Advisory Council and Reporting Requirements. In collaboration with the DSHS, the Advisory Council must develop and revise as needed a Comprehensive Statewide Plan to address the needs of individuals with TBI. The Advisory Council must, in collaboration with the DSHS, develop and submit a report to the Legislature and the Governor regarding:

- identification of the activities for the Advisory Council in the implementation of the Comprehensive Statewide Plan;
- recommendations for the revisions to the Comprehensive Statewide Plan; and
- recommendations for a council staffing plan for council support.

The initial report is due on January 15, 2013, and every two years thereafter.

In response to the recommendations from work performed in collaboration with the Advisory Council, the DSHS must include in the Comprehensive Statewide Plan a staffing plan for adequate support activities of the Advisory Council for positions funded by the Account. The requirement for the DSHS to designate a staff person to provide support for the Advisory Council is changed to require the DSHS to designate at least one staff person.

The Comprehensive Statewide Plan must address the needs of individuals impacted by TBI, not just those individuals with TBI. In creating the plan, the feasibility of establishing agreements with tribal governments should be considered.

Timelines. The timelines set forth in the enabling Legislation are removed, such as those regarding initial appointments to the Advisory Council, preliminary reports regarding recommendations for a Comprehensive Statewide Plan, and the development of a statewide referral and information network.

Authority and Duties of the Department of Social and Health Services. The requirements are removed that the DSHS must secure funding to develop housing for individuals suffering with TBI by leveraging federal and private fund sources, expand support group services with an emphasis on individuals with TBI returning from active military duty, establish training and outreach to first responders and emergency medical staff for care for individuals with TBI, and improve awareness of health insurance coverage options. The DSHS no longer is required to issue a yearly report to the Governor and Legislature which contains a summary of actions taken by the DSHS to meet the needs of individuals with TBI and recommendations for improvements in services to address the needs of individuals with TBI.

The DSHS has the authority to accept and expend or retain any gifts, bequests, contributions, or grants from private persons or private and public agencies to carry out the purpose of the program.

Instead of instituting a public awareness campaign using funds from the Account, the DSHS must conduct a public awareness campaign. The DSHS is not required to conduct the public awareness campaign by a specific date.

The DSHS expressly must provide funding from the Account for programs that facilitate support groups to individuals with TBI injuries and their families. These programs are no longer required to be funded solely from the Account.

Traumatic Brain Injury Account. Moneys in the Account may be used only after appropriation and only to support the activities in the Statewide Traumatic Brain Injury Comprehensive Plan to provide a public awareness campaign, information and referral services, and costs of required staff of the DSHS providing support to the Advisory Council.

Votes on Final Passage:

House	97	0
Senate	48	0

Effective: July 22, 2011

HB 1618

C 30 L 11

Addressing public utility districts and deferred compensation and supplemental savings plans.

By Representatives Sells, Crouse, Dunshee, McCoy, Liias, Kristiansen and Pearson.

House Committee on Local Government
Senate Committee on Government Operations, Tribal Relations & Elections

Background: Public utility districts (PUDs) are created by and for the communities they serve. Public utility districts may provide water, electricity, conservation, and telecommunications services depending on the needs of

their customers. Washington has 28 public utility districts that serve more than 2.2 million customers. Each PUD is governed by a board of three elected commissioners who serve staggered six-year terms.

If a PUD employee or official is not a member of the state retirement system, the district may contract for any one or more of the following and pay the applicable premiums out of operation revenue from district properties:

- individual annuity contracts; or
- retirement income policies or group annuity contracts, including prior service, to provide a retirement plan.

Public utility districts may continue to make these premium payments after an employee retires if the employee was employed on or after August 6, 1965. A retired employee, however, must not be paid more than a current employee. This practice is known as deferred compensation. Public utility districts have general authority to participate in the state's deferred compensation plan through the Department of Retirement Services, subject to federal and state requirements.

Summary: The authority of PUDs providing water or electric utilities is modified to expressly allow any deferred compensation or supplemental savings retirement plan to be established and maintained by a PUD for eligible employees and officials. The term contribution includes contributions made:

- on behalf of an eligible employee and equal to the amount the employee agrees to in compensation reduction; and
- by the PUD, separate from amounts otherwise intended for earnings.

Public utility district employees and officials are also eligible for membership and participation in any public employee pension system.

Contributions must be deposited in a designated account or held in trust as a public retirement fund. Alternatively, contributions must be remitted to an insurer. Contributions may be deposited or invested in a banking institution or an investment or insurance company.

Public utility districts, including employees or officials and commissioners, are not liable for activity related to individual account plans in which an individual participant self-manages his or her retirement account.

Votes on Final Passage:

House	97	0
Senate	44	0

Effective: July 22, 2011

HB 1625

C 80 L 11

Addressing the default investment option available to new members of the plan 3 retirement systems.

By Representatives Hunter, Bailey, Seaquist, Hinkle, Moeller and Carlyle.

House Committee on Ways & Means
Senate Committee on Ways & Means

Background: The Plans 3 of the Washington State Retirement Systems, those in the Public Employees' Retirement System (PERS), the Teachers' Retirement System (TRS), and the School Employees Retirement System (SERS) are hybrid plans—they have both a defined benefit or guaranteed benefit portion and a defined contribution portion. Employer retirement contributions are made to the PERS Plan 2/3 pension fund to support the future defined benefit payments, and employee contributions are made to an individual defined contribution member account.

Upon employment, a new member of the PERS, SERS, or TRS faces a series of choices. First, a member has 90 days to choose between membership in Plan 2 or Plan 3. If the member does not choose, he or she permanently defaults into Plan 3. A new member of Plan 3 must also choose an employee contribution rate. The Department of Retirement Systems has established several contribution rate options between the minimum rate of 5 percent up to a maximum of 15 percent. If an employee does not choose a contribution rate, he or she defaults into the minimum 5 percent rate.

New members of Plan 3 must also choose an investment option for their member contributions. If they do not choose an option, they are defaulted into having their member contribution invested by the State Investment Board (SIB), which means that they effectively own a small portion of the common fund in which the assets for the guaranteed benefits of the Washington State Retirement Systems are invested, known as the Commingled Trust Fund. Many other investment options are available for members that do not default, including retirement strategy funds tailored for individuals with projected retirement dates between the years 2000 and 2055. In general, the retirement strategy funds are diversified asset allocation portfolios designed for members who want to leave ongoing investment decisions to experienced portfolio managers. The asset mix of the retirement strategy funds are adjusted by the managers over time to the allocation deemed appropriate for the targeted retirement date.

Summary: The default investment option for new members of the Plans 3 of the Public Employees' Retirement System, the Teachers' Retirement System, and the School Employees Retirement System is changed from shares in the common pension fund invested by the State Investment Board to an offered retirement strategy fund with the retirement date closest to the retirement target date of the member.

Votes on Final Passage:

House 96 0
Senate 48 0

Effective: July 22, 2011

E2SHB 1634

PARTIAL VETO

C 263 L 11

Concerning underground utilities.

By House Committee on General Government Appropriations & Oversight (originally sponsored by Representatives Takko, Angel, Morris and Armstrong).

House Committee on Technology, Energy & Communications
House Committee on General Government Appropriations & Oversight
Senate Committee on Environment, Water & Energy

Background: One-number Locator Service. A single statewide telephone number exists for referring excavators to the appropriate one-number locator service. A one-number locator service is operated by nongovernmental entities and is a means by which a person can notify utilities of excavation and request field marking of underground facilities.

All owners of underground facilities within a one-number locator service area are required to subscribe to one-number locator service. If no one-number locator service is available, notice of a proposed excavation must be provided to the owners of underground facilities known to or suspected of having underground facilities within the area of proposed excavation. The notice must be communicated to the owners of underground facilities not less than two business days but not more than 10 business days before the scheduled date for commencement of excavation, unless otherwise agreed by the parties. If a transmission pipeline company is notified that excavation work will occur near a pipeline, a representative of the company must be present and consult with the excavator on-site prior to excavation.

An underground facility means any item buried or placed below ground for use in connection with the storage or conveyance of water, sewage, electronic, telephonic or telegraphic communications, cablevision, electric energy, petroleum products, gas, gaseous vapors, hazardous liquids, or other substances and including, but not limited to, pipes, sewers, conduits, cables, valves, lines, wires, manholes, attachments, and those parts of poles or anchors below ground. An underground facility also includes gas or hazardous liquid pipelines, as well as distribution systems owned and operated for the sale, delivery, or distribution of natural gas at retail.

Penalties. A civil penalty of not more than \$1,000 for each violation applies when a person fails to notify the

one-number locator service and causes damage to underground facilities. Some civil penalties collected are deposited into the State General Fund and other penalties are paid into the Pipeline Safety Account. Any excavator who willfully or maliciously damages a field marked underground facility is liable for treble the costs incurred in repairing or relocating the facility. Any excavator who fails to notify the one-number locator service and causes damage to a hazardous liquid or gas pipeline is subject to a civil penalty of not more than \$10,000 for each violation. Any excavator who excavates within 35 feet of a transmission pipeline without a valid excavation confirmation code is guilty of a misdemeanor.

Utilities and Transportation Commission. The Utilities and Transportation Commission (UTC) regulates utilities and transportation services in the state to ensure fair pricing, availability, reliability, and safety. The UTC regulates intrastate pipelines, while the federal Pipeline and Hazardous Materials Safety Administration (PHMSA) regulates interstate pipelines. Since 2003 the UTC has been the lead inspector of all interstate pipelines in the state, certified by the PHMSA to make inspections based on federal regulations.

Summary: Underground Utility Damage Prevention Act. Various provisions regarding underground facilities are adopted, to be known and cited as the Underground Utility Damage Prevention Act (Damage Prevention Act).

Effective Date. The Damage Prevention Act takes effect January 1, 2013.

Failure to Subscribe to a One-number Locator Service. Failure of a facility operator to subscribe to a one-number locator service constitutes willful intent to avoid compliance with the Damage Prevention Act.

Marking of Excavation Boundaries by Excavator. Before commencing any excavation, an excavator must mark the boundary of the excavation area with white paint applied to the ground of the worksite and then provide notice of the scheduled commencement of excavation to all facility operators through a one-number locator service. If boundary marking is infeasible, an excavator must communicate directly with affected facility operators to ensure that the boundary of the excavation area is accurately identified. If an excavator intends to work at multiple sites or at a large project, the excavator must take reasonable steps to confer with facility operators to enable them to locate underground facilities reasonably in advance of the start of excavation for each phase of the work.

Responsibility to Mark Underground Utilities by Facility Operator. Upon receipt of the notice, a facility operator must, with respect to the facility operator's locatable underground facilities, provide the excavator with reasonably accurate information by marking their location. If a facility operator's underground utilities are unlocatable or identified but unlocatable, the facility operator

must provide the excavator with available information as to their location.

If an underground facility involves service laterals, the facility operator is required to designate the presence of service laterals, if the service laterals: (1) connect end users to the facility operator's main utility line; and (2) are within a public right-of-way or utility easement and the boundary of the excavation area. The service lateral facility operator may comply with the requirement to designate service laterals through several methods, including placing marks indicating the presence of underground facilities, arranging to meet excavators at worksites to provide available information, or by providing copies of the best reasonably available records. A facility operator's good faith attempt to comply constitutes full compliance, and no person may be found liable for damages or injuries resulting from such compliance, apart from liability for arranging for repairs or relocation of underground facilities.

If the underground facility involves service laterals conveying only water, a facility operator is not required to designate the presence these service laterals if their presence can be determined from other visible water facilities, such as water meters, water valve covers, and junction boxes in or adjacent to the boundary of an excavation area.

Responsibility to Maintain Markings by Excavator. Once marked by a facility operator, an excavator is responsible for maintaining the accuracy of the facility operator's markings of underground facilities for the lesser of: (1) 45 calendar days from the date that the excavator provided notice to a one-number locator service; or (2) the duration of the project. An excavator that makes repeated requests for location of underground facilities due to its failure to maintain the accuracy of a facility operator's markings may be charged by the facility operator for services provided.

Exemptions from Standard One-number Locator Service Requirements. Under certain conditions, the following excavation activities are exempt from standard one-number locator service requirements:

- an emergency excavation;
- an excavation of less than 12 inches in depth on private noncommercial property;
- the tilling of soil for agricultural purposes less than 12 inches in depth within a utility easement, and 20 inches in depth outside of a utility easement;
- the replacement of an official traffic sign installed before January 1, 2013;
- road maintenance activities involving excavation less than six inches in depth below the original road grade and ditch maintenance activities involving excavation less than six inches in depth;
- the creation of bar holes less than 12 inches in depth, or of any depth during emergency leak investigations; or

- construction, operation, or maintenance activities by an irrigation district on rights-of-way, easements, or facilities owned by the Federal Bureau of Reclamation in federal reclamation projects.

If an excavator in the course of performing an exempted excavation contacts or damages an underground facility, the excavator must still notify the facility operator and a one-number locator service, and report the damage using the UTC's damage information reporting tool (DIRT).

Bar hole is defined as a hole made in the soil or pavement with a hand-operated bar for the specific purpose of testing the subsurface atmosphere with a combustible gas indicator.

Reporting of Damage to Underground Utilities. Facility operators and excavators who observe or cause damage to an underground facility must report the damage to the UTC within 45 days, or sooner if required by law, using the UTC's virtual private DIRT report form, or other similar form. The UTC must use reported data to evaluate the effectiveness of the Damage Prevention Program.

A non-pipeline facility operator conducting an excavation, or a subcontractor conducting an excavation on the facility operator's behalf, that strikes the facility operator's own underground facility is not required to report that damage to the UTC.

Construction or Excavation within 100 Feet of a Transmission Pipeline. When planning construction or excavation within 100 feet, or greater distance if required by local ordinance, of a right-of-way or utility easement containing a transmission pipeline, the state and any unit of local government must notify the pipeline company of the scheduled commencement of work.

Any unit of local government that issues permits under the State Building Code Act, when permitting construction or excavation within 100 feet, or greater distance if required by local ordinance, of a right-of-way or utility easement containing a transmission pipeline must: (1) notify the pipeline company of the permitted activity when it issues the permit; or (2) require the applicant consult with the pipeline company as a condition of issuing the permit. The UTC is directed to assist local governments in obtaining hazardous liquid and gas pipeline location information and maps.

Damage Prevention Account. The Damage Prevention Account (Account) is created in the custody of the State Treasurer. All receipts from moneys directed by law or the UTC must be deposited to the Account. Only the UTC or a designee of the UTC may authorize expenditures from the Account. Expenditures from the Account may be used only for educational programming designed to improve worker and public safety relating to excavation and underground facilities and for grants to persons who have developed educational programming for improving worker and public safety relating to excavation and underground facilities.

Safety Committee. The UTC is directed to contract with a statewide, nonprofit entity whose purpose is to reduce damages to underground and above ground facilities, promote safe excavation practices, and review complaints of alleged violations of the Damage Prevention Act. The purpose of the contract is to create a 13-member Safety Committee to: (1) advise the UTC and other state agencies, the Legislature, and local governments on best practices and training to prevent damage to underground utilities, and policies to enhance worker and public safety; and (2) review complaints alleging violations involving practices related to underground facilities. The Safety Committee must consist of members who represent a broad range of underground utility stakeholders.

In reviewing complaints of alleged violations, the Safety Committee must appoint at least three and not more than five members as a Review Committee. The Review Committee must include the same number of members representing excavators and facility operators and also include a member representing the insurance industry. One member representing facility operators must also be a representative of a pipeline company or a natural gas company.

Any person may bring a complaint to the Safety Committee regarding an alleged violation. Before reviewing a complaint alleging an underground utilities violation, the Review Committee must notify the person making the complaint and the alleged violator of its review and of the opportunity to participate in the review process.

The Safety Committee may provide written notification to the UTC, with supporting documentation, that a person has likely committed a violation of the Damage Prevention Act, and recommend remedial action that may include a penalty amount, training, or education. The contract must not obligate funding by the UTC for activities performed by the nonprofit entity or the Safety Committee. The UTC authorization to contract with a nonprofit entity expires December 31, 2020.

The UTC Enforcement of Safety Committee's Review of Violation. The UTC may enforce civil penalties when it receives written notification from the Safety Committee indicating that a violation of Damage Prevention Act has likely been committed by a person subject to regulation by the UTC, or involving the underground facilities of such a person.

If the UTC receives written notification from the Safety Committee that a violation has likely been committed by a person who is not subject to regulation by the UTC, and in which the underground facility involved is also not subject to regulation by the UTC, the UTC may refer the matter to the Attorney General for enforcement of a civil penalty. The UTC must provide funding for such enforcement. The court may award the state all costs of investigation and trial, including a reasonable attorneys' fee. Any costs and fees recovered by the Attorney General must be

deposited by the UTC in the fund that paid for such enforcement.

The UTC Enforcement of Pipeline Facilities. The UTC may investigate and enforce violations relating to pipeline facilities without initial referral to the Safety Committee. If the UTC's investigation relates to a Safety Committee's review of an alleged violation, the UTC may impose penalties and require training or education or a combination of training and education. The UTC must consider any recommendation by the Safety Committee regarding enforcement and remedial actions involving an alleged violation relating to pipeline facilities.

Civil Penalties. Any person who violates any provision of the Damage Prevention Act that does not involve a hazardous liquid or gas underground facility is subject to a civil penalty of not more than \$1,000 for an initial violation, and not more than \$5,000 for each subsequent violation within a three-year period.

Any person who willfully damages or removes a permanent marking used to identify an underground facility or pipeline, or a temporary marking prior to its intended use, is subject to a civil penalty of not more than \$1,000 for an initial violation, and not more than \$5,000 for each subsequent violation within a three-year period.

All penalties recovered in such actions must be deposited in the Account.

The UTC Reporting Requirements. By December 1, 2015, the UTC must report to the Legislature on the effectiveness of the Damage Prevention Program and include an analysis of damage data reported as required by the act.

Authority of the UTC over Consumer-owned Utilities. Nothing in this act may be construed to classify a consumer-owned utility to be under the authority of the UTC.

Votes on Final Passage:

House	93	4	
Senate	49	0	(Senate amended)
House	97	0	(House concurred)

Effective: January 1, 2013

Partial Veto Summary: The Governor vetoed the section specifying that nothing in this act may be construed to classify a consumer-owned utility to be under the authority of the UTC. The Governor's veto statement expressed concern that this section could be read to exempt consumer-owned utilities from enforcement under the act, and thereby prevent the UTC from taking enforcement action on underground utility damage caused by consumer- owner utilities.

VETO MESSAGE ON E2SHB 1634

May 5, 2011

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

Ladies and Gentlemen:

I am returning herewith, without my approval as to section 24, Engrossed Second Substitute House Bill 1634 entitled:

"AN ACT Relating to underground utilities."

This bill strengthens our law for preventing damages to

underground pipelines and other utilities during excavation. The bill provides the Utilities and Transportation Commission with the authority to take enforcement action for violations, to require reporting of damage to underground utilities, and to develop a stakeholder process to review violations and encourage better excavation practices. The bill provides a comprehensive damage prevention program for underground utilities.

Pursuant to the House floor colloquy on this bill, section 24 was intended to ensure that the bill would not result in regulation by the Utilities and Transportation Commission of consumer-owned utilities such as electric cooperatives, municipal utilities and public utility districts, except when such a utility damages an underground facility subject to this bill, in which case the Commission would have the authority to enforce the provisions of this act.

While the House floor colloquy clarifies legislative intent, the language in Section 24 could be read to exempt consumer-owned utilities from enforcement under the bill, and thereby prevent the Commission from taking enforcement action on underground utility damage caused by consumer-owner utilities. Since the language in this section does not change the statutory independence of consumer-owned utilities in setting their rates and determining their services, the section is not necessary.

For these reasons, I have vetoed section 24 of Engrossed Second Substitute House Bill 1634.

With the exception of section 24, Engrossed Second Substitute House Bill 1634 is approved.

Respectfully submitted,



Christine O. Gregoire
Governor

ESHB 1635

C 370 L 11

Concerning the administration of exams for and issuance and renewal of certain drivers' licenses and identicards.

By House Committee on Transportation (originally sponsored by Representatives Upthegrove, Clibborn, Eddy, Armstrong, Lias, Rivers, Angel, Van De Wege, Wilcox, Maxwell, Rolfes, Finn, Sullivan, Dammeier, Orwall, Warnick and Moscoso).

House Committee on Transportation
Senate Committee on Transportation

Background: An applicant for a new or renewed driver's license must successfully pass a driver licensing examination to qualify for a driver's license. The Department of Licensing (DOL) is required to give examinations at locations and times that are reasonably accessible. The driver's license examination includes a written examination that tests an applicant's knowledge of traffic laws and a driving examination that tests an applicant's ability to safely operate a motor vehicle. The DOL may waive parts of the examination under certain conditions; for example, the DOL may waive the examination for a person renewing a license unless the DOL determines the person is not qualified to hold a driver's license.

The DOL is responsible for overseeing the commercial driver training school program. Driver training schools, in addition to school districts, provide traffic

safety education courses, which must be completed by an individual under the age of 18 before he or she can receive a driver's license. Driver training schools are licensed by the DOL, and driver training schools must be annually approved by the DOL. The DOL sets standards and requirements for the driver training schools, including standards for curriculum and licensing driver training school instructors. The DOL has standards and processes in place to suspend, revoke, and deny licenses to driver training schools.

The Office of Superintendent of Public Instruction (OSPI) is responsible for overseeing traffic safety education courses provided by school districts.

A person must receive a motorcycle endorsement to operate a motorcycle on public highways. A person must pass both a knowledge test and a riding test to receive an endorsement. The DOL may waive the riding portion of the test for a person who completes a private motorcycle skills education course that has been approved by the DOL.

Summary: Driver training schools licensed by the DOL and school districts that offer a traffic safety education program under the supervision of the OSPI are authorized to administer driver licensing examinations. In addition, motorcycle training schools that are under contract with the DOL are authorized to administer the motorcycle endorsement examination.

The DOL is required to adopt rules to oversee the driver training schools' administration of the driver's license examination. Certain provisions are required to be included in the rules, such as oversight provisions. In addition, driver training schools are required to enter into a contract with the DOL before a school may administer the driver's license examination, and the contract must contain certain provisions.

The OSPI is required to work in consultation with the DOL to develop standards for the administration of the driver licensing examinations by school districts that are comparable to the standards required of driver training schools. In addition, school districts are required to enter into a contract with the DOL before a district may administer the exams, and the contract must contain certain provisions.

If the DOL does not offer driver licensing examinations as a routine part of its licensing services within a department region because adequate testing sites are offered by driver training schools or school districts, the DOL is required to administer driver licensing examinations by appointment to applicants 18 years of age and older in at least one licensing office within each region.

The DOL is required to include certain stakeholders in facilitating communication around the transition to driver training schools and school districts administering the driver licensing examination.

Liability for government entities, including school districts, and driver training schools is limited in connection with administering the driver licensing examination.

Votes on Final Passage:

House	97	1	
Senate	48	0	(Senate amended)
House	95	1	(House concurred)

Effective: July 22, 2011

ESHB 1636

C 264 L 11

Concerning services performed by amateur sports officials.

By House Committee on Labor & Workforce Development (originally sponsored by Representatives Upthegrove, Nealey, Ormsby, Green, Fitzgibbon, Liias, Orcutt, Maxwell, Sullivan, Pedersen, Anderson, Van De Wege, McCune, Orwall, Ross, Goodman, Sells, Bailey, Stanford, Pearson, Roberts, Kristiansen, Warnick, Cody, Moscoso and Billig).

House Committee on Labor & Workforce Development
Senate Committee on Labor, Commerce & Consumer Protection

Background: Unemployment benefits may be paid and unemployment contributions (taxes) may be owed depending on whether services are deemed to be employment covered by the Employment Security Act. If so, benefits and taxes also depend on whether an exception test for independent contractors or an exclusion for certain services or persons applies.

A "services referral agency" is a business that offers the services of an individual to perform specific tasks for a third party. Personal services performed for a third party pursuant to a contract with a services referral agency are deemed to be employment for the agency when the agency is responsible for the payment of wages for those services. The Washington Court of Appeals recently concluded that such services are not employment if: (1) the agency is responsible only for promptly forwarding fees to an individual once the agency receives fees from the third party; and (2) the individual is not otherwise entitled to payment.

Summary: For unemployment compensation purposes, services performed by certain amateur sports officials, on a contest-by-contest basis, for interscholastic and recreational sports contests are excluded from employment. This exclusion does not apply to services for a state or local governmental entity, an Indian tribe, or certain nonprofit organizations.

These services also are not considered employment for services referral agencies if an agency is not responsible for payment to an official unless and until the agency is paid or reimbursed by a third party.

"Amateur sports official" is defined as a person who serves as a neutral participant in a sports contest where the players are not compensated. Examples of such officials include umpires and referees.

Votes on Final Passage:

House	94	0
Senate	48	0

Effective: July 22, 2011

HB 1640

C 235 L 11

Concerning respiratory care practitioners.

By Representatives Green, Hinkle, Cody and Moeller.

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

Background: A respiratory care practitioner (RCP) works with patients who have deficiencies and abnormalities affecting the cardiopulmonary system and associated systems. A RCP must be licensed and registered in order to practice, unless exempted, and must be under the order and qualified medical direction of a physician.

The practice of respiratory care covers an array of procedures, including: (1) the administration of prescribed medical gases; (2) postural drainage, chest percussion, and vibration; and (3) the insertion of devices to draw, analyze, infuse, or monitor pressure in blood as prescribed by a physician or an advanced registered nurse practitioner (ARNP).

Summary: The types of practitioners under whose order and direction a RCP may practice are expanded to "health care practitioners" instead of "physicians." "Health care practitioner" is defined to include:

- physicians;
- osteopathic physicians and surgeons; and
- the following professions acting within the scope of their respective licenses: (1) podiatric physicians and surgeons; (2) ARNPs; (3) naturopaths; (4) physician assistants; and (5) osteopathic physician assistants.

Votes on Final Passage:

House	98	0
Senate	49	0

Effective: July 22, 2011

HB 1649

C 9 L 11

Concerning reciprocity and statutory construction with regard to domestic partnerships.

By Representatives Jinkins, Pedersen, Kenney, Pettigrew, Ladenburg, Lytton, Stanford, Billig, Ryu, Lias, Seaquist, Darneille, Dickerson, Dunshee, Fitzgibbon, Upthegrove, Reykdal, Finn, Moscoso, Takko, Rolfes, Clibborn, Jacks, Morris, Cody, Roberts, Orwall, Green, Van De Wege, Ormsby, Hudgins, Sells, Kelley, Blake, Appleton, Kagi, Santos, Hurst, Kirby, Eddy, Probst, Springer, Miloscia, Maxwell, Sullivan, Goodman, Frockt, Carlyle, Haigh, Moeller, Hunter, Tharinger, Hunt, McCoy and Hasegawa.

House Committee on Judiciary
Senate Committee on Government Operations, Tribal Relations & Elections

Background: To enter into a state-registered domestic partnership, the two persons involved must: (1) share a common residence; (2) be at least 18 years old; (3) not be married to someone other than the other person and not be in a state-registered domestic partnership with another person; (4) be capable of consenting to the domestic partnership; (5) not be nearer of kin to each other than second cousins or be related in other ways; and (6) either be of the same sex or, if of different sexes, have one of those persons be 62 years old or older.

A legal union of two persons of the same sex, except for a same-sex marriage, that is validly formed in another jurisdiction and that is substantially the same as a state-registered domestic partnership is recognized as a domestic partnership in this state.

In Washington law, a section addressing rules of construction provides that for the purposes of interpreting the code, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family must be interpreted as applying equally to domestic partnerships, to the extent the interpretation does not conflict with federal law.

Summary: A legal union of two persons, including a marriage, that was validly formed in another jurisdiction and that is substantially equivalent to a Washington state-registered domestic partnership must be recognized as a valid domestic partnership in this state.

The section regarding statutory interpretation is amended to explicitly state that it applies to any legislation hereafter enacted by the Legislature or by the people unless the legislation expressly states otherwise.

Votes on Final Passage:

House	58	39
Senate	28	19

Effective: July 22, 2011

SHB 1663
PARTIAL VETO
C 198 L 11

Removing the requirement that institutions of higher education purchase from correctional industries.

By House Committee on Higher Education (originally sponsored by Representatives Parker, Ormsby, Probst, Billig, Schmick, Fagan, Angel and Ahern).

House Committee on Higher Education
House Committee on Ways & Means
Senate Committee on Higher Education & Workforce Development

Background: As agencies of Washington, institutions of higher education are subject to various laws related to general administration that include purchasing of equipment. Higher education institutions are required to purchase material, supplies, services, and equipment from correctional industries (inmate work programs) at the Department of Corrections (DOC) unless an institution of higher education satisfactorily demonstrates to the Director of the Office of Financial Management (OFM) that the cost of compliance is greater than the value of benefits.

Legislation enacted in 2004 required the Council of Presidents and the State Board for Community and Technical Colleges (SBCTC) to: convene a correctional industries business development advisory committee and work collaboratively with correctional industries to reaffirm purchasing criteria, update the approved list of products that higher education institutions must purchase, and develop recommendations on ways to continue to build correctional industries' business with institutions of higher education; develop a plan to increase higher education institution purchases from the DOC to be submitted to the Legislature by January 30, 2005; and establish targets for purchases of 1 percent by May 30, 2006, and 2 percent by June 30, 2006.

In 2009 the OFM granted exemptions to all six public baccalaureate institutions and the SBCTC (on behalf of the community and technical colleges) from purchasing at least 2 percent of their products from correctional industries.

In 2010 an analysis conducted by the OFM found that on average, higher education institutions purchase about 9 percent of their products from correctional industries.

Summary: Public higher education institutions are no longer required to seek an exemption from the OFM with regards to purchasing from the DOC, and they must endeavor to assure the DOC has notifications of bid opportunities with the goal of meeting or exceeding the two percent purchasing target.

Votes on Final Passage:

House	95	0	
Senate	44	5	(Senate amended)
House	97	0	(House concurred)

Effective: July 22, 2011

Partial Veto Summary: The Governor vetoed the section of the act which eliminates the emergency clause.

VETO MESSAGE ON SHB 1663

April 29, 2011

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

Ladies and Gentlemen:

I am returning herewith, without my approval as to Section 2, Substitute House Bill 1663 entitled:

"AN ACT Relating to the purchasing authority of institutions of higher education."

This bill removes higher education institutions from the requirement to seek approval from the Office of Financial Management to be exempted from certain purchasing from the Department of Corrections. Section 2 of this bill is an emergency clause that is not necessary. Higher education institutions have been exceeding the minimum 2% purchase target from Correctional Industries, and there is no need for the bill to go into effect immediately.

For this reason, I have vetoed Section 2 of Substitute House Bill 1663.

With the exception of Section 2, Substitute House Bill 1663 is approved.

Respectfully submitted,

Christine O. Gregoire
Governor

SHB 1691

C 265 L 11

Concerning embalmers.

By House Committee on Business & Financial Services (originally sponsored by Representatives Kirby, Anderson, Springer, Eddy, Ryu, Morris and Stanford).

House Committee on Business & Financial Services
Senate Committee on Government Operations, Tribal Relations & Elections

Background: A person has the right to control the disposition of his or her own remains. This can be accomplished by executing a written document signed by the decedent in the presence of a witness that expresses the decedent's wishes regarding the place or method of disposition. In addition, a person may control the disposition of his or her remains by making a prearrangement with a licensed funeral establishment or cemetery authority.

Prearrangements that are prepaid or that are filed with a licensed funeral establishment or cemetery authority are not subject to cancellation or substantial revision by survivors.

If the decedent has not made a prearrangement or given directions for the disposition of his or her remains, then the right to control the disposition of the remains is given to the following people in the order named:

- the surviving spouse or state registered domestic partner;
- the surviving adult children;
- the surviving parents;
- the surviving siblings; and
- a person acting as a representative of the decedent under the signed authorization of the decedent.

The responsibility for the reasonable costs of the preparation, care, and disposition of remains devolves jointly and severally upon all kin of the same degree of kindred in the order listed, and on the decedent's estate. If a funeral establishment or cemetery authority is unable to locate the next of kin or the legal representative of the decedent's estate after a good faith effort then the most responsible person available may authorize the disposition of the decedent's remains, and the cemetery authority or funeral establishment may not be held criminally or civilly liable for burying or cremating the remains. If or when a government agency provides funds for the disposition of human remains and elects to provide funds for cremation only, the cemetery authority or funeral establishment may not be held civilly or criminally liable for cremating the remains.

Counties are responsible for providing for the disposition of the remains of any indigent person whose body is unclaimed by relatives or a church organization. Remains of persons that will be buried at the public expense are required to be surrendered to a physician or surgeon. These bodies must be used for the advancement of anatomical science. Preference is given to medical schools in this state for their use in the instruction of medical students.

Embalmers are regulated by the Department of Licensing. In order to be licensed, an applicant must complete the required education in mortuary science, complete an embalmer internship, and successfully pass an examination.

Summary: The list of persons who have the right to control the disposition of remains if or when the decedent has not provided directions is revised as follows:

- The designated agent of the decedent is listed as the person with the first right to control the disposition. The designated agent must be indicated in a written document signed and dated by the decedent in the presence of a witness. The direction of the designated agent is sufficient to direct the type, place, and method of disposition.
- The categories for surviving adult children and surviving siblings are changed to give the right to the majority of the children or siblings, rather than all children or siblings.

- The decedent's court-appointed guardian is added as the last in the list of persons who have the right to control the disposition.

A cemetery authority or funeral establishment is not liable for cremating any human remains if or when the funds for the disposition of the human remains are provided by a charitable organization or government agency (regardless of whether funds are provided for cremation only).

A public agency required to provide for the disposition of human remains at public expense may surrender the remains to an accredited educational institution offering funeral services and embalming programs. The bodies must be used in training embalming students under the supervision of a licensed embalmer.

Votes on Final Passage:

House	97	0	
Senate	47	0	(Senate amended)
House	96	0	(House concurred)

Effective: July 22, 2011

HB 1694

C 31 L 11

Regulating unauthorized insurance.

By Representatives Stanford and Kirby; by request of Insurance Commissioner.

House Committee on Business & Financial Services
 House Committee on Ways & Means
 Senate Committee on Financial Institutions, Housing & Insurance

Background: Surplus Lines Insurance. Generally, an insurance company may not engage in the business of insurance in the state unless the insurance company is authorized to do so by the Office of the Insurance Commissioner (OIC). "Surplus lines" insurance coverage is an exception. Surplus lines insurance is coverage that cannot be procured from authorized insurance companies. Often, surplus lines policies cover risks that do not fit normal underwriting patterns or fit standard insurance policies. Unlike insurance offered by an authorized insurer, surplus lines insurance is not subject to rate and policy form oversight. If coverage cannot be purchased from an authorized insurer, the coverage may be purchased from an unauthorized insurer through a licensed surplus lines broker if:

- a diligent effort is made to find the coverage from authorized insurers; and
- the purpose for using an unauthorized insurer is something other than securing a lower premium rate than would be accepted by any authorized insurer.

The surplus lines broker must execute an affidavit setting forth the facts regarding the diligent effort and the

purpose for using an unauthorized insurer when insurance is purchased from an unauthorized insurer. The affidavit must be filed with the OIC within 30 days after the purchase of the insurance.

Licensing requirements regarding surplus lines brokers include:

- background checks, including fingerprints;
- minimum bonding amounts;
- record-keeping; and
- reporting.

Capital Requirements for Unauthorized Insurers. A surplus lines broker must not knowingly place surplus lines insurance with an insurer that is not financially sound. The surplus lines broker must determine and document the financial condition of the unauthorized insurer before placing insurance with the insurer. The surplus lines broker may not place insurance with:

- any foreign insurer unless the insurer has at least \$1.5 million in capital and \$6 million of capital and surplus;
- any alien insurer unless the insurer has \$15 million of capital and surplus and meets specific requirements regarding the manner in which alien insurers must hold funds;
- any group including incorporated and individual insurers unless the group maintains a trust fund of \$50 million as security and meets specific requirements regarding the manner in which the group must hold funds; or
- any insurance exchange created by the laws of a state unless the exchange maintains capital and surplus of \$50 million in the aggregate and meets other specific requirements for exchanges.

Surplus Lines Premium Tax. A surplus lines broker must pay a premium tax of 2 percent on surplus lines insurance transacted by the broker. The tax is credited to the State General Fund. If a surplus lines policy covers risks or exposures that are only partially located in this state, the tax is computed upon the proportion of the risks or exposures located in this state.

In 2010 the federal Dodd-Frank Wall Street Reform and Consumer Protection Act (House Resolution 4173) included provisions that addressed surplus lines regulation. The federal law:

- provides definitions;
- precludes any state other than the home state of an insured from taxing premiums on surplus lines insurance.
- allows states to enter into a compact to allocate taxes on risks that involve more than one state;
- limits the regulation of the placement of surplus lines insurance to the requirements of the insured's home state, including the licensure of surplus lines brokers;

- prohibits a state from imposing a due diligence search on a surplus lines broker when the broker is seeking to procure insurance for an exempt commercial purchaser and certain criteria are met;
- prohibits states from collecting any fees relating to licensing of a surplus lines broker unless the state has laws or regulations that provide for participation by the state in a national uniform national database for the licensure of surplus lines brokers;
- prohibits a state from imposing eligibility requirements on surplus lines insurers domiciled in the United States unless the state has adopted nationwide uniform requirements, forms, and procedures, including alternative nationwide uniform eligibility requirements; and
- prohibits states from preventing a surplus lines broker from placing surplus lines insurance with certain surplus lines insurers.

Summary: Insured's Home State. "Insured's home state" is defined:

- for a business, as the state where an insured maintains its headquarters and where the insured's high-level officers direct, control, and coordinate the business activities of the insured;
- for an individual, as the individual's principal residence; or
- as the state to which the greatest percentage of the insured's taxable premium for that insurance contract is allocated if the entire insured risk is located out of this state.

If more than one insured from an affiliated group are named insureds on a single insurance contract issued by an unauthorized insurer, the insured's home state is the home state of the member of the affiliated group that pays the largest percentage of premium.

Surplus Lines Premium Tax. For property and casualty insurance, if this state is the insured's home state, the tax is computed upon the entire premium without regard to whether the policy covers risks or exposures that are located in this state. For all other lines of insurance, the tax is computed upon the proportion of the premium that is properly allocable to the risks or exposures located in this state.

Exemption for Certain Commercial Purchasers. A person is an "exempt commercial purchaser" if the person:

- employs or retains a qualified risk manager to negotiate insurance coverage;
- has paid aggregate commercial property and casualty insurance premiums exceeding \$100,000 in the previous year; and
- meets additional financial criteria.

A surplus lines broker seeking to procure from or place insurance with an unauthorized insurer for an

exempt commercial purchaser is not required to satisfy the diligent effort requirement if the:

- surplus lines broker or referring insurance producer placing the surplus lines insurance discloses that the insurance may or may not be available from the admitted market and that insurance may provide greater protection with more regulatory oversight; and
- exempt commercial purchaser subsequently requests the surplus lines broker or referring insurance producer in writing to procure or place such insurance from an unauthorized insurer.

Affidavits. The "affidavit" is replaced by a "certification." The certification may be in electronic, digital, or other format or form as designated by the OIC. There is specific language requiring the surplus lines broker to certify that the information is true and correct under the penalty of license suspension or revocation. The filing period is extended from 30 days to 60 days.

Capital Requirements for Unauthorized Insurers. A surplus lines broker may only place insurance with:

- a foreign insurer authorized to write the same type of insurance in its domiciliary jurisdiction that has capital and surplus equal to the greater of the minimum capital and surplus requirements of this state or \$15 million. The OIC may waive the financial requirements if the foreign insurer's capital and surplus is at least \$4.5 million and the OIC finds the insurer is acceptable; or
- an alien insurer that is on the quarterly listing of alien insurers maintained by the National Association of Insurance Commissioners.

Specific requirements regarding groups and exchanges are struck.

Other. The OIC is authorized to participate in a uniform national database for the licensure of surplus lines brokers if such a database is created.

Votes on Final Passage:

House	98	0
Senate	48	0

Effective: July 21, 2011
December 31, 2016 (Section 3)

SHB 1697

C 160 L 11

Providing for unannounced visits to homes with dependent children.

By House Committee on Early Learning & Human Services (originally sponsored by Representatives Roberts, Seaquist, Goodman, Orwall, Dickerson and Kenney).

House Committee on Early Learning & Human Services
Senate Committee on Human Services & Corrections

Background: The Department of Social and Health Services, Children's Administration (CA) is required to monitor children who are placed in out-of-home care or who reside with their parents on in-home dependencies. Case workers conduct visits with children to ensure they are safe and receive quality care. Case workers are required to conduct private, face-to-face visits with children on a monthly basis and are authorized to conduct unannounced visits.

Legislation enacted in 2009 established supervising agencies as part of a two-phase process to reform child welfare services. A supervising agency is defined as an agency licensed by the state or a federally recognized Indian tribe that has entered into a performance-based contract with the CA to provide case management for the delivery of child welfare services. During phase one of the process, the CA is required to consolidate and convert contracts to performance-based contracts. In phase two, supervising agencies will perform case management in selected demonstration sites.

Summary: The CA and supervising agencies must randomly select no less than 10 percent of the caregivers currently providing care (both out-of-home placements and in-home dependencies) to receive one unannounced face-to-face visit in the caregiver's home per year. No caregiver will receive an unannounced visit for two consecutive years. If the caseworker makes a good faith effort to conduct the randomly selected unannounced visit and is unable to do so, that month's visit to the caregiver need not be unannounced. The CA and the supervising agencies are encouraged to group visits to caregivers by geographic area so that in the event an unannounced visit cannot be completed, the caseworker may complete other required monthly visits located in that vicinity.

Votes on Final Passage:

House	82	15
Senate	49	0 (Senate amended)
House	77	19 (House concurred)

Effective: July 22, 2011

HB 1698

C 266 L 11

Improving recreational fishing opportunities in Puget Sound and Lake Washington.

By Representatives Lytton, Morris, Van De Wege, Blake and Liias; by request of Department of Fish and Wildlife.

House Committee on Agriculture & Natural Resources
Senate Committee on Natural Resources & Marine Waters

Background: Citing dwindling recreational fishing opportunities for salmon and marine bottomfish in the Puget Sound, Washington created the Puget Sound Recreational Salmon and Marine Fish Enhancement Program (Program) in 1993 to improve recreational fishing through various means.

Washington Department of Fish and Wildlife Responsibilities. The Program requires the Washington Department of Fish and Wildlife (WDFW) to develop a short-term program of hatchery-based salmon enhancement using freshwater pond sites for the final rearing phase and to solicit support from cooperative projects, regional enhancement groups, and other organizations. The WDFW is required to conduct comprehensive research on resident and migratory salmon production opportunities, marine bottomfish production limitations, and methods for artificial propagation of marine bottomfish.

The WDFW's long-term responsibilities include fully implementing enhancement efforts for Puget Sound and Hood Canal resident salmon and marine bottomfish, identifying opportunities to reestablish salmon runs into areas where they no longer exist, and encouraging naturally spawning salmon populations to develop to their fullest extent. The WDFW also must fully use hatchery programs to improve recreational fishing.

Improving Fishing. The Program requires the WDFW to develop new locations for freshwater rearing of delayed-release Chinook salmon, with a goal to increase production and planting of delayed-release salmon to 3 million fish per year by 2000. In addition, the WDFW must:

- coordinate with the Department of Ecology and local governments to streamline the siting process for new enhancement projects;
- develop a public-awareness program emphasizing economic benefits of the Program;
- increase efforts to document the effects of predators on fish resources and explore opportunities to convince the federal government to amend federal law to allow for balanced management of predators, including predatory birds;
- invite Indian tribal fishing interests and non-Indian commercial fishing groups to help develop plans for selective fisheries targeting hatchery-produced fish and minimizing catch of naturally spawned fish;

- initiate talks on the feasibility of altering rearing programs at hatcheries run by the WDFW to achieve higher survival and greater production of Chinook and Coho salmon;
- coordinate the sport fishing program with the wild stock initiative to ensure the programs are compatible;
- develop plans for increased recreational access to salmon and marine fish resources, including proposals for new boat launching ramps and pier fishing access; and
- contract with private consultants, aquatic farms, or construction firms to achieve the highest benefit-to-cost ratio for recreational fishing projects.

Marine Bottomfish Programs. The WDFW is required to research, develop methods, and implement programs for the artificial rearing and release of marine bottomfish species, with primary emphasis on lingcod, halibut, rockfish, and Pacific cod. The WDFW also must do research to evaluate improved enhancement techniques, hooking mortality rates, methods of mass marking, improvement of catch models, and sources of marine bottomfish mortality as applied to real-world recreational fishing needs.

Assistance from Nondepartmental Sources. The WDFW must seek recommendations from people who are experts on planning and operation of programs for enhancement of recreational fisheries and fully use the expertise of the University of Washington College of Fisheries (now known as the School of Aquatic and Fishery Sciences) and the Washington Sea Grant to develop research and enhancement programs.

Oversight Committee. The Program is overseen by a seven-member oversight committee (Committee) consisting of members representing sport fishing organizations and is administered by a coordinator (Coordinator).

Account. A portion of each saltwater and combination fishing license fee is deposited into the Recreational Fisheries Enhancement Account for use on Program projects.

Audit. The State Auditor's Office released an audit in 2010 of the WDFW's delayed-release Chinook salmon program, concluding that the WDFW has not met the statutory goal to release 3 million delayed-release Chinook annually because of factors including limited hatchery capacity, water quality problems, and discontinuation of saltwater net pens.

Summary: Washington Department of Fish and Wildlife Responsibilities. The WDFW and the Committee must adaptively manage the Program to maximize benefits to the Puget Sound recreational fishery, consistent with available revenue, Fish and Wildlife Commission (Commission) policies, tribal co-manager agreements, and limitations of the Endangered Species Act. The WDFW's responsibilities are changed, and they include: using a

program of hatchery-based salmon enhancement and soliciting support from cooperative projects, regional enhancement groups, and others to improve fishing; conducting comprehensive research on salmon and marine bottomfish production limitations and methods for artificially propagating depleted marine bottomfish; and facilitating continued fishing opportunity improvement as measured by angler trips expended.

The Coordinator must assist the Committee in developing recommendations for goals and objectives to assess the effectiveness of the Program. The Director of the WDFW (Director) and the Committee must work together to approve goals and objectives, report to the Commission on goals, reach consensus regarding Program activities and expenditures, and make a joint report to the Legislature.

Improving Fishing. The WDFW must use artificial rearing of salmon to improve fishing. It must seek to develop and implement methods to increase recreational angling opportunities, by means such as:

- using artificial salmon rearing techniques;
- optimally using hatchery salmon through expanded recreational mark-selective fisheries;
- utilizing recreational salmon and marine fish enhancement program funds for catch monitoring;
- considering new catch-and-release recreational fisheries using gear and methods known to minimize hooking mortality; and
- providing public information about angling opportunities and fishing methods.

Marine Bottomfish Programs. The WDFW may research and implement programs for artificial rearing and release of bottomfish species. A primary emphasis must be on marine bottomfish species of importance in the recreational fishery. The WDFW may use artificial habitats to restore and mitigate degraded rockfish habitats and enhance recreational opportunities.

Assistance from Nondepartmental Sources. The WDFW may seek recommendations from outside sources, such as the University of Washington.

Provisions Repealed. Provisions are repealed relating to: (1) freshwater rearing of delayed-release Chinook salmon; (2) additional research by the WDFW into information that can be applied to real-world recreational fishing needs; (3) siting processes for enhancement projects; (4) public awareness of the Program; (5) management of predators; (6) participation by fishing interests in plans that target hatchery-produced fish; (7) coordination of sport fishing programs with wild stock initiatives; (8) increased recreational access to salmon and marine fish resources; and (9) contracting with private entities to reduce costs of recreational fishing projects.

Votes on Final Passage:

House	88	9
Senate	46	0

Effective: July 22, 2011

EHB 1703

C 140 L 11

Addressing fiscal notes for legislation that uniquely affects school districts.

By Representatives Dammeier, Haigh, Anderson, Probst, Parker, Alexander, Zeiger and Smith.

House Committee on Education Appropriations & Oversight

Senate Committee on Ways & Means

Background: Fiscal Notes. A fiscal note is an estimate of the fiscal impact of proposed legislation. Fiscal notes are prepared by the executive branch for use during the legislative process. For legislation that has a fiscal impact on state agencies, fiscal notes are prepared under a process coordinated by the Office of Financial Management (OFM). Pursuant to instructions issued by the OFM, affected agencies estimate the bill's impacts on state revenues and expenditures and work with the OFM to produce the fiscal note. For legislation that affects counties, cities, and other units of local government, the Department of Commerce produces local government fiscal notes, which are also subject to coordination by the OFM.

School Districts. Washington has 295 school districts, each governed by a locally elected school board. School districts deliver the state's K-12 educational program under the supervision of the Office of the Superintendent of Public Instruction (OSPI). In addition to providing educational services, school districts are municipal corporations subject to many of the various laws that apply to local governments generally.

Summary: When it is practicable to do so within available resources, the OSPI must prepare school district fiscal notes for proposed legislation that uniquely affects school districts. Where practicable, the school district fiscal note must show the fiscal impact of the proposed legislation on each school district. Where it is not practicable to show the impact on each school district, the school district fiscal note must show the fiscal impact of the legislation on a range of representative school districts. The school district fiscal note must set forth any assumptions used in selecting the representative districts and in the fiscal note generally.

Votes on Final Passage:

House	97	0
Senate	47	1

Effective: July 22, 2011

HB 1709

C 81 L 11

Making certain lines of group disability insurance more available.

By Representatives Kirby and Bailey.

House Committee on Business & Financial Services
Senate Committee on Financial Institutions, Housing & Insurance

Background: The Office of the Insurance Commissioner (OIC) regulates insurance transactions in Washington. This includes group disability insurance policies that are issued or delivered in Washington. The OIC ensures that the rates and forms comply with the requirement of the Insurance Code. There are certain standard provisions for group disability policies.

Under state law, a group disability policy may only insure members of specified types of groups and the dependents of the members. The group is the policyholder and is required to pay the premiums on the policies. An insured person may be able to contribute funds to the premiums. A person must be a member to be insured under the group policy. These groups are:

- employee groups;
- credit union groups;
- debtor groups;
- associations which have: (1) been in active existence for at least one year; (2) a constitution and bylaws; and (3) been organized and maintained in good faith for purposes other than that of obtaining insurance;
- labor union groups;
- public employee associations;
- trustee groups;
- insurance producer groups;
- the Washington State Patrol;
- financial institutions; and
- corporations with at least 500 subscribers that exist for the primary purpose of assisting subscribers in securing medical, hospital, dental, and other health care services.

While used in the Insurance Code, "disability income insurance," "accident-only coverage," "dental-only coverage," and "vision-only coverage" are not defined phrases. Disability income insurance is generally considered to be insurance that provides payment when the insured is unable to work due to illness or injury. Benefits are usually provided on a monthly basis so that individuals can maintain their standard of living and continue to pay their regular expenses. Accident-only insurance is generally considered to be insurance that pays the insured a stated benefit in the event of injury or death due to accidental means. It does not provide benefits related to sickness or natural causes. Dental-only coverage and

vision-only coverage solely provide benefits related to dental and vision conditions, respectively.

Summary: Disability income insurance, accident-only coverage, dental-only coverage, and vision-only coverage may be offered under a group policy to a group other than a group listed in statute if the Insurance Commissioner (Commissioner) finds that:

- the issuance of the group policy is not contrary to the best interest of the public;
- the issuance of the group policy would result in economies of acquisition or administration; and
- the benefits are reasonable in relation to the premiums charged.

Group coverage for disability income insurance, accident-only coverage, dental-only coverage, and vision-only coverage under a policy issued in another state may not be offered by this type of group in this state unless:

- the other state has requirements substantially similar to those in the act; and
- the Commissioner or the insurance commissioner of the other state has determined that those requirements have been met.

Votes on Final Passage:

House	97	0
Senate	47	0

Effective: July 22, 2011

SHB 1710

C 267 L 11

Creating a strategic plan for career and technical education.

By House Committee on Education (originally sponsored by Representatives Moscoso, Lias, Probst, Ladenburg, Hasegawa, McCoy, Haler, Dahlquist, Green, Wilcox, McCune, Zeiger, Roberts, Stanford, Billig, Maxwell, Hunt and Kenney).

House Committee on Education
Senate Committee on Higher Education & Workforce Development

Senate Committee on Early Learning & K-12 Education

Background: In 2008 a comprehensive set of initiatives was enacted in legislation, designed to enhance the rigor and relevance of secondary career and technical education (CTE) programs and to align and integrate CTE instruction more closely with academic subjects, high demand fields, industry certification, and postsecondary education.

The Legislature initially provided \$2.75 million per year to support such activities as:

- requiring all preparatory CTE programs to lead to industry certification or offer dual high school and college credit;

- expanding state support for middle school CTE programs, especially in science, technology, and engineering;
- providing support for schools to develop or upgrade programs in high demand fields and offer pre-apprenticeships;
- developing model CTE programs of study leading to industry credentials or degrees;
- assisting school districts with identifying academic and CTE course equivalencies;
- pilot-testing programs to integrate academic, career and technical, basic skills, and English as a second language instruction; and
- developing performance measures and targets for accountability.

Summary: Within existing resources, the Office of the Superintendent of Public Instruction must convene a working group to develop a statewide strategic plan for secondary CTE.

The plan must include a vision statement, goals, and measurable annual objectives for continuous improvement that are consistent with those required under the federal Carl Perkins Act for secondary CTE programs. The plan must also recommend activities that:

- can be accomplished within current resources;
- should receive top priority for additional investment; and
- could be phased-in over the next 10 years.

The working group must examine at least the following issues:

- proposed changes to high school graduation requirements and ways to assure that students continue to have opportunities to pursue CTE pathways;
- the relationship between CTE courses and the Common Core Standards;
- ways to improve access to high quality CTE in a variety of school settings;
- ways to improve the transition from K-12 to college;
- methods for replicating innovative middle and high schools; and
- a framework for transferrable and articulated certifications between secondary and postsecondary CTE so that students receive credit for knowledge and skills already mastered.

Membership of the working group is specified.

A progress report is due to the Education Committees and the Quality Education Council by December 1, 2011, with a final strategic plan due December 1, 2012.

Votes on Final Passage:

House	80	17	
Senate	46	3	(Senate amended)
House	81	15	(House concurred)

Effective: July 22, 2011

ESHB 1716

C 289 L 11

Regulating secondhand dealers who deal with precious metal property.

By House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Asay, Hurst, Klippert, Pearson and Miloscia).

House Committee on Business & Financial Services
House Committee on Public Safety & Emergency Preparedness
Senate Committee on Labor, Commerce & Consumer Protection

Background: "Secondhand dealer" is defined as any person engaged, in whole or in part, in the business of purchasing, selling, trading, consignment selling, or otherwise transferring for value, secondhand property.

Record Keeping. Generally, a secondhand dealer must maintain records for each transaction for three years after the date of the transaction. The records of each transaction must include the following information:

- date of the transaction;
- signature of the person with whom the transaction is made;
- the name, date of birth, height, weight, race, address, and telephone number of the person with whom the transaction is made;
- a complete description of the property including brand name, serial number, or model name;
- type and identifying number of identification used by the person with whom the transaction is made;
- the nature of the transaction and number identifying the transaction;
- the name or identification number of the employee conducting the transaction;
- the price paid or amount loaned; and
- the store identification number or name and the address of the store.

Transcripts of the previous day's business, when requested by the police within the time-period required by the police, may be transmitted by facsimile, electronically, or by delivery of a computer disk.

Restrictions on Transfer of Property. Property bought or received in pledge or by consignment by a secondhand dealer may not be removed from the place of business within 30 days after the receipt of that property, except when redeemed by or returned to the owner. The property

must be available for inspection by the police. Following notification from the police that an item of property has been reported as stolen, a secondhand dealer must place an identifying tag on the property and keep it safe. A secondhand dealer may not release that item for 120 days without the consent of the police or an order of the court. If the police place a verbal hold on an item that has been reported as stolen, the police must give written notice confirming the hold to the secondhand dealer holding the property within 10 business days. If the police do not give written notice, the hold order will cease. The secondhand dealer must give the police written notice 20 days before the expiration of the 120-day period or the hold on the property will continue for an additional 120 days. The police may renew a hold for an additional 120-day period by giving written notice of an additional hold.

Prohibited Acts. It is a gross misdemeanor offense:

- to alter a serial number or identifying mark on a piece of personal property that has been pledged;
- to accept for pledge or secondhand purchase personal property on which the manufacturer's serial number or identifying mark has been altered;
- to make or allow a false entry or misstatement of any material matter in records required to be maintained under pawnbroker and secondhand dealer laws;
- for a secondhand dealer to accept property from anyone under 18 years of age, anyone who is under the influence of drugs or alcohol, or anyone known by the secondhand dealer to be convicted of burglary, robbery, theft, or possession of receiving stolen goods; or
- for a secondhand dealer to engage in check cashing or selling without complying with the check casher and seller laws.

Summary: A "secondhand precious metal dealer" is any person or entity engaged in whole or in part in the commercial activity or business of purchasing, selling, trading, consignment selling, or otherwise transferring for value, more than three times per year, secondhand property that is a precious metal, whether or not the person or entity maintains a permanent or fixed place of business within the state, or engages in the business at flea markets or swap meets. The terms "precious metal" and "secondhand property," for purposes of transactions by a secondhand precious metal dealer, do not include: (1) gold, silver, and platinum coins or other precious metal coins that are legal tender or precious metal coins that have numismatic or precious metal value; (2) gold, silver, platinum, or other precious metal bullions; or (3) gold, silver, platinum, or other precious metal dust, flakes, or nuggets.

Record Keeping for Receipt of Precious Metals.

Secondhand precious metal dealers must maintain records for three years after the date of each transaction involving precious metals. Such records must be maintained

wherever that business is conducted and must include the following information:

- the signature of the person with whom the transaction is made;
- the time and date of the transaction;
- the name of the person or employee or the identification number of the person conducting the transaction;
- the name, date of birth, sex, height, weight, race, residential address, and telephone number of the person with whom the transaction is made;
- a complete description of the precious metal property pledged, bought, or consigned, including the brand name, serial number, model number or name, any initials or engraving, size, pattern, and color of stone or stones;
- the price paid;
- the type and identifying number of identification used by the person with whom the transaction was made. The identification must consist of a valid driver's license or identification card issued by any state or two pieces of identification issued by a governmental agency. A full copy of both sides of each piece of identification used by the person with whom the transaction was made must be maintained as part of the record; and
- the nature of the transaction.

Restrictions on Transfer of Property. Property consisting of a precious metal bought or received in pledge or by consignment by a secondhand precious metal dealer, with a permanent place of business in Washington, may not be removed from the place of business for 30 days after the receipt of that property, except when redeemed by or returned to the owner. If the secondhand precious metal dealer does not have a permanent place of business in the state, the precious metal property must be stored and held within the city or county in which the property was received for a total of 30 days after the receipt of the property, except consigned property returned to the owner. All precious metal property received by a secondhand precious metal dealer must be available for inspection by the police.

Secondhand precious metal dealers do not have to comply with the storage and holding requirement if the precious metal was bought or received from a pawn shop, jeweler, secondhand dealer or secondhand precious metal dealer, who has provided a signed declaration showing the property is not stolen.

Licensed scrap processors are exempt from the provisions of the Business Regulation statute referencing pawnbrokers and secondhand dealers.

License Requirement. All secondhand precious metal dealers doing business in Washington must obtain a business license from the local government in which the business is situated prior to operating a business.

Prohibited Acts. A secondhand precious metal dealer is guilty of a gross misdemeanor offense when he or she:

- knowingly makes, causes, or allows to be made any false entry or misstatement of any material matter in any book, writing, or record required to be maintained by a secondhand precious metal dealer relating to transactions involving secondhand precious metals;
- receives any precious metal property from any person known to the secondhand precious metal dealer as having been convicted of burglary, robbery, theft, or possession of or receiving stolen property within the past 10 years whether the person is acting in his or her own behalf or as the agent of another; or
- fails to maintain specific detailed records for transactions involving precious metals or fails to abide by the restrictions and holding requirements for secondhand precious metal property that has been bought or received by the secondhand precious metal dealer.

It is an unranked class C felony offense if a secondhand precious metal dealer is found guilty of committing a second or subsequent gross misdemeanor offense relating to secondhand precious metal transactions.

If a law enforcement agency has compiled and published a list of persons who have been convicted of a theft offense, then secondhand precious metal dealers must use the list for any transactions involving property. If the property involved is a precious metal then the secondhand precious metal dealer may not engage or continue with the transaction with the (theft) offender on the list.

Hosted Home Parties. A "hosted home party" means a gathering of persons at a private residence where a host or hostess has invited friends or other guests into his or her residence where individual person-to-person sales of precious metals occur. A host or hostess must be the owner, renter, or lessee of the private residence where the hosted home party takes place.

A secondhand precious metal dealer who attends a hosted home party and purchases or sells precious metals from the invited guests must issue a receipt for each item sold or purchased at the hosted home party. Every receipt must include the following: (1) the name, residential address, telephone number, and driver's license number of the person hosting the home party; (2) the name, residential address, phone number, and driver's license number of the person selling the item; (3) the name, residential address, phone number, and driver's license number of the person purchasing the item; (4) a complete description of the item being sold, including the brand name, serial number, model number or name, any initials or engraving, size, pattern, and color of stone or stones; (5) the time and date of the transaction; and (6) the amount and form of any consideration paid for the item.

The secondhand precious metal dealer must make four copies of each transaction receipt: one for the seller, one for the host or hostess, one for the purchaser, and one for local authorities, if they should ask. The secondhand precious metal dealer and the host must maintain copies of all transaction receipts and records for three years following the date of the precious metal transaction.

A secondhand precious metal dealer participating in a hosted home party who purchases precious metals at a hosted home party and complies with state law relating to precious metal transactions and record retention is exempt from: (1) the record requirements mandated for all other secondhand precious metal dealers; (2) the holding requirements (before reselling) for purchases of precious metals; and (3) the requirement that mandates secondhand precious metal dealers to reference any list that has been compiled by law enforcement consisting of a list of persons who have been convicted of a theft offense.

Votes on Final Passage:

House	85	12	
Senate	45	2	(Senate amended)
House	86	10	(House concurred)

Effective: July 22, 2011

SHB 1718

C 236 L 11

Concerning offenders with developmental disabilities or traumatic brain injuries.

By House Committee on Ways & Means (originally sponsored by Representatives Roberts, Moeller, Dammeier and Green).

House Committee on Public Safety & Emergency Preparedness

House Committee on Ways & Means

Senate Committee on Human Services & Corrections

Background: Mental Health Courts. Counties may operate mental health courts, which have a special docket designed to reduce recidivism and symptoms of mental illness for nonviolent, mentally ill offenders. Mental health courts aim to increase the likelihood of a mentally ill offender's successful rehabilitation through treatment, periodic reviews, and other rehabilitation services. Minimum requirements for participation in mental health court are that the offender: (1) would benefit from psychiatric treatment; (2) does not have a prior conviction for a serious violent or sex offense; and (3) is not currently charged with a sex offense, a serious violent offense, an offense during which the offender used a firearm, or an offense during which the offender caused substantial or great bodily harm or death to another.

House Bill 2078 Work Group. During the 2009 interim, a work group made up of representatives from the Department of Corrections (DOC), jails, advocates for

persons with intellectual and developmental disabilities and traumatic brain injuries (TBI), and others met to address the special needs of persons with intellectual and developmental disabilities and TBI when they come into contact with local and state correctional facilities. The work group published a report in August 2010 that provided a sample screening tool, a model policy, and training materials.

Developmental Disabilities. Developmental disability (DD) is defined by statute to mean a disability attributable to intellectual disability, cerebral palsy, epilepsy, autism, or another condition that requires similar treatment, that began before the person turned age 18, that will continue indefinitely, and that constitutes a substantial limitation.

Summary: Mental Health Courts. Counties may establish and operate mental health courts to reduce recidivism and symptoms of mental illness for nonviolent offenders with DD or TBI. Among the requirements for participation is that the offender would benefit from psychiatric treatment or treatment related to his or her DD or TBI.

Transfer to a Correctional Facility. When a jail determines that a person in custody may have a DD or TBI and the person is transferred to a DOC facility or another jail, jail staff must make every reasonable effort to communicate the nature of the disability and any necessary accommodations to the receiving facility's staff.

Votes on Final Passage:

House	97	0	
Senate	45	0	(Senate amended)
House	97	0	(House concurred)

Effective: July 22, 2011

SHB 1719
C 82 L 11

Limiting liability for unauthorized passengers in a vehicle.

By House Committee on Judiciary (originally sponsored by Representatives Rodne, Schmick, Haler, Smith, Wilcox, Johnson, Klippert, Kristiansen, McCune, Short, Ross and Warnick).

House Committee on Judiciary
Senate Committee on Judiciary

Background: The common-law theory of "respondeat superior" allows an employer, including state and local governments in Washington, to be held vicariously liable for an employee's tortious act under certain circumstances. Generally, the employee must commit tortious conduct in the scope of his or her employment, although Washington courts have held that an employer may be held liable for conduct that occurs when an employee does a mix of work and personal business.

In the case of *Rahman v. State*, the Washington Supreme Court held that the state may be vicariously

liable for injuries suffered by a third-party passenger in a state vehicle driven by a state employee for work purposes. The plaintiff in *Rahman* was the wife of a state agency intern injured when her husband, Mohammad Shahidur Rahman, failed to negotiate a curve while driving from Olympia to Spokane. Although Rahman was driving for work purposes, state rules prohibited him from bringing non-employee passengers. The majority ruled that court precedents and sound policy weighed in favor of holding the state vicariously liable because Rahman was in the service of the state's business at the time of the accident.

The dissent argued that the state should not be liable because Rahman was not authorized to transport non-employees, and thus he acted outside the scope of his employment. The dissent contended that the policy underlying respondeat superior—an employer's control over an employee—is absent when the employee is not acting with actual or apparent authority and the employer has no control over the employee.

Summary: The Legislature intends to overrule the Washington Supreme Court's decision in *Rahman v. State* by modifying the application of the legal doctrine of respondeat superior.

State and local governments are not liable for injuries suffered by a third-party occupant of a vehicle owned, leased, or rented by the government if, at the time the injuries occurred, the third-party occupant was: (1) riding in or on the vehicle with a government employee who had explicitly acknowledged in writing the government's policy on use of such vehicles; and (2) not expressly authorized by the government to be an occupant of the vehicle. Third-party occupants are people who occupy a government vehicle who are not government officers, employees, or agents. Local governments include cities, counties, or other subdivisions of the state and any municipal corporations, quasi-municipal corporations, or special districts within the state.

A private employer is not liable for any injury suffered by a third-party occupant of a vehicle owned, leased, or rented by the employer when the third-party occupant was riding in or on the vehicle with an employee who had explicitly acknowledged in writing the employer's policy on use of such vehicles, unless: (1) the employer specifically and expressly authorized the occupancy; or (2) the third-party occupant was acting on behalf of or for the benefit of the employer, and the employer knew or impliedly approved or acquiesced. Third-party occupants are people who occupy an employer vehicle who are not officers, employees, agents, or authorized or constructive invitees of the private employer.

The act applies to all causes of action accruing on or after the act's effective date.

Votes on Final Passage:

House 98 0
 Senate 49 0

Effective: July 22, 2011

ESHB 1721

C 268 L 11

Preventing storm water pollution from coal tar sealants.

By House Committee on Environment (originally sponsored by Representatives Frockt, Kenney, Roberts, Fitzgibbon and Stanford).

House Committee on Environment
 Senate Committee on Environment, Water & Energy

Background: Coal tar sealants are used to protect and maintain asphalt pavement for driveways and parking lots. Asphalt pavement develops cracks over time, and sealants are used to help protect the pavement surface. Polycyclic aromatic hydrocarbons (PAHs) are a group of chemicals that are formed during the incomplete burning of coal, oil, gas, wood, or other organic substances. Coal tar sealants contain PAHs.

Summary: After January 1, 2012, no person may sell, at wholesale or retail, a coal tar pavement product that is labeled as containing coal tar. The terms coal tar and coal tar pavement product are defined.

After July 1, 2013, a person may not apply a coal tar pavement product on a driveway or parking area.

The Department of Ecology (DOE) may issue a notice of corrective action to a person who sells or applies a coal tar pavement product in violation of the act.

A city or county may adopt an ordinance to provide for the enforcement of the requirements of the act. A city or county adopting an ordinance for enforcement has jurisdiction concurrent with the DOE.

Votes on Final Passage:

House 67 30
 Senate 36 12 (Senate amended)
 House 64 32 (House concurred)

Effective: July 22, 2011

ESHB 1725

C 290 L 11

Addressing administrative efficiencies for the workers' compensation program.

By House Committee on Labor & Workforce Development (originally sponsored by Representatives Sells, Reykdal, Ormsby, Kenney and Upthegrove; by request of Department of Labor & Industries).

House Committee on Labor & Workforce Development
 Senate Committee on Labor, Commerce & Consumer Protection

Background: The Department of Labor and Industries (Department) administers the workers' compensation program. Employers must either insure through the State Fund or may self-insure if qualified. For State Fund employers, participation in a retrospective rating (retro) plan is available for employers or group of employers that meet specified requirements. Participation in retro allows an employer or a group of employers to assume a portion of industrial insurance risk and receive premium refunds or be assessed additional premiums based on claim losses.

The Department issues various notices under the workers' compensation program. Some of these notices must be sent by registered or certified mail.

The Director of the Department establishes a fee schedule of the maximum charges to be made by a medical provider. The fee schedule is not a "rule" under the Administrative Procedure Act.

Direct practice is a type of primary health care in which providers enter into agreements with patients to provide primary care services for a monthly fee. State law regulates direct practice. Legislation enacted in 2011 requires injured workers to generally seek care from a provider that is part of a medical provider network. An employer or provider may not require an injured worker to pay for the worker's medical care.

Summary: Industrial insurance notices and orders, other than claim closure orders, may be sent electronically if requested by the employer, worker, beneficiary, or other person affected. Persons choosing to receive electronic correspondence and legal notices must receive information to assist them in ensuring that all electronic documents and communications are received. Correspondence and notices sent electronically are considered received on the date sent.

Orders and notices required to be served by registered or certified mail may be served by any method for which receipt can be confirmed or tracked.

The billing or payment instructions and policies associated with a fee schedule do not constitute a "rule" under the Administrative Procedure Act.

The Department must report to the appropriate committees of the Legislature by December 1, 2011, on changes needed to ensure that an injured worker may receive

care from a direct primary care provider and that the injured worker is not paying directly for medical services for the workplace injury or disease. The report must provide a timeline for rule development with a goal to have changes in place by July 1, 2013. The report must also include: data required from direct care providers necessary to establish premium rates, experience modification factors, and retro adjustments; medical cost or payment information that may be required from retro participants; any requirements for direct care providers to participate in the medical provider network and ensure the Department has information to efficiently manage worker claims; and any other issues or barriers to direct care provider participation in the workers' compensation system.

Payment by an employer for direct primary care services does not disqualify the employer from participating in retro, any related group sponsor from promoting a retro plan, or any related plan administrator from administering a retro plan. The retro employer, group sponsor, or plan administrator must provide any medical cost or payment information required by the Department. Before the retro adjustment for the plan year beginning January 1, 2012, the Department must determine the information needed and any changes to the retro premium and claim cost calculation to maintain appropriate and equitable retro refunds when employers pay for direct care services. The retro changes apply beginning with the January 1, 2012, plan year. Rule-making by the Department with respect to retro and direct primary care services is granted.

Votes on Final Passage:

House	96	1	
Senate	48	0	(Senate amended)
House			(House refused to concur)
Senate	47	0	(Senate amended)
House	96	1	(House concurred)

Effective: July 22, 2011

HB 1726

C 291 L 11

Addressing the recommendations of the vocational rehabilitation subcommittee for workers' compensation.

By Representatives Sells, Roberts, Ormsby, Reykdal, Kenney, Miloscia, Moeller and Upthegrove; by request of Department of Labor & Industries.

House Committee on Labor & Workforce Development
Senate Committee on Labor, Commerce & Consumer Protection

Background: One of the primary purposes of Washington's Industrial Insurance Act (Act) is to assist injured workers to become employable at gainful employment. The Department of Labor and Industries (Department) pays, or directs self-insurers to pay, the costs of vocational rehabilitation services when these services are necessary

and likely to enable the injured worker to become employable at gainful employment. In 2007 legislation was enacted creating a vocational rehabilitation pilot program for plans approved between January 1, 2008, and June 30, 2013.

After an assessment and determination that a worker is eligible for vocational rehabilitation services, a vocational rehabilitation plan is developed. The plan must be completed within 90 days of commencing. A worker has two options:

- Option 1: The worker may participate in the plan.
- Option 2: The worker may decline further vocational services and receive an award equal to six months of time-loss benefits, and the claim is closed. A worker must select Option 2 within 15 days of the Department's approval of the plan.

When the worker begins development of the plan, the employer has 15 days to make a return-to-work offer. A valid return-to-work offer terminates development of the vocational plan and time-loss benefits.

The 2007 legislation also directed the Department to create a Vocational Rehabilitation Subcommittee (Subcommittee). Among other tasks, the Subcommittee was charged with recommending any additional statutory changes, as well additional changes or incentives for injured workers to return to work with their employer of injury.

A worker who suffers the loss of two major limbs or the loss of total eyesight or paralysis is entitled to what is referred to as a statutory pension. These persons are entitled to a pension without regard to whether they are permanently incapacitated from performing work in any gainful occupation, which is otherwise required to receive a pension.

Summary: Explicit authority is given to the Department to provide vocational services to a worker who suffered the loss of, or complete use of, two major limbs or total eyesight when, in the Department's discretion, these services will substantially improve either the worker's quality of life or ability to function in an employment setting, regardless of whether these services are necessary or reasonably likely to make the worker employable at any gainful employment. The services must be completed before the worker's entitlement to a pension. These workers are not entitled to Option 2 benefits.

The 15-day period to select Option 2 begins when the Department approves the plan or a determination is made that the plan is valid following a dispute. In addition, the Department may approve the election of Option 2 benefits within 25 days of the approval of the plan or a determination that the plan is valid if the worker provides a written explanation that the worker was unable to meet the 15-day deadline.

The Department may extend the time an employer has to make a valid return-to-work offer for up to 10 additional days if the employer made an offer within 15 days that met

some but not all requirements to be valid. To be valid, the offer must be for bona fide employment with the employer of injury consistent with the worker's documented physical and mental restrictions.

A worker who elects Option 2 is not entitled to further time-loss or pension benefits, except upon a showing of a worsening in condition that makes the closure of the claim inappropriate. In this case, the Option 2 selection is rescinded and the amount paid to the worker is assessed as an overpayment. A closed claim may not be reopened for the sole purpose of allowing the worker to seek vocational assistance.

Clarification is made that the Department makes the determination whether vocational rehabilitation is both necessary and likely to make the worker employable at gainful employment. Other clarifications are made and erroneous cross-references are deleted.

These provisions expire June 30, 2013.

Votes on Final Passage:

House	96	1
Senate	46	0

Effective: July 22, 2011

SHB 1728

C 237 L 11

Requiring businesses where food for human consumption is sold or served to allow persons with disabilities to bring their service animals onto the business premises.

By House Committee on Judiciary (originally sponsored by Representatives Eddy, Rodne, Green, Goodman, Kagi and Kenney).

House Committee on Judiciary

Senate Committee on Labor, Commerce & Consumer Protection

Background: Under Washington's Law Against Discrimination, it is an unfair practice to discriminate in places of public accommodation on the basis of race, color, creed, national origin, sexual orientation, sex, veteran or military status, the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal. "Service animal" means any animal that is trained for the purposes of assisting or accommodating a disabled person's sensory, mental, or physical disability.

The prohibition against discriminating in providing public accommodations applies to "any place of public resort, accommodation, assemblage, or amusement" and includes restaurants, hotels, motels, inns, stores, markets, shopping malls, theaters, cinemas, concert halls, arenas, parks, fairs, arcades, libraries, schools, government offices, and hospitals.

Under federal law, the Americans with Disabilities Act (ADA) prohibits discrimination on the basis of disability in employment, state and local government

services, public accommodations, commercial facilities, transportation, and telecommunications. The United States Department of Justice's regulations implementing the ADA defines "service animal" to mean any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals. There is an exception for miniature horses, which may be considered service animals in some circumstances.

The ADA requires privately owned businesses that serve the public to allow people with disabilities to bring their service animals into the public areas of the business premises unless the business can demonstrate that making such modifications would fundamentally alter the nature of its goods, services, facilities, privileges, advantages, or accommodations.

Summary: Food establishments are prohibited from discriminating on the basis of the use of a service animal by a person with a disability only with respect to animals covered under the current federal regulatory definition of the term. A service animal is defined as any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability. With the exception of miniature horses, other species of animals are not considered service animals. A food establishment must make reasonable modifications to permit the use of a miniature horse by an individual with a disability, as long as the horse has been individually trained to do work or perform tasks for the benefit of the individual with a disability.

"Food establishment" means any places of business that sells or serves food for human consumption that has a North American Classification System Code in the provided list, which includes industries in the following areas: super markets and other grocery stores; convenience stores; meat markets; fish and seafood markets; fruit and vegetable markets; baked goods stores; confectionary and nut stores; specialty food stores; warehouse clubs and supercenters; full-service restaurants; limited service restaurants; cafeterias, grill buffets, and buffets; snack and non-alcoholic beverage bars; and drinking places.

Votes on Final Passage:

House	95	1
Senate	46	2

Effective: July 22, 2011

EHB 1730

C 210 L 11

Concerning the authorization of bonds issued by Washington local governments.

By Representatives Jinkins, Rodne, Haler and Dunshee.

House Committee on Local Government
Senate Committee on Government Operations, Tribal Relations & Elections

Background: Local governments, a term that includes counties, cities, and special purpose districts, are authorized to incur general indebtedness and to issue bonds for financing activities and purposes determined by the local government.

A local government that is authorized and elects to issue bonds must determine specific provisions pertaining to the bonds, including the issue amount, terms, conditions, interest rate or rates, and other issuance details.

City use limitations for bond proceeds specify that moneys received from the sale of bonds or warrants may only be used for the purpose for which they were issued. Additionally, no expenditure of the proceeds may be made for that purpose until the bonds have been duly authorized.

If any unexpended fund balance remains from the proceeds after the accomplishment of the purpose for which the bonds were issued, the remaining funds must be used for the redemption of the bond or warrant indebtedness. If a city or town budget contains an expenditure program to be financed from a bond issue that has not been authorized, the city or town is prohibited from making or incurring a related expenditure until the bonds have been duly authorized.

Summary: If an ordinance or resolution approving the issuance of bonds authorizes an officer or employee of the local government to serve as its designated representative and to accept, on behalf of the local government, an offer to purchase those bonds, the acceptance of the offer must be consistent with the terms of the ordinance or resolution. Additionally, a county that designates a representative for bond-related purposes must do so in a manner that is consistent with its adopted debt policy.

The ordinance or resolution approving the issuance of bonds must establish specific provisions related to the bonds, including the issue amount, date or dates, denominations, and other terms and conditions considered appropriate by the issuing local government.

City use limitations for bond proceeds are modified to allow expenditures of bond proceeds prior to the bonds being duly authorized. Additionally, if any unexpended fund balance remains from the proceeds after the accomplishment of the purpose for which the bonds were issued, the remaining funds must be used for principal of or interest on the indebtedness, consistent with applicable federal tax law.

If a city or town budget contains an expenditure program to be partially or wholly financed from a bond issue that has not been authorized, the city or town is authorized to make or incur expenditures of amounts anticipated to be reimbursed with the proceeds from the issuance and sale of the bonds, consistent with any applicable federal tax law requirements.

A general indemnification clause is included. All bonds previously issued and any reimbursement previously made with bond proceeds by a local government that are consistent with specified provisions are validated, ratified, and confirmed.

Votes on Final Passage:

House	96	1
Senate	46	0

Effective: July 22, 2011

ESHB 1731

C 141 L 11

Concerning the formation, operation, and governance of regional fire protection service authorities.

By House Committee on Local Government (originally sponsored by Representatives Takko, Kagi and Reykdal).

House Committee on Local Government
Senate Committee on Government Operations, Tribal Relations & Elections

Background: A Regional Fire Protection Service Authority (Authority) may be created for the purpose of conducting specified fire protection functions at a regional level. An Authority may be created by the merger of two or more adjacent fire protection jurisdictions, including fire protection districts, cities, port districts, and Indian tribes. The creation of an Authority requires voter approval.

An Authority is governed by a board charged with executing the Authority's service plan, which provides for the design, financing, and development of fire protection services. Board membership is determined by the service plan and is limited to elected officials. Provisions governing authorities do not provide for the election of any new officials specific to an Authority and are silent on other matters relating to officials serving on the board.

The board of an Authority is empowered to exercise general operational and administrative powers including:

- levying and imposing taxes;
- exercising eminent domain powers; and
- exercising other powers and duties as are reasonably necessary to carry out its purposes.

All powers, duties, and functions of a participating fire protection jurisdiction may be transferred by resolution to the Authority.

A "participating fire protection jurisdiction" is a fire protection district, city, town, Indian tribe, or port district

that is represented on the governing board of an Authority. State law authorizes each of these jurisdictions, other than a tribe, to levy property taxes. However, the levies of a participating fire protection jurisdiction are limited so that statutorily designated amounts, less the amount of a levy imposed by the Authority, are not exceeded.

Summary: A definition of an "elected official" for Authority purposes is established. An Authority's service plan may create one or more regional fire protection service authority commissioner (commissioner) positions.

The governing board of an Authority is determined by the Authority's service plan. However, only elected officials of a participating fire protection jurisdiction and elected commissioners of the Authority are eligible to serve on the Authority's governing board.

Rather than being set forth in an Authority's service plan, provisions governing a commissioner's compensation, qualifications, ability to serve as a volunteer firefighter, polling places for elections, and commissioner vacancies are as provided in statutes pertaining to commissioners of fire protection districts (districts). Additional information about these provision is summarized below.

- **Compensation:** A commissioner may be compensated \$90 per day, not to exceed \$8,640 per year (amount adjustable for inflation), plus necessary expenses incurred in attending meetings of the board or when otherwise engaged in district business.
- **Qualifications:** Any voter residing in the district is eligible for the position.
- **Ability to serve as a volunteer firefighter:** A commissioner is eligible to serve in that capacity if the board unanimously adopts a resolution to that effect.
- **Polling places for elections:** Polling places may be located outside the boundaries of the district, as determined by the auditor of the county in which the district is located.
- **Vacancies:** If a commissioner is absent from three consecutive meetings without being excused by the board, the position is deemed vacant.

An Authority's service plan may create commissioner districts, that are approximately equal in population. If commissioner districts are created, only a voter who resides in a district is eligible to serve as a commissioner for the district, and only voters of that district may vote in a nominating primary election. However, all voters of the proposed Authority may vote at a general election to elect a commissioner of the district.

For purposes of calculating permissible property tax levy rates, a fire protection district, city, town, or port district that is annexed into an Authority is a "participating fire protection jurisdiction," and its property tax levy authority is therefore subject to the same limitations as a fire protection jurisdiction that is represented on the governing board of an Authority.

Votes on Final Passage:

House	92	3
Senate	46	2

Effective: July 22, 2011

2E2SHB 1738

C 15 L 11 E1

Changing the designation of the medicaid single state agency.

By House Committee on Ways & Means (originally sponsored by Representatives Cody and Jinkins; by request of Governor Gregoire).

House Committee on Health Care & Wellness
House Committee on Ways & Means
Senate Committee on Ways & Means
Senate Committee on Health & Long-Term Care

Background: State medical assistance programs pay for health care for low-income state residents, primarily through the Medicaid program. The majority of these programs are administered by the Department of Social and Health Services (DSHS). Most of these programs are jointly funded with state and federal matching funds. Federal law requires each state that participates in Medicaid to designate a single state agency responsible for administration and supervision of the state's Medicaid program. In Washington, that agency is the DSHS.

The Health Care Authority (Authority) administers state employee health benefit programs through the Public Employees Benefits Board as well as health care programs targeted at low-income individuals, such as the Basic Health Plan and the Community Health Services Grants. In addition, the Authority coordinates initiatives related to state purchased health care, such as the Prescription Drug Program and the Health Technology Assessment Program.

Summary: The Authority is designated as the single state agency for the administration and supervision of Washington's state Medicaid program. The Authority is to be led by a "director," rather than an "administrator." The director is authorized to administer the medical assistance programs and the State Children's Health Insurance Program and is responsible for the disbursement of funds that the state receives in relation to those programs. The director may appoint any committees and commissions needed to comply with federal laws and funding requirements. All responsibilities related to the administration of the Medicaid program are transferred to the Authority. Several responsibilities that had been shared between divisions of the DSHS will be shared between the Authority and the DSHS.

All employees of the Medicaid Purchasing Administration (MPA) within the DSHS are transferred to the Authority. All rules, apportionments of budgeted funds,

and pending business of the MPA are also transferred to the Authority.

The Authority is authorized to conduct adjudicative proceedings for: (1) an applicant or enrollee who is aggrieved by a decision of the Authority; or (2) a current or former enrollee who is aggrieved by a claim that he or she owes a debt for overpayment. (This authority is substantially similar to the adjudicative proceeding authority of the DSHS.) Procedures and standards are established to allow for the severance of applications for review of decisions made by both the Authority and the DSHS into multiple proceedings.

The Authority is authorized to charge fees, collect overpayments, and file liens. In addition, the Authority may collect from tort feasons or their insurer in any case in which assistance is paid due to negligent conduct toward an enrollee. (This authority is substantially similar to the DSHS's authority to collect overpayments and secure reimbursements.)

The DSHS's responsibilities regarding coordination with health insurers for health benefits for recipients of medical services are transferred to the Authority.

The Authority is authorized to collaborate with other state or local agencies and nonprofit entities to carry out its responsibilities.

The DSHS and the Authority must determine financial and functional eligibility for people applying for long-term care services through a single process in a single location.

It is specified that the Disproportionate Share Hospital payment methodology provisions do not create a right or entitlement for any hospitals.

References to several expired duties are eliminated, including reporting on children's Medicaid mental health benefits and amending the state Medicaid Plan to include personal care services in the categorically needy program.

The DSHS and the Authority must provide a preliminary report to the Governor and Legislature by December 10, 2011, and a final implementation plan by December 1, 2012, regarding the role of the Authority in purchasing mental health, chemical dependency, and long-term care services. Several items must be addressed in the reports including improvement of prevention efforts, approaches to service delivery, assurances of long-term care services in the least restrictive environment, measurements of cost savings, measurement of outcomes and satisfaction, designation of a single point of entry for eligibility determinations, and collaboration with local governments. The DSHS and the Authority must consult with stakeholders and cooperate with the Joint Select Committee on Health Reform Implementation while developing these recommendations.

Votes on Final Passage:

House 54 43

First Special Session

House 53 42

Senate 44 0 (Senate amended)

House 53 35 (House concurred)

Effective: July 1, 2011

SHB 1761

C 211 L 11

Limiting private activity bond issues by out-of-state issuers.

By House Committee on Capital Budget (originally sponsored by Representatives Dunshee and Ormsby; by request of Washington State Housing Finance Commission).

House Committee on Capital Budget
Senate Committee on Financial Institutions, Housing & Insurance

Background: Tax-Exempt Private Activity Bonds. The federal tax code classifies state and local bonds as either governmental bonds or private activity bonds. Governmental bonds are for projects that benefit the general public and are issued by government entities. Private activity bonds are issued for the benefit of private entities. Generally, the interest on state and local governmental bonds is exempt from federal taxation, and the interest on most private activity bonds is not tax exempt. However, when private activity bonds are used for projects that also have a substantial public benefit, the bonds may qualify for federal tax exempt status. Qualifying activities include housing, manufacturing, education, and environmental facilities. Because interest earned by investors on these bonds is not subject to the federal income tax, investors are willing to accept a lower interest rate, and this lower rate reduces the costs of the project to the issuer and the project developer.

Tax-exempt private activity bonds are not obligations or pledges of the full faith and credit of the state or its political subdivisions. Tax-exempt private activity bonds are non-recourse bonds. The repayment of the bond is the responsibility of the user of the bond proceeds.

State Bond Cap Allocation. Federal law limits the total dollar amount of certain tax-exempt private activity bonds that may be issued annually in a state. Each state's "bond cap" is calculated according to a federal formula. For 2011 Washington's bond cap is \$638.8 million. The allocation of the state's bond cap is determined by statute as follows: housing, 32 percent; "small issue" manufacturing, 25 percent; student loans, 15 percent; "exempt facilities" such as local transportation, energy, and environmental facilities, 20 percent; and a "remainder/redevelopment" category, 8 percent. The Department of

Commerce (Commerce) administers the state's Bond Cap Allocation Program (BCAP). The BCAP authorizes the issuance of tax-exempt private activity bonds, reviews and approves projects for compliance with federal and state law, and monitors bond issuances to ensure that the state does not exceed the annual total.

Tax-exempt private activity bonds not subject to the bond cap are those used for capital projects owned by 501(c)(3) nonprofit organizations, such as health care facilities, higher education buildings and facilities, and local community facilities such as YMCAs, job training facilities, and museums.

Using Tax-Exempt Private Activity Bonds for Washington Projects. Project developers pursuing use of tax-exempt private activity bonds must work with a bond issuing authority (authority). In Washington there are five statewide authorities and a number of local authorities. The statewide authorities are the Washington State Housing Finance Commission, the Washington Economic Development Finance Authority, the Washington State Higher Education Facilities Authority, the Washington State Health Care Facilities Authority, and the Tobacco Settlement Authority. These statewide authorities are limited by law to financing projects within the state. Examples of local authorities include the industrial development corporations of the Port of Bellingham and Spokane County, and the Seattle, Tacoma, and Vancouver Housing Authorities.

An authority assesses a given project and financing options. If the project qualifies for tax-exempt private activity bonds and is in a category that is subject to bond cap allocation, the authority applies to the BCAP for approval to issue bonds against the bond cap for that category. State law prescribes the process and criteria for requesting and granting such approval.

Under federal law, tax-exempt private activity bonds may not be issued for a project until approved by each government having jurisdiction over the area in which the facility is to be located. A public hearing and approval by the elected body is the standard method for obtaining public approval.

Out-of-State Bond Issuing Authorities. Three states—Wisconsin, Missouri, and Colorado—have laws allowing in-state bond issuing authorities to finance projects in all 50 states. The most recent is the Wisconsin Public Finance Authority (PFA), established in legislation enacted in 2010.

The PFA is authorized to issue tax-exempt and taxable bonds for projects located within or outside Wisconsin and may apply to any unit of government, within or outside the state, for an allocation of the tax-exempt private activity bond cap. Before issuing bonds on any economic development, housing, health, or education facilities in Wisconsin, the PFA must receive approval from the Wisconsin Housing and Economic Development Authority or the Wisconsin Health and Educational Facilities Authority. The Wisconsin law is silent on state-level approvals or

requirements the PFA must seek or meet in other states in order to issue bonds. However, the law does prohibit the PFA from issuing bonds to finance a capital improvement project until a political subdivision within whose boundaries the project is to be located has approved the financing.

Summary: An issuer of private activity bonds, formed or organized under the laws of another state and proposing to issue bonds for a project within Washington, is required to provide specific information to the relevant Washington statewide issuing authority and receive its approval to proceed to public hearing.

The following information must be received by the authority at least 120 days prior to the public hearing for the proposed bond issuance: (1) a copy of the proposed notice of public hearing; (2) the maximum stated principal amount of the bond; (3) the facility description and location; (4) the finance plan; (5) the bond issuer's name; (6) the facility owner or principal user; (7) how the project will meet Washington's public policy objectives and requirements, and those of the authority; and (8) payment of a project review fee established by the authority.

If the authority finds that the facility and information submitted are consistent with the state's laws, public policy, and best interests, then the authority must authorize the relevant government unit in writing to proceed with the public hearing. If the authority finds the facility and information submitted inconsistent with the state's laws, public policy, and best interests, the public hearing may not proceed and the bonds may not be issued by the out-of-state issuer.

Each statewide bond issuing authority that is notified by an out-of-state bond issuer of a proposal to issue bonds in Washington must report to the appropriate legislative committees documenting: the number, description, cost, and location of a proposed project; whether the project was approved by the issuing authority; and its reasons for a disapproval. Reports must be submitted annually from 2011-2014, and every five years after.

Commerce is prohibited from making an allocation of the state bond cap to a bond issuing authority formed or organized under the laws of another state.

Votes on Final Passage:

House	96	0	
Senate	48	1	(Senate amended)
House	97	0	(House concurred)

Effective: July 22, 2011

HB 1770
PARTIAL VETO
C 358 L 11

Enhancing small business participation in state purchasing.

By Representatives Hasegawa, Kenney, Orcutt, Frockt and Stanford.

House Committee on State Government & Tribal Affairs
House Committee on Ways & Means
Senate Committee on Economic Development, Trade & Innovation

Background: State Procurement. The Department of General Administration (DGA) establishes overall state policy for state purchasing, and contracts with individuals and companies outside of state government to provide goods and services to the state. Under delegated authority, other state agencies and the institutions of higher education also contract for goods and services. The state's purchasing authority is generally organized into categories based on the type of service. Among these categories are:

- *Purchased goods and services.* These goods and services are those provided by a vendor to accomplish routine, continuing, and necessary functions.
- *Personal services.* This term refers to professional or technical expertise provided by a consultant to accomplish a specific study or project.
- *Information services.* These services include data processing, telecommunications, office automation, and computerized information systems.
- *Printing services.* This term refers to the production of the state's printed materials.

Except in specific circumstances, Washington law does not provide preferences to bidders who are in-state. The statutory exceptions include:

- *Ferries.* In Washington, the Department of Transportation's bid documents for jumbo ferries must include a requirement that the vessels be constructed within Washington, with exceptions for certain equipment and systems.
- *Washington-grown food for schools.* School districts are authorized to implement policies to maximize the purchases of Washington-grown food. Such policies may include permitting a percentage price preference for Washington-grown food.
- *In-state printing.* Printing for state agencies must be done within Washington, unless the work cannot be executed in state or the lowest in-state bid exceeds the customary charges in the private sector.

In addition to these in-state preferences, the DGA is required to identify other states that provide in-state preferences to their own bidders. If a bidder from one of those states submits a bid for a state contract in Washington, the GA may add a percentage increase to that bidder's

proposal. This increase is used only to evaluate the bid and is not paid to any supplier whose bid is accepted.

Legal Challenges to In-State Preference Laws. State procurement laws that give preference to domestic goods or prohibit purchasing foreign goods have been challenged on one or more grounds. These include arguments that such laws are: (1) invalid exercises of state power under the Commerce Clause of the Constitution of the United States; (2) preempted by federal statute or in violation of international agreements on government procurement; or (3) in violation of Equal Protection/Privileges and Immunities clauses of the United States Constitution.

Summary: All state purchasing agencies, including institutions of higher education, must establish and implement a plan to increase the number of small businesses annually receiving state contracts for goods and services.

The Department of General Administration (DGA) must develop a model plan for state agencies to increase:

- the number of small businesses registering in the state's common vendor registration and bid notification system;
- the number of such registered small businesses annually receiving state contracts for goods and services purchased by the state; and
- the percentage of total state dollars spent for goods and services purchased from such registered small businesses.

All state agencies are authorized to adopt the model plan developed by the DGA. Any state purchasing agency not adopting the DGA model plan must establish and implement a plan consistent with the goals required under the DGA model.

State purchasing agencies must give technical assistance to small businesses including:

- providing opportunities for the agency to answer vendor questions about the bid solicitation requirements in advance of the bid due date; and
- holding a debriefing after the contract award to assist vendors in understanding how to improve his or her responses for future procurements.

State purchasing agencies must maintain records of contracts awarded to registered small businesses to track outcomes regarding the effects of the technical assistance on the number of small businesses annually receiving state contracts for goods and services purchased by the state. All other state agencies are encouraged to maintain such records of contracts awarded to registered small businesses.

Subject to appropriated funds in 2012, by November 15, 2013, and November 15 every two years thereafter, state purchasing agencies must submit a report to the Legislature regarding the effects the technical assistance is having on the number of small businesses annually

receiving state contracts for goods and services purchased by the state.

Subject to appropriated funds in 2012, the DGA, in consultation with the Department of Information Services, the Department of Transportation, and the Department of Commerce, must develop and implement a web-based information system in order to track the effects the technical assistance is having on the number of small businesses annually receiving state contracts for goods and services purchased by the state. Once the web-based information system is funded and developed, the DGA must make the information system available to all state purchasing agencies by December 31, 2013.

The act amends the minimum threshold dollar amounts for informal procurements which must be placed on the state's online bid notification system.

Defines "state purchasing agencies," "in-state business," and "small business."

Votes on Final Passage:

House	74	23	
Senate	48	1	(Senate amended)
House	74	22	(House concurred)

Effective: July 22, 2011

Partial Veto Summary: The Governor vetoed section 5 of the act because it erroneously created a conflict with another state agency procurement statute, thus effectively eliminating the ability of state agencies to make small purchases without complying with competitive bidding and notice requirements applicable to larger purchases.

VETO MESSAGE ON HB 1770

May 16, 2011

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

Ladies and Gentlemen:

I am returning herewith, without my approval as to Section 5, House Bill 1770 entitled:

"AN ACT Relating to enhancing small business participation in state purchasing."

I am vetoing Section 5 because it inadvertently eliminated the ability for agencies to make purchases up to three thousand dollars based on buyer experience and knowledge of the market and is therefore in conflict with RCW 43.19.1906(2).

For this reason I have vetoed Section 5 of House Bill 1770.

With the exception of Section 5, House Bill 1770 is approved.

Respectfully submitted,



Christine O. Gregoire
Governor

ESHB 1774

C 292 L 11

Concerning dependency matters.

By House Committee on Early Learning & Human Services (originally sponsored by Representatives Goodman, Pettigrew, Orwall, Kenney, Roberts, Kagi and Moscoso).

House Committee on Judiciary

House Committee on Early Learning & Human Services

Senate Committee on Human Services & Corrections

Background: Placement of Dependent Children. At the dispositional stage of a dependency matter, if the court orders that the child be placed in out-of-home care, the Children's Administration (CA) has the authority to place the child:

- with a relative;
- with another suitable person if the child or family has a preexisting relationship with that person and the person has completed all required criminal history background checks and otherwise appears to be suitable and competent to provide care for the child; or
- in a foster family home or group care facility.

The CA may place a child with a non-relative only if the court finds that such a placement is in the child's best interest.

Reinstatement of Parental Rights. A child may petition the juvenile court to reinstate the previously terminated parental rights of his or her parent if the following requirements are met:

- the child was previously found to be a dependent child;
- the child's parent's rights were terminated pursuant to a dependency proceeding;
- the child has not achieved his or her permanency plan within three years of a final order of termination; and
- the child is at least 12 years old at the time the petition is filed. The court may hear a petition filed by a child younger than 12 years old if the court finds good cause.

After a petition is filed, the court must hold a threshold hearing to consider the parent's fitness and interest in reinstatement of parental rights. If the court finds that the best interests of the child would be served by reinstatement, the court is to hold a hearing on the merits of the petition.

The court must conditionally grant the petition if it finds by clear and convincing evidence that the child has not achieved his or her permanency plan and is not imminently likely to achieve his or her permanency plan and that reinstatement of parental rights is in the child's best interests. In determining whether the child has or has not achieved his or her permanency plan or whether the child is likely to achieve his or her permanency plan, the Department of Social and Health Services (DSHS) must provide to the court information related to any efforts to achieve

the permanency plan including efforts to achieve adoption or a permanent guardianship.

In a recent Washington Court of Appeals case, *In Re the Interest of J.R.*, a 15-year-old child filed a petition to have his mother's parental rights reinstated. When the child was age 5, his mother voluntarily relinquished her parental rights. Two and a half months after the relinquishment, the court ordered that the child be placed in a guardianship with his grandmother and another relative. The guardianship was in place for 10 years until the court terminated the guardianship upon the guardian's request. Shortly thereafter, the child petitioned to have his mother's rights reinstated. At the threshold hearing, the state argued that J.R.'s petition did not meet the statutory criteria because he achieved permanency when he was placed in a dependency guardianship within three years of the order terminating parental rights. The juvenile court stated that although the reinstatement of his mother's parental rights might be in J.R.'s best interests, he did not meet the criteria established for reinstatement petitions. Upon appeal, the Court of Appeals affirmed the juvenile court and held that only dependent children whose permanent plans were not achieved within three years of a final order of termination could petition for reinstatement of parental rights. The court held that J.R.'s petition was appropriately dismissed by the juvenile court.

Guardians Ad Litem in Adoption Cases. In adoption proceedings, the court must appoint a guardian ad litem (GAL) for any alleged parent under 18 years of age. Among other duties, the GAL must report to the court whether any written consent by the parent to relinquish the child for adoption was made voluntarily. The county in which a petition is filed in an adoption proceeding must pay the fees of a court-appointed GAL or attorney.

In some cases, the child being adopted has been the subject of earlier dependency proceedings, which means the state has terminated the parent's parental rights to the child. In a dependency proceeding, the court determines if a child should be considered a dependent of the state because of abuse, neglect, abandonment, or because there is no parent, guardian, or custodian capable of caring for the child. Once a child is found dependent, the court periodically reviews the case and makes determinations about the parent's progress in correcting parental deficiencies. If the parent fails to take corrective measures needed for the child to safely return home, the court can eventually terminate the parent's parental rights. The parent has the right to an attorney in dependency proceedings.

Investigators and GALs in Family Law Cases. In dissolution cases in which there are minor children, the court must establish a parenting plan setting forth, among other things, each parent's residential time with the children. The court may order an investigation and report concerning parenting arrangements, may appoint a GAL, or both. The investigation and report may be made by a GAL, the staff of the court, or a professional social service organization experienced in counseling children. Some family law

courts have full- or part-time investigators that work for the court. The term "investigator" is used in the statutes but not defined.

In counties with a court-appointed special advocate (CASA) program for family law cases, the court may appoint a GAL from the CASA program. The GALs and CASAs must comply with certain training requirements developed by the Administrative Office of the Courts. Generally, the court must specify the hourly rate a GAL may charge and specify the maximum amount the GAL may charge without additional court approval. The court must specify rates and fees in the order appointing the GAL or at the earliest date the court is able to determine the appropriate rates and fees.

Summary: Placement of Dependent Children. The DSHS or a supervising agency, when considering out of home placement of a child at the dispositional stage of a dependency, may consider placement of the dependent child with a person with whom the child's sibling or half-sibling is placed or with the adoptive parent of the child's sibling or half-sibling as long as the person or adoptive parent passes the criminal background check and is otherwise competent to provide care for the dependent child.

Reinstatement of Parental Rights. A child may petition the juvenile court to reinstate the previously terminated parental rights of his or her parent if the following requirements are met:

- the child was previously found to be a dependent child;
- the child's parent's rights were terminated pursuant to a dependency proceeding;
- the child has not achieved his or her permanency plan, or the child achieved a permanency plan, but it has not since been sustained;
- three years have passed since the final order of termination was entered; and
- the child is at least 12 years old at the time the petition is filed, unless the court finds good cause to accept a petition for a child younger than 12 years old.

Guardians Ad Litem in Adoption Cases. If the child in the adoption proceeding is a dependent child of a minor parent, and the minor parent is represented by an attorney or a GAL in the dependency proceeding, the court may rely on the parent's dependency attorney or the GAL to report to the court regarding the voluntariness of any written consent to adoption or petition for relinquishment signed by the parent.

When a GAL is appointed in an adoption case, the court must direct who shall pay the GAL's fee. If the court orders the parties to pay the GAL fee, the fee must be established under the same procedures that GAL fees are established in family law cases.

Investigators. The term "investigator" is defined to mean a person appointed by the court as a full- or part-time

assistant to the court or any other third-party professional ordered or appointed by the court to provide an opinion, assessment, or evaluation regarding the creation or modification of a parenting plan. It is made explicit that the court may appoint an investigator in family law cases to make recommendations to the court.

Investigators who are not supervised by a GAL or by a CASA program must comply with the training requirements applicable to the GALs or the CASAs.

Votes on Final Passage:

House	95	0	
Senate	48	0	(Senate amended)
House	96	0	(House concurred)

Effective: July 22, 2011

E2SHB 1776

C 359 L 11

Regarding licensing requirements for child care centers located in publicly owned or operated buildings.

By House Committee on Education Appropriations & Oversight (originally sponsored by Representatives Frockt, Eddy, Dickerson, Carlyle, Maxwell, Fitzgibbon, Roberts, Pedersen, Hudgins, Ryu, Kenney and Stanford).

House Committee on Early Learning & Human Services
House Committee on Education Appropriations & Oversight

Senate Committee on Human Services & Corrections

Background: The Department of Early (DEL) regulates child care in Washington. The DEL licenses three categories of child care providers: family homes, child care centers, and school-age centers. Separate sets of licensing rules are used to regulate each type of provider. Some features related to each provider type include:

- Family home child care providers care for children up to 11 years of age in a home setting.
- Child care centers provide care for children up to 12 years of age. These centers operate in commercial, privately owned, school, or faith-based facilities.
- School-age centers care for children ages 5 through 12. These centers usually operate in a school setting, but can be located in commercial, privately owned, or faith-based facilities.

The DEL's licensing rules operate in accordance with accepted fire and building code standards that apply to any given facility type. These codes may vary by geographic location and are determined by various jurisdictions. The DEL has a process in place to waive some licensing requirements in some cases.

School boards are authorized to establish and maintain preschools and to provide before- and after-school care and vacation care in connection with schools in their

districts. School boards may establish regulations governing preschools and before- and after-school care.

Summary: The DEL is required to use an interagency process to address health and safety requirements for child care programs for school-age children operated in buildings that contain public or private schools that safely serve children during times that school is in session. The DEL is required to consult with the State Fire Marshal as part of the interagency process.

Votes on Final Passage:

House	62	35	
Senate	49	0	(Senate amended)
House	71	25	(House concurred)

Effective: July 22, 2011

SHB 1783

C 212 L 11

Regarding houseboats and houseboat moorages.

By House Committee on Local Government (originally sponsored by Representatives Pedersen, Uptegrove, Takko, Blake, Rodne, Smith, Carlyle, Fitzgibbon, Springer, Angel and Kenney).

House Committee on Local Government
Senate Committee on Natural Resources & Marine Waters

Background: The Shoreline Management Act of 1971 (SMA) governs uses of state shorelines. The SMA enunciates state policy to provide for shoreline management by planning for and fostering all reasonable and appropriate uses. The SMA prioritizes public shoreline access and enjoyment and creates preference criteria that must be used by state and local governments in regulating shoreline uses. Preferred shoreline uses, as specified in the SMA, are uses that are consistent with the control of pollution and the prevention of damage to the natural environment, or are unique to or dependent upon use of the state's shoreline.

The SMA involves a cooperative regulatory approach between local governments and the state. At the local level, the SMA regulations are developed in city and county shoreline master programs (master programs) that regulate land use activities in shoreline areas of the state. Master programs must be consistent with guidelines adopted by the Department of Ecology (DOE). Master programs, and segments of or amendments to, become effective when approved by the DOE.

Summary: Floating homes that were permitted or legally established before January 1, 2011, must be classified under the SMA as a conforming preferred use.

Applicable terms are defined. A "floating home" is a single-family dwelling unit constructed on a float that is moored, anchored, or otherwise secured in waters. Although a floating home may be capable of being towed, a floating home may not be a vessel. "Conforming

preferred use" means that applicable development and master program regulations may only impose reasonable conditions and mitigation that will not effectively preclude the maintenance, repair, replacement, and remodeling of existing floating homes and moorages by rendering those actions impracticable.

Votes on Final Passage:

House	58	40	
Senate	47	2	(Senate amended)
House	65	32	(House concurred)

Effective: July 22, 2011

E2SHB 1789
C 293 L 11

Addressing accountability for persons driving or being in physical control of a vehicle while under the influence of intoxicating liquor or any drug.

By House Committee on Transportation (originally sponsored by Representatives Goodman, Pedersen, Roberts and Miloscia).

House Committee on Judiciary
House Committee on General Government
Appropriations & Oversight
House Committee on Transportation
Senate Committee on Judiciary
Senate Committee on Transportation

Background: Gross Misdemeanor Driving Under the Influence. The misdemeanor driving under the influence (DUI) law contains a complex system of mandatory minimum penalties that escalate based on the number of "prior offenses" the offender has within seven years and the offender's blood or breath alcohol concentration (BAC) for the current offense. "Prior offenses" is defined to include DUI-related convictions and convictions for certain offenses, such as reckless driving, when the charge was originally filed as DUI.

There are criminal and administrative consequences for DUI. Criminal penalties include jail time, driver's license suspension, monetary fines, alcohol assessment and treatment, and ignition interlock requirements.

Administrative consequences include license suspension and ignition interlock requirements, whether or not the person is ever charged or convicted.

Felony DUI. A conviction for DUI is a class C felony if the driver has: (a) four or more prior offenses within 10 years; or (b) any prior conviction of a DUI-related vehicular homicide or vehicular assault, or a comparable out-of-state conviction.

License Suspension and Ignition Interlock Requirements. Regardless of whether a driver is convicted of DUI, the Department of Licensing (DOL) will suspend a person's driver's license if the person's BAC is .08 or higher or if the person refused to take the BAC.

Depending on the circumstances, the administrative license suspension may range from 90 days to two years. Therefore, it is possible for a person to first have his or her license suspended administratively and then have his or her license suspended based on a criminal conviction for the same incident.

After the suspension period expires and the person is eligible to reinstate his or her regular license, the person must drive with an ignition interlock device (IID) for either one year, five years, or 10 years, depending on whether the person was previously restricted.

Fees Imposed on Offenders. In addition to other monetary penalties, a fee of \$125 is imposed on persons convicted, sentenced to a lesser charge, or given a deferred prosecution as a result of an arrest for DUI, vehicular homicide, or vehicular assault. The stated purpose of the fee is to fund the state toxicology laboratory and the Washington State Patrol for grants and activities to increase the conviction rate and decrease the number of DUIs. The court may suspend all or part of the fee if it finds that the offender is not able to pay. The clerk of the court collects the fee and distributes it as follows:

- 40 percent is distributed between the state and local government, based on existing statutes dividing the noninterest portion of fees collected by the courts;
- 60 percent is forwarded to the State Treasurer to be deposited in the following ways: (a) 15 percent in the Death Investigations Account to fund the state's BAC testing programs; and (b) 85 percent in the State Patrol Highway Account to fund activities to increase the conviction rate and decrease the incidences of DUI.

DUI Victim Impact Panels. The court may order a person convicted of DUI to attend a victim impact panel (VIP). There is nothing in statute that requires a VIP to be conducted by certain entities or organizations. Some courts, such as King County District Court, have adopted minimum standards for VIPs.

Specialty Courts. A specialty or therapeutic court, which may be created within superior court, often requires the offender to undergo treatment, counseling, and educational programs. Some superior courts have established drug courts and mental health courts. At least five counties have specialty courts for offenders convicted of DUI.

Summary: Prior Offenses. The definition of prior offenses is expanded to include a conviction for vehicular assault or vehicular homicide, based on driving in a reckless manner or driving with the disregard for the safety of others, if the original charge was filed as a vehicular assault or vehicular homicide, based on DUI.

Felony DUI. The offense of DUI becomes a felony DUI if the person has ever previously been convicted of felony DUI in Washington.

Ignition Interlock Requirements. When calculating the time a person is required to have an IID installed, the

DOL must give a person day-for-day credit for the time period, starting from the date of the incident, during which the person kept an IID installed.

A person convicted of negligent driving in the first degree must install an ignition interlock device for six months on all vehicles operated by the person if the person has any prior offense within seven years. A person convicted of reckless driving who has any prior offense within seven years must install an ignition interlock device for six months if the original charge was filed as a DUI. A person convicted of reckless driving, whether or not the person has any prior offenses, must install an ignition interlock device for six months if the original charge was filed as vehicular assault based on DUI or vehicular homicide based on DUI.

Fees Imposed on Offenders. The \$125 fee imposed on offenders is increased to \$200. Of the total amount, \$175 must be distributed in the same manner as the current fee is distributed, and \$25 of the fee must be deposited into the Highway Safety Account to be used solely for funding Washington Traffic Safety Commission (WTSC) grants to reduce statewide collisions caused by DUI. Grant recipients may include DUI courts and jurisdictions implementing victim impact panel registries.

DUI Courts. Counties may establish and operate DUI courts. A jurisdiction seeking state funds for a DUI court must first exhaust all federal funding available to support a DUI court and provide a dollar-for-dollar match of state moneys. State money must be used to supplement, not supplant, other funds. The DUI courts already in existence as of January 1, 2011, are not required to match state funds until June 30, 2014. Minimum requirements are created for DUI courts established under the act.

Victim Impact Panels. The WTSC may develop and maintain a registry of qualified VIPs. When a court requires an offender to attend a VIP, the court may refer the offender to a VIP listed on the registry. To be listed on the registry, the VIP must meet certain minimum standards created by the act.

Other Provisions. When a court imposes alcohol monitoring on a person under the ignition interlock license law, the monitoring must be for the period of time of the mandatory license suspension.

Language is added to the sentencing enhancement statute applicable to vehicular homicide convictions to make it explicit that the enhancement is mandatory, must be served in total confinement, and must run consecutively to all other sentencing provisions.

Votes on Final Passage:

House	96	0	
Senate	48	0	(Senate amended)
House	97	0	(House concurred)

Effective: July 22, 2011
September 1, 2011 (Sections 1-9)

ESHB 1790

C 269 L 11

Addressing school district contracts with direct practice health providers.

By House Committee on Ways & Means (originally sponsored by Representatives Dammeier, Sullivan, Hinkle, Green and Ormsby).

House Committee on Ways & Means
Senate Committee on Ways & Means

Background: Legislation enacted in 2007 created a new insurance law allowing direct patient-provider primary health care practices. The direct practices were explicitly exempted from the definition of health care service contractors in the insurance law. Direct practices furnish primary care services in exchange for a direct fee from a patient. Services are limited to primary care, including screening, assessment, diagnosis, and treatment for the purpose of promotion of health, and detection and management of disease or injury. Direct practices are also allowed to pay for charges associated with routine lab and imaging services. Direct practices are prevented from accepting payments for services provided to direct care patients from regulated insurance carriers, all insurance programs administered by the Washington State Health Care Authority (Authority), or self-insured plans. Direct practices may accept payment of direct fees directly or indirectly from non-employer third parties, but are prevented from selling their direct agreements directly to employer groups.

School districts and educational service districts may bargain with their employees over "basic benefits," a limited group of benefits defined as including medical, dental, vision, group term life, and group long-term disability benefits. The benefits may be provided through contracts with private carriers, contracts with the Authority, self-insurance, or other self-funded mechanisms.

Summary: Direct agreements are added to the definition of "optional benefits" for school and educational service district employees that may be determined through collective bargaining. School and educational service district boards are authorized to make direct agreements available to employees among the other employee benefits offered to employees through contracts with private carriers, the Authority, or through self-insurance or self-funding. Direct practice agreements made available by school districts must comply with requirements of state laws on direct agreements.

Votes on Final Passage:

House	97	0	
Senate	49	0	(Senate amended)
House	96	0	(House concurred)

Effective: July 22, 2011

SHB 1793

C 333 L 11

Restricting access to juvenile records.

By House Committee on Early Learning & Human Services (originally sponsored by Representatives Darneille, Roberts and Kagi).

House Committee on Early Learning & Human Services
House Committee on General Government
Appropriations & Oversight

Senate Committee on Human Services & Corrections

Background: Motions to Seal Records. The "official juvenile court file" is the legal file of the juvenile court containing petitions, information, motions, memorandums, briefs, findings of the court, and court orders. The social file is the juvenile court file which contains the records and reports of a probation counselor. Juvenile records are a combination of the official juvenile court file, the social file, and the records of any other juvenile justice or care agency regarding a particular case.

In order to request that his or her juvenile records be sealed, a person must file a motion with the superior court. Courts do not have the authority to issue an order sealing the record of an adjudication for a sex offense. The court may order the following records to be sealed:

- class A offenses where the person has spent five consecutive years since the last date of release from confinement, full-time residential treatment, or entry of disposition in the community without being convicted of any offense or crime; and
- class B, class C, gross misdemeanor, and misdemeanor offenses and diversions where the person has spent two consecutive years since the last date of release from confinement, full-time residential treatment, or entry of disposition in the community without being convicted of any offense or crime.

In addition, the court may not order juvenile records sealed if there is: a proceeding pending against the moving party seeking his or her conviction for a juvenile or criminal offense; a proceeding pending seeking the formation of a diversion agreement with that person; and full restitution that has not been fully paid.

If the court grants the motion to seal, the order to seal covers the juvenile court file, the social file, and other records relating to the case as are named in the order. The order to seal means the proceedings in the case are treated as though they never occurred and the subject of the records may reply accordingly to any inquiry about the events contained in the record.

Fair Credit Reporting Act. The Fair Credit Reporting Act (FCRA) generally requires that credit reporting agencies, also known as consumer reporting agencies, follow reasonable procedures to protect the confidentiality, accuracy, and relevance of credit information. To accomplish this, the FCRA establishes a framework of fair

information practices for personal information maintained by credit reporting agencies that includes the right to access and correct data, data security, limitations on use, requirements for data destruction, notice, consent, and accountability.

Consumer reporting agencies are prohibited from making a consumer report that contains information regarding records of arrest, indictment, or conviction of a crime where more than seven years has elapsed since the date or disposition, release, or parole.

Pardons. Under the Washington State Constitution, the authority to pardon an individual rests with the Governor. The Governor may grant a full or conditional pardon. The Governor may also commute a death sentence to one of life imprisonment. The Clemency and Pardons Board (Board) may receive and consider petitions from individuals, organizations, and the Department of Corrections for review and commutation of sentences and pardoning of offenders in extraordinary cases. The Board makes recommendations regarding a request for pardon or commutation to the Governor.

Summary: Fair Credit Reporting Act. Consumer reporting agencies are prohibited from making a consumer report containing juvenile records where the subject of the records is 21 years or older at the time of the report. This prohibition does not apply where a consumer report is used in connection with: (1) a credit transaction involving or may reasonably be expected to involve \$50,000 or more; (2) the underwriting of life insurance involving, or that may reasonably be expected to involve, \$50,000 or more; or (3) employment of an individual at an annual salary that equals or that may reasonably be expected to equal \$20,000 or more. No arrests, indictments, or convictions of an adult may be included in a report where more than seven years has elapsed since the date of disposition, release, or parole.

Joint Legislative Task Force. A joint legislative task force is convened to determine how to cost-effectively restrict public access to juvenile records when a person has met the statutory requirements for sealing those records. The cost effective measures to be considered should allow a person to seal his or her juvenile records without filing a motion to seal. The task force must also determine how to restrict access to diversion records and any other issues that may arise during the work of the task force.

The President of the Senate and the Speaker of the House of Representatives each appoint two members from the largest caucuses of their respective chambers. One member from each chamber co-chairs the task force. The legislative members convene the first meeting of the task force.

In addition to the legislative members, the task force must include representatives of the following entities:

- The Administrative Office of the Courts;
- The Judicial Information Systems Data Dissemination Committee;

- The Association of Counties, specifically county clerks;
- The Washington Association of Prosecuting Attorneys;
- The Washington State Patrol;
- The Juvenile Law section of the Washington State Bar Association;
- The Washington Defender's Association;
- The Juvenile Rehabilitation Administration; and
- The Juvenile Court Administrators Association.

Staff support for the task force must be provided by Senate Committee Services and the Office of Program Research.

Pardons. Where the subject of juvenile records has received a full and unconditional pardon, the proceedings for which the pardon was granted are treated as if they never occurred. An agency, in response to an inquiry regarding such records, must reply that no information can be given about the existence or nonexistence of records concerning the pardoned individual.

All records maintained by any court or law enforcement agency must be automatically destroyed within 30 days of being notified by the Governor's office that the subject of those records has received a full and unconditional pardon.

The provisions regarding the juvenile records after a pardon has been granted apply retroactively and prospectively.

Votes on Final Passage:

House	56	41	
Senate	41	7	(Senate amended)
House			(House refused to concur)

Conference Committee

Senate	26	20
House	65	31

Effective: July 22, 2011

HB 1794
C 238 L 11

Adding court-related employees to the assault in the third degree statute.

By Representatives Ladenburg, Klippert and Kelley; by request of Board For Judicial Administration.

House Committee on Public Safety & Emergency Preparedness
House Committee on General Government Appropriations & Oversight
Senate Committee on Judiciary

Background: Generally, a person commits Assault if he or she: (a) attempts, with unlawful force, to inflict bodily injury upon another; (b) unlawfully touches another

person with criminal intent; or (c) puts another person in apprehension of harm.

The crime is divided into four degrees depending on the manner in which it was committed or the amount of harm caused to the victim. For instance, an assault that would normally be considered Assault in the fourth degree (a gross misdemeanor offense) may be elevated to Assault in the third degree (a seriousness level III, class C felony offense) if the assault was committed against a certain class of persons. For example, an assault against a fire-fighter performing his or her official duties at the time of the assault is automatically Assault in the third degree. Similar provisions exist for assaults against transit operators, school bus drivers, law enforcement officers, and health care providers.

An offender convicted of Assault in the third degree may receive a maximum sentence of five years in prison, a maximum fine of \$10,000, or both imprisonment and a fine for the class C felony offense. Assault in the fourth degree is a gross misdemeanor offense punishable by a sentence of up to one year in jail or a maximum fine of \$5,000, or both imprisonment and a fine.

Summary: An assault that would normally be Assault in the fourth degree may be elevated to Assault in the third degree. If the assault offense was committed against a judicial officer, court-related employee, county clerk, or county clerk's employee, who was performing his or her official duties at the time of the assault or as a result of that person's employment with the judicial system.

A "court-related employee" includes bailiffs, court reporters, judicial assistants, court managers, court managers' employees, and any other employee, regardless of title, who is engaged in equivalent functions.

Votes on Final Passage:

House	97	0
Senate	46	0

Effective: July 22, 2011

E2SHB 1795
PARTIAL VETO
C 10 L 11 E1

Enacting the higher education opportunity act.

By House Committee on Ways & Means (originally sponsored by Representatives Carlyle, Seaquist, Haler, Reykdal, Rolfes, Probst, Morris, Sells, Pedersen, Jacks, Hudgins, Maxwell and Frockt).

House Committee on Higher Education
House Committee on Ways & Means

Background: Educational Attainment Goals and the Higher Education Task Force. In 2008 the Legislature approved the 2008 Strategic Master Plan for Higher Education in Washington developed by the Higher Education Coordinating Board (HECB). The plan set targets for

additional degree and certificate attainment totaling 31,800 additional certificates and degrees annually.

In 2010 the Governor appointed a Higher Education Task Force (Task Force), composed of Washington business and education leaders, to develop a plan to address the need for increasing the number of Washington residents with college degrees. The Task Force recommended:

- increasing college degrees including in high demand fields such as science, technology, engineering, and math;
- providing universities with increased flexibility to set tuition based upon tuition levels in the Global Challenge States;
- expanding financial assistance to low- and middle-income students through an endowment and tax incentive; and
- holding public universities accountable for graduating more students, and improving student transfer and awarding of academic credits.

Tuition Setting Authority. Between 1999 and 2009, governing boards of each institution of higher education and the State Board for Community and Technical Colleges (SBCTC) were granted authority to increase tuition rates for resident undergraduate students within caps set by the Legislature in the state omnibus operating appropriations act (operating budget). Prior to 1999 tuition was set in statute as dollar amounts for each public institution. Between 1999 and 2009 tuition levels authorized by statute varied.

Tuition amounts (or percentage increases) specified in statute have referred only to the "tuition" portion of tuition and fees. Public colleges and universities are authorized to assess additional fees such as services and activities fees and technology fees within statutory limits.

In 2009 the Legislature directed that increases in tuition for resident undergraduates may not exceed 7 percent per year, except in 2009-2011.

Guaranteed Education Tuition Program. Most states have a form of a "529 Plan" operated by a state or educational institution designed to help families set aside funds for future college costs. They are named after section 529 of the Internal Revenue Code which created these types of savings plans in 1996. Washington's Guaranteed Education Tuition (GET) Program was created in 1998 as Washington's prepaid college tuition program. The GET Program allows purchasers to buy 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. One hundred GET units are equal to one year of resident undergraduate tuition and state-mandated fees at the most expensive public university in Washington.

Performance. In July 2010 the National Governor's Association (NGA) released recommendations on the

common higher education measures that states should collect and report publicly. The Task Force in Washington recommended adoption of the NGA metrics:

- outcome metrics: degrees awarded, graduation rates, transfer rates, and time and credits to degree; and
- progress metrics: enrollment in remedial education, success in remedial education, success in first-year college courses, credit accumulation, retention rates, and course completion.

The Task Force also recommended developing a program to incentivize four-year public baccalaureate institutions to meet degree production, retention, and high demand degree targets. A limited financial incentive is provided for making measured progress. This is similar to the Student Achievement Initiative of the SBCTC adopted by the community and technical college system in Washington.

The Student Achievement Initiative is a performance funding system to incentivize colleges to employ strategies that promote student success. The SBCTC identified key academic benchmarks that students must meet to successfully complete degrees and certificates, known as Achievement Measures which are:

- building towards college level skills (basic skills gains, passing pre-college writing or math);
- first year retention (earning 15 and then 30 college level credits);
- completing college level math (passing math courses required for either technical or academic associate degrees); and
- completions (degrees, certificates, and apprenticeship training).

Between the 2006-2007 baseline year and 2008-2009, the first performance year, the colleges served 4 percent more students but increased student achievement by 19 percent with the greatest gains occurring in all points.

For public baccalaureate institutions, legislation enacted in 2008 required the establishment of pilot performance agreements. The purpose is to develop a six-year plan that aligns higher education policy goals and desired outcomes with resources. Performance agreements may address a variety of elements including benchmarks and goals for long-term degree production, recruitment and retention, quality, timeliness of student progress, and costs, among others. Other accountability provisions include reporting data to the HECB and the Office of Financial Management (OFM).

Summary: Tuition Policy. Tuition-setting authority is granted to the four-year colleges and universities for all students for eight years, through the 2018-19 academic year. Beginning in the 2015-16 through 2018-19 academic years they are granted tuition-setting authority within limits based on a state funding baseline year and funding for similar higher education institutions in the Global Challenge States. In the 2019-20 academic year, tuition-

setting authority for resident students at public baccalaureate institutions reverts to the Legislature.

The University of Washington is required to enroll at least the same number of resident freshman undergraduate students each academic year as enrolled in 2009-10.

Tuition for community and technical college students is set by the Legislature in the operating budget. The SBCTC may authorize differential tuition models.

Student Financial Aid. Instead of 3.5 percent, public baccalaureate institutions that increase tuition above tuition increases assumed in the operating budget must remit 5 percent of operating fees back to students in the form of financial aid. Public baccalaureate institutions that do not increase tuition beyond levels assumed in the operating budget must remit 4 percent of operating fees in the form of financial aid. All of the increases in the amount required to be retained by public baccalaureate institutions for purposes of the institutional financial aid fund must be specifically targeted for financial aid programs for needy students, such as need-based institutional employment or need-based tuition and fees scholarship or grant programs, and not be used for any of the other purposes such as short and long term loans and financial aid for high school students enrolled in dual credit programs.

To offset increased tuition, public baccalaureate institutions must provide financial assistance to State Need Grant-eligible students, resident low- and middle- income students via a specific formula depending on tuition price as a percentage of median family income in various income brackets up to 125 percent of the median family income. This applies when a public baccalaureate institution raises tuition beyond levels assumed in the operating budget. Financial assistance may be provided via various methods with sources from tuition revenue, locally held funds, tuition waivers, or local financial aid programs.

Colleges and universities must collaborate with student associations to make every effort to communicate the American Opportunity Tax Credit and other credits to students and report on the effectiveness of these methods. Public baccalaureate institutions must report on: methods of providing financial assistance; impacts of tuition increases on resident students including debt burdens, excluding private loans; and devise plans to mitigate for negative effects on the student population. The key purpose of the annual report is to provide information to the Legislature on impacts to students and educational access, affordability, and quality as a result of granting flexible tuition setting authority.

Data on student impacts must be disaggregated by income bracket for both the reports by public baccalaureate institutions related to impacts on tuition increases and also for data gathered to report on outcomes.

The HECB, in consultation with four-year colleges and universities and the SBCTC, must develop State Need Grant award criteria and methods of disbursement based

on level of need, and not solely rely on a first-come, first-served basis.

Accountability. Higher education institutions must report by December 1 annually on performance data that aligns with the National Governor's Association *Complete to Compete* metrics with additions that include: graduate and professional degrees; Science, Technology, Engineering, and Mathematics participation; student debt load; and disaggregation of measures based on various student demographics, including socio-economic status and income level, among others.

Each four-year public baccalaureate institution must develop a performance plan and include a minimum set of expected outcomes, and higher education institutions must display accountability data on the OFM website.

The Joint Legislative Audit and Review Committee must conduct a performance audit in calendar year 2018 to understand the impact of institutional tuition-setting authority on student access, affordability, and institutional quality, and provide recommendations on whether to continue the authority beyond the 2018-19 academic year.

Dual Enrollment. Running Start students may be charged up to 10 percent of tuition and fees in addition to other mandatory fees. All public colleges and universities must make every effort possible to communicate available waivers to eligible low-income Running Start students.

Transfer and Prior Credit Policy. Public baccalaureate institutions must award junior standing to a Washington community and technical college graduate who has earned a transferable associate of arts or sciences degree. A graduate who has earned the direct transfer associate of arts degree must be deemed to have met the lower division general education requirements when transferring to a four-year college or university and four-year colleges must award a student junior standing when accepting transfer students from other Washington four-year colleges and universities.

All public colleges and universities must develop a minimum of one degree within the arts and sciences disciplines that can be completed within the equivalent of 90 quarter upper division credits by any student who enters a college or university with junior status and lower division general education requirements completed. Community and technical colleges must identify and publish in their admissions materials college level courses that are recognized by all four-year colleges and universities as transferable to those colleges and universities. Publication of the list of courses must be easily identified and accessible on the college's website.

A credit for prior learning work group is established.

Regulatory Relief. Performance agreements for public baccalaureate institutions are repealed.

Procurement thresholds are aligned when higher education agencies contract with consultants at \$10,000 for informal contracts that do not require documented

evidence of competitions and \$100,000 for formal contracts that require documented evidence of formal competition. Purchase of equipment maintenance agreements is permitted for periods of longer than one year.

The OFM is required to work with state agencies and the council of presidents to convene and interagency work group to develop and implement improved administration and management practices that enhance the efficiency and effectiveness of operations throughout higher education campuses and report progress to the Legislature by November 15, 2012, and November 15, 2013.

Until June 30, 2011, the following provisions are removed for public higher education institutions:

- short-term restrictions on meeting in private spaces;
- short-term prohibitions on personal service contracts;
- short-term prohibitions on equipment purchases over \$5,000;
- short-term prohibitions on out-of state travel;
- short-term prohibitions on hiring for new or vacant positions; and
- short-term restrictions on salary and wage increases for academic personnel.

Votes on Final Passage:

First Special Session

House	79	17
Senate	32	13

Effective: August 24, 2011

June 6, 2011 (Section 26)

Partial Veto Summary: The Governor vetoed sections 13 through 24, as their content is addressed in other enacted legislation. The vetoed sections relate to: (1) competitive solicitation requirements for personal services contracts and other purchases that are less than \$100,000; (2) the requirement that no payments may be made in advance for equipment maintenance services to be performed in excess of one year; and (3) various spending freezes that expire on June 30, 2011, such as hiring, personal service contracts, equipment, out of state travel and training, and board member travel allowances. Section 25, which relates to exempting higher education institutions from prohibitions on wage and salary increases granted with non-state funds, is vetoed.

VETO MESSAGE ON E2SHB 1795

June 6, 2011

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to Sections 13 through 25, Engrossed Second Substitute House Bill 1795 entitled:

"AN ACT Relating to the higher education opportunity act."

Sections 13 and 14 exempt higher education from the requirements of competitive solicitation for personal services contracts and other purchases that are less than \$100,000. Current law requires competitive solicitation for personal service contract greater than \$20,000 and for other purchases greater than \$35,000. Section 15 exempts higher education from the requirement that no payments may be made in advance for equipment maintenance

services to be performed in excess of one year. Other legislation requires a study and the establishment of a policy regarding these practices for all of state government, including higher education institutions.

Sections 16 through 24 exempt higher education from various spending freezes, such as hiring, personal service contracts, equipment, out of state travel and training, and board member travel allowances that were imposed during the 2009-2011 biennium. These freezes expire on June 30, 2011. Due to the length of the regular legislative session and special session, sections 15, 16, 17, 18, 19 and 20 have no operative effect because the restrictions expire before the law takes effect.

Section 25 would exempt, through June 30, 2011, higher education institutions from prohibitions on wage and salary increases granted with non-state funds. These prohibitions on wage and salary increases are reinstated for the 2011-13 biennium in SB 5860 for all of state government. In addition, the underlying statute already provides an exemption for higher education to the wage and salary freeze if increases are needed for recruitment and retention purposes.

For these reason, I am vetoing Sections 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24 and 25 of Engrossed Second Substitute House Bill 1795. Higher education institutions are still prohibited from granting wage and salary increases using tuition funding for the 2011-13 biennium, unless increases are necessary for recruitment and retention.

For these reasons, I have vetoed Sections 13 through 25 of Engrossed Second Substitute House Bill 1795.

With the exception of Sections 13 through 25, Engrossed Second Substitute House Bill 1795 is approved.

Respectfully submitted,

Christine O. Gregoire
Governor

2SHB 1803

C 83 L 11

Modifying the Columbia river basin management program.

By House Committee on Capital Budget (originally sponsored by Representatives Chandler, Van De Wege, Blake, Kretz and Warnick; by request of Department of Ecology).

House Committee on Agriculture & Natural Resources
House Committee on Capital Budget
Senate Committee on Environment, Water & Energy

Background: Columbia River Basin Water Supply Management Program. In 2006 legislation was enacted creating the Columbia River Basin Water Supply Development Program and directing the Department of Ecology (DOE) to aggressively pursue the development of water supplies to benefit both instream and out-of-stream uses.

The Columbia River Basin Water Supply Development Account. The Columbia River Basin Water Supply Development Account (Development Account) is authorized to receive direct appropriations, payments made pursuant to voluntary regional agreements, and funds from other sources. Expenditures from the Development Account may be used to: assess, plan, and develop new storage; improve or alter operations of existing storage

facilities; implement conservation projects; or any other actions designed to provide access to new water supplies within the Columbia River Basin. Two-thirds of the funds placed in the Development Account must be used to support the development of new storage facilities. The remaining one-third must be used for other purposes listed in statute.

Water supplies secured through the development of new storage facilities made possible with funding from the Development Account must be allocated as follows:

- two-thirds of active storage must be available for appropriation for out-of-stream uses; and
- one-third of active storage must be available to augment instream flows managed by the DOE.

Summary: The Columbia River Basin Water Supply Development Account. The Development Account is intended to fund projects using tax exempt bonds. In addition to the projects already allowed by statute, expenditures from the Development Account may be used to develop pump exchanges. Two-thirds of the funds placed in the Development Account must be used to support the development of new storage facilities and pump exchanges. Pump exchanges are defined.

Two-thirds of the water made available through reoperation of Sullivan Lake funded from the Development Account must be used to supply or offset out-of-stream uses in Ferry, Douglas, Lincoln, Okanogan, Pend Oreille, and Stevens counties. At least one-half of this quantity must be made available for municipal, domestic, and industrial uses.

New Columbia River Basin Accounts. The Columbia River Basin Taxable Bond Water Supply Development Account (Bond Account) and the Columbia River Basin Water Supply Revenue Recovery Account (Revenue Account) are created. The Bond Account and Revenue Account are allowed to accept direct appropriations, moneys directed pursuant to voluntary regional agreements, or funds from other sources. The Revenue Account is also allowed to accept revenue from water service contracts. The Bond Account is intended to fund projects using taxable bonds.

Expenditures from the Bond Account and the Revenue Account may be used for the same purposes authorized under the Development Account. Two-thirds of the moneys placed in the Bond Account and the Revenue Account must be used to support the development of new storage facilities and pump exchanges. The remaining one-third must be used for the other purposes specified in the act.

Funds may not be expended from the Bond Account or the Revenue Account for the construction of a new storage facility until the DOE evaluates certain criteria, including the water uses to be served by the facility and the benefits and costs to the state.

With certain exceptions, net water savings achieved through conservation measures funded by the Bond Account or Recovery Account must be placed in trust in proportion to the state funding provided to implement a project.

The DOE may enter into water service contracts with applicants receiving water from the program to recover all or a portion of the cost of developing the water supply. Costs recovered under water service contracts do not include staff time. With the applicant's concurrence, the DOE may receive power revenue generated by the water supply developed by the DOE through water service contracts. The DOE may deny an application if the applicant does not enter into a water service contract.

Provisions are created to address how water supplies secured through the development of new storage facilities, made possible with funding from the Bond Account and Revenue Account, must be allocated.

Aggregating Projects. The DOE is required to evaluate options for aggregating projects to achieve instream and out-of-stream allocations required by statute. The DOE must report its findings to the Legislature by September 15, 2011.

Votes on Final Passage:

House	97	0
Senate	47	0

Effective: July 22, 2011

E2SHB 1808

C 77 L 11

Creating the launch year program.

By House Committee on Education Appropriations & Oversight (originally sponsored by Representatives Lytton, Dammeier, Maxwell, Dahlquist, Sullivan, Reykdal, Liias, Finn, Sells, Orwall, Rolfes and Kenney; by request of Governor Gregoire).

House Committee on Higher Education
House Committee on Education Appropriations & Oversight

Senate Committee on Early Learning & K-12 Education

Background: Dual Credit Programs. In November 2010 the Office of Superintendent of Public Instruction (OSPI) released a report regarding student participation in dual credit programs. An analysis of students' schedules for the 2009-2010 school year, as reported in the Comprehensive Education Data and Research System show that 10.9 percent of all high school courses taken can earn dual credit. Whether or not a student will be able to leave high school with a full year of postsecondary credit varies depending on the subject matter and program requirements in each apprenticeship program or institution of higher education. A variety of education programs allow high school

students to earn postsecondary course credit while also earning credit toward high school graduation.

Running Start. Running Start students have the opportunity to study on a college campus while acquiring credits that count toward both high school and college graduation. If the student passes the college course, he or she receives the same amount of credit as any other college student taking the course. The students do not pay tuition for Running Start classes. Rather, for a full-time Running Start student, a school district retains 7 percent of the basic education allocation and provides the remainder to the higher education institution. A Running Start student may be charged some fees.

College in the High School. College in the high school permits students to complete college level work while staying on their high school campuses. High school teachers typically form a relationship with a college or university and receive adjunct, extension, or lecturer status. They work with a professor to align a particular high school course with a college level course published in the college catalog. The college course is then taught to high school students by the high school teacher during the regular school day. Students usually pay a fee for this program which varies based on the area of study. Other funding, fees, and eligibility requirements are negotiated by participating schools through a local contract.

Tech Prep. Tech Prep is a cooperative effort between K-12 schools, community and technical colleges, and the business community to develop applied integrated, academic, and technical programs. These professional technical courses are taught on high school campuses by high school instructors. The instructors work with local colleges to assure the courses are taught at the college level and articulate to the college program. Each of the state's 22 Tech Prep consortia have developed competency-based articulation agreements between high schools and colleges that help students transition from high school into postsecondary professional technical programs. Through Tech Prep articulation agreements, colleges award credit to students who successfully complete college-equivalent courses and programs with a "B" or better while still in high school.

Advanced Placement and International Baccalaureate Programs. Advanced Placement (AP) and International Baccalaureate (IB) programs allow students to take college level courses while staying on their high school campuses. For both of these programs, students complete courses taught by high school teachers and then must pass a standardized examination at the end of the courses. Students pay the exam fees. Whether college credit is awarded depends upon a student's score on the exam. For AP, students score from zero to five points. Minimum scores to qualify for college credit vary by college and by subject area.

Running Start for the Trades. Running Start for the Trades began in 2006 with the purpose of expanding apprenticeship opportunities for high school students.

High schools work closely with local apprenticeship programs to prepare students to enter apprenticeships immediately after graduation. Depending upon the program, students may earn direct entry into an apprenticeship program or enhance their chances of entry into a program.

Higher Education Coordinating Board. The Higher Education Coordinating Board (HECB) is a 10-member citizen board appointed by the Governor and confirmed by the Senate. Established by law, the HECB provides vision, leadership, and coordination for the state's public colleges and universities. The HECB administers state and federal financial aid.

State Board for Community and Technical Colleges. The State Board for Community and Technical Colleges (SBCTC) is governed by a nine-member board appointed by the Governor and confirmed by the Senate. The SBCTC is responsible for providing leadership and coordination for Washington's public system of 34 community and technical colleges.

Summary: Within existing resources, all public high schools in the state must work toward the goal of offering a sufficient number of high school courses to give students the opportunity to earn the equivalent of one year's worth of postsecondary credit toward a certificate, apprenticeship program, technical degree, or associate or baccalaureate degree. All public high schools must inform students and their families about the opportunities these courses provide to earn postsecondary credit and get an advance start on their career and postsecondary education, if they earn the qualifying score on the proficiency exam or through the demonstrated competencies.

By December 1, 2011, and biennially each June thereafter, institutions of higher education must develop a master list of postsecondary courses that can be fulfilled by taking the AP, IB, or other recognized college level proficiency exam and achieving a qualifying score or by meeting demonstrated competencies. Each institution must publish on its website and in its admissions materials its own list of courses that qualify for credit for lower division general education requirements. The qualifying exam scores and demonstrated competencies must be included in the list.

Each institution must recognize at least one year of course credit that may be earned through qualifying scores on proficiency exams or demonstrated competencies. In so doing, the institutions must maximize the application of the credits toward lower division general education requirements.

Each institution of higher education must also provide a list of such courses to the HECB and the SBCTC in a form that the OSPI is then able to distribute to school districts. The HECB must annually publish on its website the agreed-upon list of high school courses qualifying for postsecondary credit and the exam scores and demonstrated competencies meeting postsecondary requirements.

This is to be referred to as the Launch Year Act.

Votes on Final Passage:

House 70 27
 Senate 43 4

Effective: July 22, 2011

SHB 1811

C 239 L 11

Allowing for informed telephonic consent for access to housing or homelessness services.

By House Committee on Community Development & Housing (originally sponsored by Representatives Springer, Roberts and Stanford).

House Committee on Community Development & Housing
 Senate Committee on Human Services & Corrections

Background: The Homeless Housing and Assistance Act of 2005 required the Department of Commerce (Department) to develop a management information system for the homeless population. Legislation enacted in 2006 added additional specifications, including:

- requiring the Department to implement the Washington Homeless Client Management Information System (HMIS) by December 31, 2009, and to update it at least annually;
- specifying that the HMIS include information from the Washington homeless census, state agencies, and organizations providing services to the homeless population;
- allowing data to be collected only after having obtained informed, reasonably time limited written consent from the homeless individual;
- requiring information to be collected in a manner consistent with federal informed consent guidelines regarding human research; and
- directing that the HMIS serve as an online information and referral system.

The HMIS is an electronic record system that enables information-gathering about and continuous case management of homeless persons across agencies. Homeless service providers collect information about their clients and input it into the HMIS, so that it can be matched with information from other providers in the state to get accurate counts of homeless clients and the services they need. The statewide HMIS is designed to meet United States Department of Housing and Urban Development, Health Insurance Portability and Accountability Act, and state requirements, as well as local provider needs.

Individually identifiable client data is only accessible to individuals authorized by the Department to access the database. Each client must sign a form consenting or denying the collection of his or her personally identifying information for the HMIS.

Summary: Personally identifying information about homeless individuals collected for the HMIS, which may currently be obtained only with written consent, may now also be collected over the telephone. If collected over the telephone, written consent must be obtained at the first time the individual is physically present at an organization with access to the HMIS.

Safeguards to protect privacy rights consistent with federal requirements on data collection must be in place whether the information is collected in person or over the telephone. The Department must adopt policies for destroying paper documents containing personally identifiable information. These policies must not conflict with any federal data requirements.

Votes on Final Passage:

House 97 0
 Senate 49 0 (Senate amended)
 House 97 0 (House concurred)

Effective: July 22, 2011

SHB 1822

C 146 L 11

Establishing the first nonprofit online university.

By House Committee on Higher Education (originally sponsored by Representatives Kenney, Parker, Seaquist, Pettigrew, Dickerson and Zeiger).

House Committee on Higher Education
 Senate Committee on Higher Education & Workforce Development

Background: The Western Governors University (WGU) is a private, not-for-profit, online degree-granting university. The WGU offers undergraduate and graduate degree programs in business, teacher education, information technology, and health professions, including nursing. The university was founded in 1997 by a group of 19 western governors, including Governor Mike Lowry. The WGU enrolled its first student in 1999. While the WGU receives grants from state and federal agencies as well as corporations and foundations, it does not rely on direct state or federal funding for its operations.

The WGU is regionally accredited by the Northwest Commission on Colleges and Universities. The WGU is nationally accredited by the Distance Education and Training Council, the National Council for the Accreditation of Teacher Education, the Commission for Collegiate Nursing Education, and the Commission on Accreditation for Health Informatics and Information Management Education.

The WGU degrees are competency-based rather than credit-based. Each student is assigned a mentor and graduation specialists are available to support student success.

Summary: The Legislature expresses its intent to partner with the WGU to establish the WGU-Washington and

ESHB 1826

provide enhanced access to post-secondary education for all Washington students, including dislocated workers and place bound students. The WGU-Washington is recognized as a Washington baccalaureate degree granting institution that is self-supporting.

The Higher Education Coordinating Board (HECB) may recognize and endorse online, competency-based education, work to eliminate unnecessary barriers to the delivery of online, competency-based education, and work with a regionally accredited not-for-profit online baccalaureate degree granting institution of higher education to integrate its academic programs and services into state policy and strategy. The HECB may work with that institution to create data-sharing processes and performance assessments. Modifications in contractual terms or relationships, changes in not-for-profit status, or any internal restructuring of the institution requires consultation and approval by the HECB. The HECB must adopt rules for this purpose.

Votes on Final Passage:

House	70	26
Senate	40	7

Effective: July 22, 2011

ESHB 1826

C 84 L 11

Providing taxpayers additional appeal protections for value changes.

By House Committee on Ways & Means (originally sponsored by Representatives Orcutt, Sells, McCune, Rolfes, Angel and Hurst).

House Committee on Ways & Means
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. The county assessor determines assessed value for each property. Property subject to property tax is assessed at its true and fair value. In most cases, this is the market value in the property's highest and best use. The values are set as of January 1. These values are then used for determining property tax bills to be collected in the following year.

County assessors establish new assessed values on a regular revaluation cycle. The length of revaluation cycles vary by county. In the 2009 assessment year, 17 counties revalued property every four years, one county every three years, and one county every two years. For these counties, a proportionate share of the county properties are revalued during each year of the cycle while the other individual property values within the county remain unchanged during the intervening years of the revaluation cycle. Twenty counties in Washington revalue annually based on market value statistical data.

When the assessor changes the property value, the assessor provides the property owner with a notice of the change. These revaluation notices are mailed within 30 days of the completed appraisal. If the value of the real property appraised has not changed, then a revaluation notice does not need to be sent to the taxpayer. Generally, in counties using two-, three-, or four-year revaluation cycles revaluation notices are only sent to taxpayers in the revaluation year and not in the intervening years.

County boards of equalization provide the first level of appeal for property owners who dispute the assessed value of their properties. This petition must be filed with the board of equalization on or before July 1 or within 30 days of the date the value change notice was mailed, or within a time limit of up to 60 days if an extended period has been adopted by the county. Some exceptions to the filing deadline are allowed: death or serious illness of the taxpayer or his or her immediate family; the taxpayer was absent from the address where the taxpayer normally receives the assessment or value change notice; incorrect written advice regarding filing requirements received from board of equalization staff, county assessor's staff, or staff of the county property tax advisor; a natural disaster such as flood or earthquake; or delay or loss related to the delivery of the petition by the postal service.

Summary: A county board of equalization must waive the property tax valuation appeal deadline if a request is made within a reasonable time after the normal filing deadline under the following circumstance: the taxpayer's property was in the revaluation area, the taxpayer was not sent a property value change notice, and the property value did not change from the previous year.

This change first applies to taxes levied for collection in 2012.

Votes on Final Passage:

House	96	0
Senate	48	0

Effective: July 22, 2011

SHB 1829

C 270 L 11

Creating an office of Native education within the office of the superintendent of public instruction.

By House Committee on Education (originally sponsored by Representatives Billig, Santos, Haigh, Probst, Sells, Kenney, Reykdal, Maxwell, Stanford, Morris, Hasegawa, Ryu, McCoy, Hunt, Moscoso, Hope, Appleton and Ormsby).

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

Background: Although not required by statute, for over 50 years there has been an Indian Education Office within

the Office of Superintendent of Public Instruction (OSPI). The mission of the Indian Education Office is to:

- provide leadership, technical assistance, and advocacy to promote academic success for all students; and
- encourage, promote, and develop strategies to infuse the teaching of Native history, culture, language, and government in Washington's schools.

Summary: To the extent funds are available, an Indian Education Division, to be known as the Office of Native Education (Office), is created within the OSPI. The Superintendent of Public Instruction (Superintendent) must appoint an individual to be responsible for the Office.

To the extent state funds are available, and with additional support from federal and local funds where authorized by law, the Office must:

- provide assistance to school districts in meeting the educational needs of American Indian and Alaska Native students;
- facilitate the development and implementation of curricula and instructional materials in native languages, culture and history, and the concept of tribal sovereignty;
- provide assistance to districts in the acquisition of funding to develop curricula and instructional materials in conjunction with Native language practitioners and tribal elders;
- coordinate technical assistance for public schools that serve American Indian and Alaska Native students;
- seek funds to develop and implement various support services for the purposes of increasing the number of American Indian and Alaska Native teachers and principals, and providing continued professional development;
- facilitate the inclusion of Native language programs in school districts' curricula; and
- work with all relevant agencies and committees to highlight the need for accurate, useful data that is appropriately disaggregated.

The Office must also report to the Governor, the Legislature, and the Governor's Office of Indian Affairs on an annual basis, beginning in December 2012.

A Native Education Public-Private Partnership Account (Account) is created in the custody of the State Treasurer to support the activities of the Office. Only the Superintendent or his or her designee may authorize expenditures from the Account. The Account is subject to allotment procedures but an appropriation is not required for expenditures.

Votes on Final Passage:

House	74	23	
Senate	36	12	(Senate amended)
House	72	25	(House concurred)

Effective: July 22, 2011

ESHB 1846

C 8 L 11

Creating the aerospace training student loan program.

By House Committee on Labor & Workforce Development (originally sponsored by Representatives Eddy, Smith, Morris, Probst, Sells, Springer, Warnick, Liias, Stanford and Maxwell).

House Committee on Labor & Workforce Development
House Committee on Education Appropriations & Oversight
Senate Committee on Higher Education & Workforce Development

Background: The Washington Aerospace Training and Research Center was established in 2010 and is located on Paine Field in Everett. Offerings include customized training programs, as well as certificate programs. This center is operated by Edmonds Community College pursuant to a contract with the Aerospace Futures Alliance.

The Spokane Aerospace Technology Center is scheduled to open in 2011 and will be located at the Spokane International Airport. This center will offer various training programs, including the Spokane Community Colleges' aviation maintenance program.

The Aerospace Futures Alliance of Washington (Alliance) is an aerospace association of large and small aerospace companies. The Alliance is a nonprofit corporation.

The Higher Education Coordinating Board provides strategic planning, coordination, monitoring, and policy analysis for higher education. It also administers various state and federal financial aid programs.

Summary: The Aerospace Training Student Loan Program (Loan Program) for eligible students at certain aerospace training or educational programs is established.

An aerospace training or educational program (training program) is a course in the aerospace industry offered by the Washington Aerospace Training and Research Center or the Spokane Aerospace Technology Center. The training program must have an advisory committee that includes at least one member representing aerospace employers and at least one member from organized labor representing aerospace workers.

An eligible student is one who is registered for a training program. An eligible student also must be making satisfactory progress as defined by the training program and have a declared intention to work in the aerospace industry in Washington.

The Higher Education Coordinating Board (Board) is required to administer the Loan Program, which must be designed in consultation with representatives of aerospace employers, aerospace workers, and the training programs.

The Board has the following powers and duties:

- to select and screen eligible students to receive student loans, in coordination with representatives of the training programs;
- to consider an eligible student's financial need;
- to issue low-interest student loans;
- to establish an annual loan limit equal to training costs minus other financial aid;
- to define repayment terms;
- to collect and manage repayments;
- to solicit and accept grants and donations for the program; and
- to adopt rules.

The Board is authorized to award student loans to eligible students from available funds. The student loans may not exceed one year of tuition and fees.

The Aerospace Training Student Loan Account (Account) is created. Appropriations are required for administrative costs, but not for student loans. All moneys received for the Loan Program must be deposited into the Account. The Account must be self-sustaining. Expenditures may be used solely for student loans and administrative costs.

The Board, in collaboration with the training programs, must submit reports regarding the Loan Program to the Governor and appropriate legislative committees by December 1 of each year. Annual reports must describe the design and implementation of the Loan Program. Annual reports also must include information about applicants, participants, and jobs in which participants are placed.

Votes on Final Passage:

House	80	16
Senate	47	0

Effective: July 22, 2011

SHB 1854

C 271 L 11

Concerning the annexation of territory by regional fire protection service authorities.

By House Committee on Ways & Means (originally sponsored by Representatives Upthegrove, Rolfes, Finn, Hunt, Hope, Fitzgibbon, Stanford, Kenney and Ormsby).

House Committee on Local Government
House Committee on Ways & Means
Senate Committee on Government Operations, Tribal Relations & Elections

Background: A regional Fire Service Protection Authority (Authority) may be created for the purpose of conducting specified fire protection functions at a regional level. An Authority may be created by the merger of two or more adjacent fire protection jurisdictions, including fire protection districts, cities, port districts, and Indian tribes.

The fire protection jurisdictions proposing to create an Authority must convene a planning committee to develop and adopt a service plan (plan) for the Authority. The plan must provide for the design, financing, and development of fire protection and emergency services. The planning committee must also recommend statutorily authorized sources of revenue and a financing plan for funding selected fire protection and emergency services and projects.

Once adopted by the planning committee, the plan must be forwarded to the participating jurisdictions' governing bodies to initiate an election process. The voters may approve or reject a single ballot measure that both approves the formation of the Authority and the plan. The required margin for voter approval depends on the revenue sources proposed by the plan. If the plan does not authorize benefit charges or 60 percent voter-approved taxes, the ballot measure must be approved by a simple majority. If, however, the plan authorizes the Authority to impose benefit charges or 60 percent voter-approved taxes, the ballot measure must be approved by 60 percent of the voters.

Except as otherwise provided in the plan, the following are transferred to an Authority on its creation date:

- all powers, duties, and functions of a participating jurisdiction pertaining to fire protection and emergency services;
- all written material of a participating jurisdiction pertaining to fire protection and emergency services;
- all real, personal, and tangible property employed by the participating jurisdiction in carrying out fire protection and emergency services; and
- all funds, credits, and other assets held by the participating jurisdiction in connection with police services.

Except as provided otherwise in the plan, any appropriations made to a participating jurisdiction for carrying out fire protection and emergency services are transferred and credited to the Authority.

As of the date of an Authority's creation, all employees of a participating jurisdiction are transferred to the Authority. A transferred employee is entitled to the same rights, benefits, and privileges he or she enjoyed while employed by the participating jurisdiction. Collective bargaining agreements remain effective, and if any or all of the participating jurisdictions provide for civil service in their fire departments, the collective bargaining representatives of the transferring employees and the participating jurisdictions must negotiate regarding the establishment of a civil service system within the Authority.

A "participating fire protection jurisdiction" is a fire protection district, city, town, Indian tribe, or port district that is represented on the governing board of an Authority. State law authorizes each of these jurisdictions, other than a tribe, to levy property taxes. However, the levies of a participating fire protection jurisdiction are limited so that statutorily designated amounts, less the amount of a levy imposed by the Authority, are not exceeded.

Summary: A process through which an Authority may annex an adjacent fire protection jurisdiction is established. The annexation is initiated when the governing body of a fire protection jurisdiction adopts a resolution requesting annexation and files it with the governing board (board) of an adjacent Authority. Except as otherwise provided in its service plan, the board may adopt a resolution amending its plan to establish terms and conditions of the requested annexation, and submit the resolution and the plan amendment to the requesting jurisdiction.

An election to authorize the annexation and related plan amendment may be held if the governing body of the requesting jurisdiction adopts a resolution approving the annexation and the related plan amendment. Only voters in the fire protection jurisdiction proposed to be annexed are eligible to vote on the single ballot measure approving the annexation and the plan amendment.

Unlike a ballot measure pertaining to the creation of an Authority, the required margin for voter approval of a ballot measure pertaining to annexation of a fire protection jurisdiction does not depend on the revenue sources authorized by the plan. Regardless of whether the plan authorizes imposition of benefit charges or 60 percent voter-approved property taxes, the annexation is authorized if a simple majority approves the ballot measure.

As of the effective date that a fire protection jurisdiction is annexed into an Authority, its powers, duties, and functions, written materials, and employees relating to fire protection and emergency services transfer from the annexed fire protection jurisdiction to the Authority. Generally, the annexation is effective on the date specified in the ballot measure.

For purposes of calculating permissible property tax levy rates, a fire protection district, city, town, or port district that is annexed into an Authority is a "participating fire protection jurisdiction," and its property tax levy Authority is therefore subject to the same limitations as a fire protection jurisdiction that is represented on the governing board of an Authority.

Votes on Final Passage:

House	88	9
Senate	47	2

Effective: July 22, 2011

SHB 1858

C 240 L 11

Concerning the department of social and health services' authority with regard to semi-secure and secure crisis residential centers and HOPE centers.

By House Committee on Early Learning & Human Services (originally sponsored by Representatives Roberts, Parker, Kagi, Dickerson, Goodman, Lytton, Jacks, Probst, Walsh, Carlyle, Kenney and Ormsby).

House Committee on Early Learning & Human Services
Senate Committee on Human Services & Corrections

Background: The Department of Social and Health Services (DSHS) contracts with vendors who provide a variety of residential programs specific to older youth in crisis who need shelter and assistance. These residential options include secure and semi-secure Crisis Residential Centers (CRCs), HOPE centers, and Responsible Living Skills Programs. Separate rules govern each program. Some providers operate more than one program within one physical facility.

Crisis Residential Centers have operated in Washington since 1980 to serve youth who are homeless, those who seek shelter including runaway youth, and those transported by law enforcement or the DSHS. The CRCs consist of both semi-secure facilities and secure facilities. Secure CRCs were established in 1995. Secure CRCs are designed to prevent youth from leaving without parental or staff permission for a short period of time while they receive support to stabilize during a period of crisis. Secure CRCs include some facilities located within or adjacent to a juvenile detention facility, but do not allow for in-person contact between youth in the CRC and juveniles being held in the detention facility. Some secure CRCs are community-based.

In 1999 the Legislature passed the HOPE Act, which established services for older street youth without family support and for whom foster placements have not been successful. HOPE centers are facilities where youth can stay for up to 30 days while they are evaluated for services. The Responsible Living Skills Program provides long-term residential placement for older youth and other services to help youth gain independent living skills.

Summary: The DSHS is required to allow co-location of secure and semi-secure CRCs and HOPE centers, and must adopt rules to allow licensing of these co-located facilities. The DSHS is required to permit and license co-located facilities only if the entity operating the facility designates a particular number of beds for each type of center in the building. Youth in co-located facilities may not be placed in secure facilities, except as authorized in statute. The DSHS must contract for a continuum of short-term stabilization services and collaborate with service providers in a manner that allows facilities to be located in a geographically representative manner. The DSHS is authorized to contract for the operation of HOPE center

beds and Responsible Living Skills Programs with the goal of facilitating the coordination of services provided for youth by such programs and those provided by CRCs. The DSHS is authorized to adopt rules regarding flexible payment structures, center specific licensing waivers, or other appropriate measures to increase utilization and provide flexibility, while continuing to meet the statutory goals of each program.

Votes on Final Passage:

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

Effective: July 22, 2011

SHB 1861

PARTIAL VETO

C 161 L 11

Concerning the sale or lease of surplus state-owned railroad properties.

By House Committee on Transportation (originally sponsored by Representatives Armstrong, Clibborn, Hargrove, Liias, Billig and Schmick).

House Committee on Transportation
Senate Committee on Transportation

Background: Washington owns the former Palouse River and Coulee City Railroad (PCC), which consists of three branches. The Washington State Department of Transportation (WSDOT) purchased the rights of way and rail in the P&L Branch and PV Hooper Branch of the PCC in November 2004. The purchase of the CW Branch and the remaining rights in the other two branches was completed in May 2007. The WSDOT contracts with private railroads to operate each of the branches. The PCC operates the PV Hooper Branch, the Eastern Washington Gateway Railroad operates the CW Branch, and the Washington and Idaho Railway operates the P & L Branch. The WSDOT oversees the facilities and regulatory portions of the operating leases. The PCC Rail Authority, which is an intergovernmental entity formed by Grant, Lincoln, Spokane, and Whitman counties, oversees the business and economic development portions of the operating leases.

Real property acquired by the WSDOT as part of the state freight rail program may be sold or leased immediately after purchase to a county rail district, a county, a port district, or any other public or private entity authorized to operate rail service. If none of these entities purchase or lease such property within six years of its acquisition, the WSDOT may sell or lease the property at fair market value to any of the following entities: (1) any other state agency; (2) the city or county in which the property is located; (3) any other municipal corporation; (4) the former owner, heir, or successor of the property

from whom the property was acquired; or (5) an abutting property owner. There is no priority established in statute for sales to the designated entities, and the proceeds of any sale or lease must be deposited into the Essential Rail Assistance Account.

Summary: The WSDOT is allowed to sell or lease at fair market value any property that is not essential for the operation of rail service to the following prioritized list of persons or entities: (1) the current tenant or lessee of the property or property abutting the property being sold or leased; (2) an abutting private owner; (3) any other state agency; (4) the city or county in which the property is located; (5) any other municipal corporation; or (6) the former owner, heir, or successor of the property from whom the property was acquired. The sale or lease of such property may occur immediately after acquisition.

If the WSDOT intends to sell or lease property that is not essential for the operation of rail service to a person or entity that does not have the highest priority status on the list, the WSDOT is required to notify each entity or person of higher priority that is reasonably considered to have an interest in the property and provide a right of first refusal to entities or persons higher on the prioritized list.

Any property of the PCC that was purchased with bond proceeds may be sold only for cash. Any moneys received from sales or leases of property related to the PCC must be used only for the refurbishment or improvement of the PCC, and must be expended within two years of receipt. Any revenue received from operating leases or other business operations of the PCC must be used only for the refurbishment or improvement of the PCC.

Votes on Final Passage:

House	97	1	
Senate	48	0	(Senate amended)
House	96	1	(House concurred)

Effective: July 22, 2011

Partial Veto Summary: The Governor vetoed the emergency clause in section 4 of the bill. The bill thus takes effect 90 days after adjournment of session.

VETO MESSAGE ON SHB 1861

April 22, 2011

*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 1861 entitled:

"AN ACT Relating to the sale or lease of surplus state-owned railroad properties."

The Department of Transportation does not intend to surplus property within the next 90 days. With that understanding, the emergency clause is unnecessary.

For this reason, I have vetoed Section 4 of Substitute House Bill 1861.

With the exception of Section 4, Substitute House Bill 1861 is approved.

Respectfully submitted,



Christine O. Gregoire
Governor

ESHB 1864

C 162 L 11

Concerning debt collection.

By House Committee on Business & Financial Services (originally sponsored by Representatives Stanford, Frockt, Fitzgibbon, Ryu, Billig, Moscoso, Ladenburg and Kenney).

House Committee on Business & Financial Services
Senate Committee on Judiciary

Background: Personal Property Exemptions. A creditor may seek a legal judgment to execute, attach, and garnish the property of a debtor or community property of the debtor's family to fulfill a debt owed to the creditor. A person or his or her family is allowed to retain portions of some types of personal property up to certain amounts. Other types of property may be wholly exempt if certain conditions are met. The exemption for:

- clothes and jewelry of an individual and his or her family is \$1,000;
- private libraries including electronic media is \$1,000;
- household goods, appliances, furniture, and home and yard equipment is \$2,700 for the individual or \$5,400 for the community;
- a motor vehicle is up to \$2,500 in value. The value of the exemption for two motor vehicles for a family is up to \$5,000 in value;
- personal injury claims is \$16,150;
- income received from an annuity payment is \$2,500; and
- other personal property is \$2,000. Within this category, \$200 in cash is exempt. Additionally, \$200 in bank accounts, savings and loan accounts, stocks, bonds, or other securities, is exempt.

Tuition units bought under the advanced college tuition payment program, also known as the GET program, purchased more than two years prior to a bankruptcy are exempt.

Certain employee benefit plans are exempt including Keough plans, retirement accounts, and other employee benefit plan for a participant and his or her spouse.

Collection Agency Licenses. Washington law requires collection agencies to be licensed. State law prohibits collection agencies from conducting certain practices in attempting to collect on debts. A collection agency includes any person who:

- directly or indirectly solicits claims for collection, or who collects or attempts to collect claims owed or due to another person;
 - furnishes or attempts to sell a collection system; or
 - attempts to collect his or her own claims using a fictitious name other than his or her own name.
- Collection agencies do not include people who:
- solicit claims for only one employer, if the efforts are done in the name of the employer and the individual is an employee of the employer;
 - collect under their true names related to the operation of businesses such as savings and loan associations, real estate brokers, and banks; or
 - prepare or mail periodic statements of accounts due if all payments are made to those people.

Collection agencies that operate without a license or commit acts or practices prohibited by statute may be found to violate the Consumer Protection Act (CPA). Under the CPA, a debtor may sue in an attempt to enjoin action of or recover damages from a collection agency.

Subject to certain exceptions, prohibited practices include sending notice to a debtor that represents or implies that a claim exists unless it indicates in clear and legible type the name and address of the collection agency and the name of the original creditor to whom the debtor owed the claim, if such name is known to the collection agency or employee.

If the notice is the first notice to the debtor or if the collection agency is attempting to collect a different amount than indicated in his or her first notice to the debtor, the collection agency must provide an itemization of the claim, including the amount owing on the original obligation at the time it was received by the collection agency for collection or by assignment, subject to certain exceptions, and any charge or fee that the collection agency is attempting to collect on his or her own behalf or on the behalf of a customer or assignor.

Special Proceedings. Creditors, including collection agencies, may sue a debtor in an attempt to have a court enter a legal judgment that the debtor owes a certain amount of money to the collection agency. State statutes allow collection agencies to request "special proceedings" as a means to help enforce debts that have been reduced to judgment. During a special proceeding, collection agencies or their lawyers typically meet with the debtor subject to judgment in the superior or district court where the judgment was entered in order to assess the extent of the debtor's assets that could be used to repay the judgment. A collection agency may request a special proceeding within 10 years after entry of a judgment for \$25 or more, unless time is extended.

Some courts issue a bench warrant for the debtor's arrest if the debtor fails to appear for a special proceeding as ordered. Collection agencies also may submit affidavits to the judge swearing that there is a danger of the debtor

absconding, and the judge may order the sheriff to arrest the debtor and force him or her to appear before the judge. Once a bench warrant is issued, the judge may require that the debtor enter into a bond, also known as paying "bail," guaranteeing that he or she will attend future proceedings as directed until the proceedings are terminated. Some courts require bail amounts equal to the amount of the judgment against the debtor. If the debtor fails to appear as required, he or she forfeits the bond.

Summary: Various amounts of personal property exemptions from collection are modified. The exemption for:

- clothes and jewelry of an individual and his or her family is raised to \$3,500;
- private libraries including electronic media is raised to \$3,500;
- household goods, appliances, furniture, and home and yard equipment is increased to \$6,500 for the individual or \$13,000 for the community;
- a motor vehicle is raised to \$3,250 in value. The value of the exemption for two motor vehicles for a family is increased to \$6,500 in value;
- personal injury claims is raised to \$20,000;
- income received from an annuity payment is increased to \$3,000; and
- other personal property is increased to \$3,000 in value. Within this category, \$1,500 in cash is exempt. Additionally, \$500 in bank accounts, savings and loan accounts, stocks, bonds, or other securities, is exempt. For debts owed to state agencies, the exemption for bank accounts, savings and loan accounts, stocks, bonds, or other securities remains \$200 until January 1, 2018. On January 1, 2018, the exemption amount for bank accounts, savings and loan accounts, stocks, bonds, or other securities is raised to \$500 for debts owed to state agencies.

Coverdell education savings accounts and all tuition savings accounts covered by Section 529 of the Internal Revenue Code are added to the tuition exemption.

The definition of employee benefit plan is expanded to include custodial accounts, individual retirement annuities, and health savings accounts.

Licensees are prohibited from sending certain notices to debtors without including the name of the original creditor to whom the debtor owed the debt, if the name is known to the licensee or an employee. Upon written request, the licensee must provide the name or cease efforts to collect the debt until it is provided.

If the licensee's notice is the first notice to the debtor, an itemization of the debt asserted must be made, including the complete or redacted original account number assigned to the debt and the date of the last payment to the creditor on the subject debt by the debtor, if those pieces of information are known to the licensee or an employee. Upon a written request of the debtor, a licensee must make

a reasonable effort to obtain this information or cease efforts to collect on the debt until this information is provided.

Licensees are prohibited from asking a superior or district court to transfer a bond posted by a debtor subject to a money judgment to the licensee when the debtor has appeared for special proceedings as required.

Votes on Final Passage:

House	98	0	
Senate	37	12	(Senate amended)
House	57	40	(House concurred)

Effective: July 22, 2011
January 1, 2018 (Section 6)

HB 1867

C 213 L 11

Clarifying that prepaid wireless services are not intended to be considered as gift cards or gift certificates.

By Representatives Kelley, Rivers, Kirby and Stanford.

House Committee on Business & Financial Services
Senate Committee on Financial Institutions, Housing & Insurance

Background: Gift Certificates and Gift Cards. A "gift certificate" is defined as an instrument evidencing a promise by the seller that consumer goods or services will be provided to the bearer of the record to the value or credit shown in the record. A "gift card" is a gift certificate in the form of a card, or a stored value card or other physical medium, containing stored value primarily intended to be exchanged for consumer goods and services.

In general, it is unlawful for any person to issue a gift certificate that contains an expiration date or fee, including gift certificates that are issued along with a retail sale. There are several exceptions to this prohibition, as long as the expiration date is clearly legible on the certificate. If there is a balance on a gift certificate, then that balance must be made available as cash or a gift certificate at the option of the retailer.

Gift cards may contain inactivity fees under certain circumstances. A fee is allowed if several conditions are met: a statement is printed in at least six-point font with the amount of fee, frequency, and an explanation that the fee is triggered by inactivity; the statement is visible prior to purchase; the remaining value on the card is \$5 or less; the fee does not exceed \$1 per month; there has been no activity for 24-consecutive months; and the holder is allowed to reload the card.

Gift certificates must be honored prior to bankruptcy proceedings. Gift certificates may not be redeemed for cash unless the remaining value is \$5 or less. Issuers are not required to replace gift certificates if stolen, pay interest on unredeemed balances, or maintain separate accounts to cover the value of gift certificates.

Commercial Mobile Radio Services. The Federal Communications Commission has adopted regulations regarding requirements and conditions applicable to commercial mobile radio service providers. The regulations include a definition for "mobile service." This is a radio communication service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves. A "commercial mobile radio service" is a mobile service that is provided for profit, is an interconnected service, and is available to the public.

Summary: The definitions of "gift certificate" and "gift card" do not include prepaid telephone calling cards or prepaid commercial mobile radio services. Requirements related to gift certificates and gift cards do not apply to prepaid telephone calling cards or prepaid commercial mobile radio services.

Votes on Final Passage:

House	94	3
Senate	47	0

Effective: July 22, 2011

SHB 1874

C 241 L 11

Addressing police investigations of commercial sexual exploitation of children and human trafficking.

By House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Dickerson, Hurst, Klippert, Pearson, Parker, Shea, Kenney, Angel, Kristiansen, Stanford, McCune and Ormsby).

House Committee on Public Safety & Emergency Preparedness

Senate Committee on Human Services & Corrections

Background: One-Party Consent. Under Washington's privacy laws, it is generally unlawful to record a private conversation without the consent of all parties to the communication. However, there are exceptions for recordings by law enforcement when one party consents to the recording.

Judicial Authorization. Law enforcement may record a communication with one-party consent if: (1) the officer obtains authorization from a judge; and (2) there is probable cause to believe that the non-consenting party has committed, is engaged in, or is about to commit a felony. An authorization under these circumstances is limited to seven days.

Law Enforcement Authorization in Drug Investigations. As part of a criminal investigation, law enforcement may record a communication with one-party consent if: (1) the officer obtains authorization from the chief law enforcement officer or designee; (2) there is probable cause to believe the communication involves a drug

offense; and (3) the officer completes a written report. The report must include the circumstances, the names of the authorizing and consenting parties, the names of the officers who may record the communication, the identity of the person who may have committed the offense, the details of the offense, and whether there has been an attempt to obtain judicial authorization. If the consenting party is a confidential informant, his or her name need not be divulged. An authorization under these circumstances is limited to 24 hours and may not be extended more than twice.

Within 15 days, the law enforcement agency must submit the report to a judge for review. The judge must make an ex parte review of the authorization, but not of the evidence. If the authorization was made without probable cause and without a reasonable suspicion that the communication would involve a drug offense, the law enforcement agency is liable for \$25,000 in exemplary damages. If the judge determines there was no probable cause, the judge must send a notice to the non-consenting party six months after the determination is made. The notice must indicate the date, time, and place of the recording. Law enforcement may obtain six-month extensions of the notice if an active, ongoing criminal investigation would be jeopardized.

Law enforcement may also record a communication (other than a telephone conversation) concerning a drug offense with one-party consent if a police commander or officer above the rank of first line supervisor has reasonable suspicion that the safety of the consenting party is in danger. Such a recording may be made for the sole purpose of protecting the safety of the consenting party.

Offenses Related to Commercial Sexual Abuse of a Minor. Law enforcement and prosecutors may not employ a minor to aid in an investigation of Communication with a Minor for Immoral Purposes or Commercial Sexual Abuse of a Minor.

A person is guilty of Commercial Sexual Abuse of a Minor if he or she pays or agrees to pay a fee to engage in sexual conduct with a minor or requests that a minor engage in sexual conduct for a fee. It is a class B felony with a seriousness level of VIII.

A person is guilty of Promoting Commercial Sexual Abuse of a Minor if he or she knowingly advances Commercial Sexual Abuse of a Minor or profits from a minor engaged in sexual conduct. It is a class A felony with a seriousness level of XII.

A person is guilty of Promoting Travel for Commercial Sexual Abuse of a Minor if he or she knowingly sells travel services that facilitate travel for engaging in Commercial Sexual Abuse of a Minor or Promoting Commercial Sexual Abuse of a Minor, if occurring in Washington. It is an unranked class C felony.

Summary: One-Party Consent. As part of a criminal investigation, law enforcement may record a communication with one-party consent if: (1) the officer obtains au-

thorization from the chief law enforcement officer or designee; (2) there is probable cause to believe the communication involves Commercial Sexual Abuse of a Minor, Promoting Commercial Sexual Abuse of a Minor, or Promoting Travel for Commercial Sexual Abuse of a Minor; and (3) the officer completes a written report for review by a judge. Evidence obtained as a result of the recording need not be submitted to the court.

If a judge finds there was no probable cause, notice may not be sent to the non-consenting party if the confidential informant was a minor at the time of the recording or an alleged victim of Commercial Sexual Abuse of a Minor, Promoting Commercial Sexual Abuse of a Minor, or Promoting Travel for Commercial Sexual Abuse of a Minor.

Law enforcement may also record a communication (other than a telephone conversation) concerning Commercial Sexual Abuse of a Minor, Promoting Commercial Sexual Abuse of a Minor, or Promoting Travel for Commercial Sexual Abuse where one party consents if a police commander or officer above the rank of first line supervisor has reasonable suspicion that the safety of the consenting party is in danger.

Offenses Related to Commercial Sexual Abuse of a Minor. Law enforcement and prosecutors may employ a minor to aid in an investigation of Communication with a Minor for Immoral Purposes, Commercial Sexual Abuse of a Minor, Promoting Commercial Sexual Abuse of a Minor, and Promoting Travel for Commercial Sexual Abuse of a Minor. The minor must be the alleged victim, and either the aid must be limited to telephone or electronic communication, or the investigator must be authorized by the one-party consent laws.

Votes on Final Passage:

House	87	9	
Senate	49	0	(Senate amended)
House	82	15	(House concurred)

Effective: August 1, 2011

ESHB 1886

C 360 L 11

Implementing recommendations of the Ruckelshaus Center process.

By House Committee on Local Government (originally sponsored by Representatives Takko, Angel, Bailey and Tharinger).

House Committee on Local Government
House Committee on General Government
Appropriations & Oversight
Senate Committee on Agriculture & Rural Economic
Development
Senate Committee on Ways & Means

Background: Growth Management Act. The Growth Management Act (GMA) is the comprehensive land use planning framework for county and city governments in Washington. Enacted in 1990 and 1991, the GMA establishes numerous requirements for local governments obligated by mandate or choice to fully plan under the GMA (planning jurisdictions) and a reduced number of directives for all other counties and cities.

The Department of Commerce provides technical and financial assistance to jurisdictions that must implement requirements of the GMA.

The GMA directs planning jurisdictions to adopt internally consistent comprehensive land use plans that are generalized, coordinated land use policy statements of the governing body. Comprehensive plans must address specified planning elements, each of which is a subset of a comprehensive plan. Comprehensive plans are implemented through locally adopted development regulations, both of which are subject to recurring review and revision requirements prescribed in the GMA.

All jurisdictions are required by the GMA to satisfy specific designation mandates for natural resource lands and critical areas. All local governments, for example, must designate, where appropriate, agricultural lands that are not characterized by urban growth that have long-term significance for the commercial production of food or other agricultural products. Planning jurisdictions have further requirements under the GMA and must also adopt development regulations that conserve these agricultural lands and other designated natural resource lands.

All local governments must also designate and protect environmentally sensitive critical areas. These protection requirements obligate local governments to adopt development regulations, also known as critical areas ordinances (CAOs), meeting specified criteria. As defined by statute, critical areas include: wetlands, aquifer recharge areas, fish and wildlife habitat conservation areas, frequently flooded areas, and geologically hazardous areas.

With regard to the requirement to protect critical areas and to designate and conserve natural resource lands, neither of these two requirements is given priority over the other in the GMA.

Washington State Conservation Commission. The 10-member Washington State Conservation Commission (Commission) assists and guides Washington's 47 conservation districts as they work with local communities to conserve renewable natural resources. Duties of the Commission include:

- informing district supervisors of activities and experiences in other districts;
- securing cooperation and assistance of federal, state, and local agencies for district operations;
- administering and distributing allocated funds; and
- reviewing and commenting on state and local plans, programs, and activities.

State Environmental Policy Act. The State Environmental Policy Act (SEPA) establishes a review process for state and local governments to identify possible environmental impacts that may result from governmental decisions. Any governmental action may be conditioned or denied pursuant to the SEPA if the conditions or denials are based upon policies identified by the appropriate governmental authority and incorporated into formally designated regulations, plans, or codes.

Local governments and state agencies must prepare an environmental impact statement (EIS) for legislation and other major actions having a probable significant, adverse environmental impact. The EIS includes detailed information about the environmental impact of the project, any adverse environmental effects that cannot be avoided if the proposal is implemented, and alternatives to the proposed action.

Specific categorical exemptions from an EIS and other requirements for actions meeting specified criteria are specified in the SEPA. Categories of government actions that are not considered as potential major actions significantly affecting the quality of the environment are also defined in administrative rules.

Recent Legislative Action. Legislation enacted in 2007 (Substitute Senate Bill 5248, enacted as chapter 253, Laws of 2007) temporarily prohibited counties and cities from taking certain actions pertaining to CAOs. As specified in SSB 5248, between May 1, 2007, and July 1, 2010, counties and cities were prohibited from amending or adopting CAOs as they specifically applied to agricultural activities, a term defined in the legislation. Counties and cities subject to the temporary prohibition were required to review and, if necessary, revise their CAOs as they specifically applied to agricultural activities to comply with requirements of the GMA by December 1, 2011.

The 2007 legislation also charged the William D. Ruckelshaus Center (Center) with conducting a two-phased examination of the conflicts between agricultural activities and CAOs adopted under the GMA. The examination, which was directed to begin by July 1, 2007, was to be completed in two distinct phases. In the first phase, the Center was directed to conduct fact-finding and stakeholder discussions related to stakeholder concerns, desired outcomes, opportunities, and barriers. In the second phase, the Center was directed to:

- facilitate stakeholder discussions to identify policy and financial options or opportunities to address the issues and desired outcomes identified in the first phase; and
- seek to achieve agreement among participating stakeholders and to develop a coalition to support changes or new approaches to protecting critical areas during the 2010 legislative session.

Various reporting requirements were established for the Center in SSB 5248, and a final report of findings and legislative recommendations was to be issued by the

Center to the Governor and the appropriate committees of the House of Representatives and the Senate by September 1, 2009.

Legislation enacted in 2010 (Substitute Senate Bill 6520, enacted as chapter 203, Laws of 2010) extended the temporary prohibition established in SSB 5248 on adopting or amending certain CAOs one additional year. The 2010 legislation also granted jurisdictions subject to this extended temporary prohibition one additional year before being required to review and, if necessary, revise their CAOs as they apply to agricultural activities. Finally, SSB 6520 granted the Center one additional year to issue its final report. That report was delivered to the Governor and the Legislature in October of 2010.

Summary: I. Establishment and Administration of Program. The Voluntary Stewardship Program (Program) is established. The Program must be designed to protect and enhance critical areas on lands used for agricultural activities through voluntary actions by agricultural operators.

The Washington State Conservation Commission (Commission) is charged with administering the Program. In fulfilling its administrative duties, the Commission must complete numerous tasks, including:

- establishing policies and procedures for implementing the Program;
- administering funding for counties to implement the Program;
- establishing a technical panel and, in conjunction with the technical panel, reviewing and evaluating work plans submitted under provisions of the Program;
- designating, based upon county nominations, priority watersheds for the Program; and
- providing administrative support for a Commission-appointed statewide advisory committee established to advise the Commission on the Program.

Other administrative duties related to the Program are specified. For example, the Commission, Department of Commerce (Commerce), the Department of Ecology, and other state agencies as directed by the Governor must cooperate and collaborate to implement the Program, and develop materials to assist local watershed groups in the development of required work plans. The Commission also must, according to a specified schedule, determine which watersheds and state agencies have received adequate funding to implement the Program in participating watersheds. Additionally, by August 31, 2015, and every two years thereafter, the Commission must report to the Legislature and participating counties on the participating watersheds that have received adequate funding to establish and implement the Program.

The statewide advisory committee, which is charged with advising the Commission and other agencies in the development and operation the Program, must be appointed by the Commission from nominations made by county,

agricultural, and environmental organizations. At least two representatives from each of these organizations must serve on the committee and the Commission, in conjunction with the Office of the Governor, and must invite participation by two representatives of tribal governments. The Director of the Commission (Director) must serve as the non-voting chair. Term of office, delegate, and other provisions governing the statewide advisory committee are established.

II. County Option – Program is Alternative to Certain Requirements of the Growth Management Act. As an alternative to protecting critical areas used for agricultural activities through critical area development regulations mandated by the Growth Management Act (GMA), the legislative authority of a county may elect to protect these critical areas through the Program. A county choosing this alternative has six months from the effective date of the act to:

- elect to have the county participate in the Program;
- identify watersheds that will participate in the Program; and
- nominate watersheds for consideration by the Commission as state priority watersheds.

Prior to adopting an ordinance or resolution to participate in the Program, the county must confer with tribes and environmental and agricultural interests. The county also must provide notice to property owners and other affected and interested individuals, tribes, agencies, businesses, school districts, and organizations.

Subject to funding provisions, once a county elects to participate in the Program, the Program applies to all unincorporated property within a participating watershed upon which agricultural activities occur.

Counties electing to participate in the Program are eligible for state funding to implement the Program, subject to the availability of state funding. These counties are not required to implement the Program in a participating watershed until adequate funding is provided.

III. General Requirements – Development Regulations that Protect Critical Areas. With limited exceptions, counties have two years following the effective date of the act to review and, if necessary, revise their development regulations adopted under the GMA to protect critical areas as they specifically apply to agricultural activities. If the county is not participating in the Program, this review and revision requirement applies to all unincorporated areas. If the county is participating in the Program, the review and revision requirement applies only to watersheds that are not participating in the Program. Subsequent reviews and revisions of these development regulations must occur according to applicable requirements of the GMA.

IV. Program Operation – Designated Watershed Groups and Work Plans. Once the Commission makes

funds available to a county participating in the Program, the county, within 60 days, must:

- acknowledge receipt of the funds; and
- designate a watershed group and an entity to administer funds for each watershed for which funding has been provided. The watershed group must include broad representation of watershed stakeholders and representatives of agricultural and environmental groups, and participating tribes.

Designated watershed groups must develop a work plan to protect critical areas while maintaining the viability of agriculture in the watershed. The work plan must include goals and benchmarks for the protection and enhancement of critical areas. In developing and implementing the work plan, the watershed group must satisfy specified requirements, including:

- reviewing and incorporating applicable water quality, watershed management, farmland protection, and species recovery data and plans;
- seeking input from tribes, agencies, and stakeholders;
- developing goals for participation by agricultural operators;
- creating measurable benchmarks to protect and enhance critical area functions and values;
- designating an entity or entities to provide Program-related technical assistance; and
- conducting periodic evaluations, instituting adaptive management, and providing related reports according to specified schedules.

A designated watershed group must submit the work plan to the Director for approval. Upon receipt of a work plan, the Director must submit the work plan to a technical panel for review. The technical panel is to be comprised of the directors or director designees of delineated state agencies. The technical panel has 45 days after the Director receives the work plan to review and assess the plan.

If the technical panel determines that the proposed work plan will protect critical areas while maintaining and enhancing the viability of agriculture in the watershed, it must recommend approval of the work plan and the Director must approve the work plan. If the technical panel determines that the proposed work plan will not meet the criteria for approval, it must identify its reasons for the determination and the Director must advise the watershed group of the reasons for the disapproval. The watershed group may modify and resubmit its work plan for review and potential approval. Provisions governing work plans that are not approved by the Director, including requirements for a review by the statewide advisory committee, are established.

The approval of a work plan triggers additional requirements. Within five years of the receipt of funding for a participating watershed, the watershed group must report to the Director and the county on whether it has met

the work plan's protection and enhancement goals and benchmarks. If the watershed group, the Director, and the statewide advisory committee concur on the success of the plan, the watershed group must continue implementing the work plan. If the watershed group determines that protection goals and benchmarks have not been met, it must propose an adaptive management plan, to be approved or disapproved by the Director, to achieve the unmet goals and benchmarks. If the watershed group determines that enhancement goals and benchmarks have not been met, the watershed group must determine what additional voluntary actions are needed to meet the benchmarks, identify funding necessary to implement these actions, and proceed with the associated implementation.

Similar work plan evaluation and reporting measures are required within 10 years after receipt of funding for a participating watershed and every five years thereafter. Provisions for watersheds with adaptive management plans that are not approved by the Director and watersheds that, as determined by the watershed group, do not meet protection goals and benchmarks are established.

V. Remedial Actions/Triggers. If any of the following events occur, a participating county must select and implement remedial actions:

- The watershed group work plan is not approved by the Director;
- The goals and benchmarks for protection specified in a work plan have not been met;
- The Commission determines that the county, the Commerce, the Commission, or the departments of Agriculture, Ecology, or Fish and Wildlife have received insufficient funding to implement the Program in the watershed; or
- The Commission determines that the watershed has not received adequate funding to implement the Program.

The remedial action options, which must be taken within 18 months of a "triggering" event, include the following, of which the county must complete one:

- develop, adopt, and implement a watershed work plan approved by Commerce that meets specified critical areas and agricultural requirements. The Commerce must consult with other state agencies before approving or disapproving the plan and its decision is subject to appeal before the Growth Management Hearings Board (Board);
- adopt qualifying development regulations previously adopted under the GMA by another jurisdiction for the purpose of protecting critical areas in areas used for agricultural activities. The "secondary" adoption of these regulations is subject to appeal before the Board;
- adopt development regulations certified by the Commerce as protective of critical areas in areas used

for agricultural activities. The Commerce's certification decision is subject to appeal before the Board; or

- review and, if necessary, revise its development regulations to protect critical areas as they relate to agricultural activities.

VI. Withdrawal from the Program. A county electing to participate in the Program may withdraw through an adopted ordinance or resolution. A withdrawal may occur from the Program at the end of three years, five years, or eight years from receipt of funding, or at any time after 10 years from receipt of funding.

A county that withdraws a participating watershed from the Program must, within 18 months, review and, if necessary, revise its development regulations that protect critical areas in the applicable watershed as they specifically apply to agricultural activities.

VII. Regulation Review and Revision Requirements of the GMA. A county that participates in the Program and is achieving related benchmarks and goals is generally not required to update development regulations that protect critical areas as they specifically apply to agricultural activities in the participating watershed. Exceptions to this provision are specified. Additionally, unless the watershed group and the Director agree that Program-related goals and benchmarks have been met, counties electing to participate in the Program must, beginning 10 years from receiving Program funding, review and, if necessary, revise development regulations to protect critical areas as they specifically apply to agricultural activities in a participating watershed according to a recurring schedule established in the GMA.

VIII. Miscellaneous Provisions. Miscellaneous provisions related to the establishment and implementation of the Program are specified. For example:

- Agricultural operators implementing an individual stewardship plan consistent with a work plan are presumed to be working toward the protection of critical areas.
- An agricultural operator participating in the Program may withdraw from the Program and is not required to continue voluntary measures after expiration of an applicable contract.
- Definitions pertaining to the establishment and implementation of the Program are specified.
- Decisions pertaining to work plans and county decisions whether to participate in the Program are not subject to requirements under the State Environmental Policy Act mandating the completion of an environmental impact statement.

Votes on Final Passage:

House	95	2	
Senate	48	1	(Senate amended)
House	92	5	(House concurred)

Effective: July 22, 2011

SHB 1897

C 272 L 11

Establishing a rural mobility grant program.

By House Committee on Transportation (originally sponsored by Representatives Billig, Johnson, Clibborn, Armstrong, Liias, Takko, Walsh, Blake, Dunshee, Rolfes, Van De Wege, Lytton, Fitzgibbon and Ormsby).

House Committee on Transportation
Senate Committee on Transportation

Background: The Rural Mobility Grant Program (Program) was established in the Washington State Department of Transportation (WSDOT) in 1993. The Program was significantly expanded in 2003, and the 2009-2011 State Omnibus Transportation Appropriations Act contained a total of \$17 million divided equally between competitive grants, for providers of rural mobility service in areas not served or underserved by transit agencies, and formula grants for transit systems serving small cities and rural areas, which must be distributed in a manner similar to past disparity equalization programs.

According to the WSDOT, the purpose of the competitive portion of the Program is to establish, preserve, and improve rural public transportation. Funding in the Program is prioritized for services in rural counties, which are defined as counties without an urbanized area, as defined by the 2000 census. The following types of organizations are eligible for competitive grant funding:

- rural public transit agencies;
- nonprofit organizations;
- private for-profit transportation service providers;
- tribal governments; and
- other general or local governments.

Summary: The Rural Mobility Grant Program Account (Account) is established, and the State Treasurer is required to transfer \$2.5 million every quarter to the Account from the Multimodal Transportation Account. The earnings attributable to the funds in the Account are required to be received by that Account.

The Rural Mobility Grant Program (Program) is established in statute, with the designated purpose of aiding small cities and rural areas. Fifty percent of the money appropriated for the Program must go to noncompetitive grants for transit systems serving small cities and rural areas in a manner similar to past disparity equalization programs. The other 50 percent of the money appropriated for the Program must go to competitive grants to providers of rural mobility services in areas underserved by transit agencies. The WSDOT is required to provide an annual report to the Transportation committees of the Legislature on the status of grant projects funded by the Program, and may establish an advisory committee to assist with the Program.

The WSDOT is required to implement a pilot project during the 2011-2013 fiscal biennium to provide enhanced transit opportunities to agricultural workers through the establishment of vanpool programs. The pilot project must, at a minimum, provide appropriate vehicles, insurance, and maintenance and may charge a fee, as determined by the WSDOT, to riders.

Votes on Final Passage:

House	97	1
Senate	49	0

Effective: July 22, 2011

SHB 1899

C 273 L 11

Changing penalty amounts for public records violations.

By House Committee on State Government & Tribal Affairs (originally sponsored by Representatives Miloscia, Overstreet, Hurst, Taylor, Hunt, Armstrong, McCoy and Condotta).

House Committee on State Government & Tribal Affairs
Senate Committee on Government Operations, Tribal Relations & Elections

Background: The Public Records Act (PRA) 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.

Responding to PRA Requests. An agency must respond to requests for public records promptly. Within five business days of a request, an agency must:

- provide the record; or
- acknowledge receipt of the request and provide a reasonable estimate of the time that is required to respond to the request; or
- deny 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.

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. In addition, it is within the court's discretion to assess a monetary penalty against the agency and award the proceeds to the prevailing party.

The penalty must be an amount of not less than \$5, and not more than \$100, for each day the person was unlawfully denied the opportunity to inspect or copy the requested records.

Summary: The lower range of the daily monetary penalty that may be assessed by a superior court against an agency for violation of the PRA is revised. The per-day penalty may range from a minimum of \$0 up to a maximum of \$100 for each day the agency has unlawfully failed to provide the records, subject to the discretion of the court.

Votes on Final Passage:

House	96	2	
Senate	49	0	(Senate amended)
House			(House refused to concur)
Senate	47	0	(Senate receded)

Effective: July 22, 2011

ESHB 1902

C 163 L 11

Concerning a business and occupation tax deduction for amounts received with respect to child welfare services.

By House Committee on Ways & Means (originally sponsored by Representatives Kagi, Goodman and Stanford).

House Committee on Ways & Means
Senate Committee on Ways & Means

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 or social welfare organizations are allowed a deduction under the B&O tax for payments from governmental entities for providing health or social services. Examples include: health care; mental health, family, drug, and alcoholism counseling and treatment; services for the sick, elderly, and disabled; daycare; vocational training and employment services; legal services for the indigent; and services for low-income homeowners and renters. The B&O tax deduction by health or social welfare organizations is provided only for payments made directly by federal, state, or local governments.

The Department of Social and Health Services (DSHS) contracts with multiple private providers for the purchase of various child welfare services, including voluntary and in-home services, out-of-home care, case management, and adoption services. These services are intended to: (1) resolve problems which may result in families in conflict, or neglect, abuse, exploitation, or criminal behavior of children; (2) care for dependent, abused, or neglected children; (3) assist parents and children in conflict; and (4) promote the welfare of children by strengthening their own homes or providing,

where needed, adequate care of children away from their homes.

In 2009 Second Substitute House Bill 2106 was enacted which, among other things, requires the DSHS to consolidate and convert its existing child welfare services to performance-based contracts. The DSHS has chosen a lead-agency model to address the legislative directive to reduce the number of contracts. The DSHS has approximately 1,600 separate contracts for services. Under the lead-agency model services may be provided directly by the lead agency or through subcontracts and agreements with service providers.

Summary: A deduction from the business and occupation (B&O) tax is provided to nonprofit health or social welfare organizations for amounts received as compensation for providing child welfare services provided under a government funded program.

A deduction from B&O tax is provided to taxpayers for amounts received from a government for distribution to a nonprofit health or social welfare organization for the provision of government funded child welfare services.

The deduction applies to amounts received starting August 1, 2011.

Votes on Final Passage:

House	95	2	
Senate	47	0	(Senate amended)
House	95	2	(House concurred)

Effective: July 22, 2011

2SHB 1903

C 295 L 11

Requiring background checks for all child care licensees and employees.

By House Committee on Education Appropriations & Oversight (originally sponsored by Representatives Orwall, Goodman, Roberts, Reykdal, Kagi, Kenney and Kelley).

House Committee on Early Learning & Human Services
House Committee on Education Appropriations & Oversight

Senate Committee on Human Services & Corrections
Senate Committee on Ways & Means

Background: The Department of Early Learning (DEL) oversees and regulates child care licensing in Washington. In this capacity, the DEL conducts background checks to find and evaluate any history of arrests, convictions, negative actions, or other information that raises concern about an individual's character, suitability, or competence to care for or have unsupervised access to children in care.

Background Check Process. The DEL conducts background checks in coordination with the Department of Social and Health Services Central Background Check Central Unit (BCCU), the Washington State Patrol (WSP),

and the Federal Bureau of Investigation (FBI). The DEL field staff begin the process by entering data into an electronic system. The BCCU then submits that data to the WSP, which interfaces with the FBI. The BCCU processes and stores the information it receives and submits the results to the DEL. The DEL field staff review the BCCU results and then complete a character and suitability determination to conclude whether an applicant is qualified or disqualified to have unsupervised access to children in care. Background check results are released to the applicant and to the requesting agency.

Arrests and Convictions. Arrest and conviction information is collected via the WSP and the FBI. The WSP background check pulls information regarding arrests and convictions that occur in Washington. The FBI fingerprint-based background checks provides information regarding arrests and convictions that occur across the United States. Fingerprint-based background checks are only required of the DEL applicants who have not resided in Washington for three years prior to the date of application. Fingerprint-based checks are conducted at the expense of the licensed child care provider or licensee. Licensed providers are not authorized to pass the cost on to employees or prospective employees, unless the employee is determined to be unsuitable based on his or her criminal history.

Negative Actions. Negative actions are defined as a court order, court judgment, or an adverse action taken by an agency, in any state, federal, tribal, or foreign jurisdiction, which results in a finding against the applicant reasonably related to the individual's character, suitability, and competence to care for or have unsupervised access to children in child care. Negative actions may include:

- a decision issued by an administrative law judge;
- a final determination, decision, or finding made by an agency following an investigation;
- an adverse agency action, including termination, revocation or denial of a license or certification, or if pending adverse agency action, the voluntary surrender of a license, certification, or contract in lieu of the adverse action;
- a revocation, denial, or restriction placed on any professional license; or
- a final decision by a disciplinary board.

Summary: Portable Background Registry. The DEL is required to establish and maintain an individual-based, or portable, background check clearance registry by July 1, 2012. Effective July 1, 2012, those who have not been previously qualified by the DEL to have unsupervised access to children in care must be fingerprinted and obtain a criminal history record check. Existing licensees and their employees who have been qualified by the DEL to have unsupervised access to children must submit a new background check application, on a form prescribed the DEL, within one year following the creation of the portable background check registry. If DEL concludes the

applicant is qualified to have unsupervised access to children in care, the DEL is required to issue a background check clearance card or certificate to the applicant. This clearance card, or certificate, is valid for three years and must be accepted by potential employers as proof that the applicant has successfully completed a background check. A copy of the background check clearance card or certificate must be kept on-site.

Fees. New applicants, licensed child care providers, or a combination of both may pay for the cost associated with a background check, which includes: (1) a fee established by the WSP for the criminal history check (including fingerprints); and (2) a fee established by the DEL to create and maintain the background check clearance registry. Effective July 1, 2011, licensed child care providers are required to pay the DEL a one-time fee established by the DEL. The DEL is required to consider the cost of developing and administering the registry when setting fees, and shall not set fees estimated to generate revenue beyond estimated costs.

Account. Fee revenues must be deposited in the newly created Individual-Based/Portable Background Check Clearance Account (Account) and may only be expended for the costs of developing and administering the registry. The Account is created in the custody of the State Treasurer. Only the DEL Director or designee may authorize expenditures from the Account. The Account is subject to allotment procedures, but an appropriation is not required for expenditures.

Redetermining Character, Suitability, Competence. The DEL must investigate and redetermine an applicant or licensee's background clearance if the DEL receives a complaint or information from individuals, law enforcement, or other government agencies. Background check clearance card or certificate holders are required to report non-conviction and conviction information to the DEL within 24 hours of the event. Child care agencies are required to report to the DEL any knowledge of the following information regarding any individual working in a child care agency:

- criminal charges or convictions;
- charges that might be reasonably related to the individual's suitability to provide care for or have unsupervised access to children or care; and
- negative actions.

If that individual lacks the appropriate character, suitability, or competence to provide child care or early learning services, the DEL is authorized to invalidate the background card or certificate or suspend, modify, or revoke any license.

Background Check Coordination. The DEL, the Office of Superintendent of Public Instruction, and Educational Service Districts are required to develop and report a proposal to coordinate their common background check

activities. These agencies shall submit their proposal to the Legislature no later than December 15, 2011.

Votes on Final Passage:

House	94	3	
Senate	46	0	(Senate amended)
House	96	0	(House concurred)

Effective: July 22, 2011

2SHB 1909

C 274 L 11

Promoting innovation at community and technology colleges.

By House Committee on Ways & Means (originally sponsored by Representatives Reykdal, Haler, Seaquist, Carlyle, Hasegawa and Kenney).

House Committee on Higher Education

House Committee on Ways & Means

Senate Committee on Higher Education & Workforce Development

Senate Committee on Ways & Means

Background: Strategic Technology Plan. In 2006 and 2007 the State Board for Community and Technical Colleges (SBCTC) analyzed technology application and practices at community and technical colleges. The purpose was to learn how technology could be used to advance student learning, improve student services, and create greater administrative efficiencies. In all three areas, the SBCTC found a need for greater uniformity across the 34 colleges in the system and the P-20 education system.

In 2008 the SBCTC adopted the Strategic Technology Plan (Technology Plan). The SBCTC defines the Technology Plan as a roadmap for how the community and technical college system can leverage 21st century technologies to support student achievement.

Certificates of Participation. Institutions of higher education may finance the acquisition, construction, and renovation of facilities using state bonds. Bond proceeds for these projects are appropriated in the omnibus capital appropriations act (capital budget). In addition to financing through state bonds, higher education institutions are authorized to enter into financing contracts, such as Certificates of Participation (COPs), which are a type of security sold for a particular purpose and backed by any component of fees and revenues the university derives from its ownership and operation of its facilities. The COPs must be authorized in the capital budget and, once authorized, the institution is allowed to begin the construction or purchase process.

The COPs are not subject to appropriation by the Legislature, do not obligate State General Fund revenues to be used for their completion, and do not count toward the state debt limit.

Summary: Up to 3 percent of operating fees at community and technical colleges are transferred to the Community and Technical College Innovation Account (Account) to be used to implement the SBCTC's Technology Plan. The SBCTC approves the amount to be transferred each year. The SBCTC must approve projects under the Technology Plan to improve student achievement, student services, and increase system-wide administrative efficiencies. The SBCTC is required to develop a technical and operational business plan and bring large enterprise resource planning projects to the Legislature for approval.

The community and technical colleges are required to engage in substantial business process reengineering and adopt system wide approaches to admission, financial aid, student identification numbers, student transcripts, and other system wide processes. In addition, when pursuing an enterprise resource planning solution, the community and technical colleges must consider: opportunities for coordination and consolidation with other higher education institutions; adopting technology solutions that are already used at other higher education institutions; the short and long term costs of those solutions; and technical flexibility to support cost efficiencies.

The Account is created in the custody of the State Treasurer. Expenditures from the Account must be approved by the Director of the SBCTC or his or her designee. Expenditures from the Account may be used for two purposes: (1) paying off debt from financing contracts, such as certificates of participation authorized by law; or (2) for projects that implement the Technology Plan as approved by the SBCTC. The Account may retain its interest earnings.

The requirement for community and technical colleges to round tuition and fees to the nearest dollar amount is removed.

Votes on Final Passage:

House	63	34
Senate	43	5

Effective: July 22, 2011

HB 1916

C 286 L 11

Concerning business services delivered by associate development organizations.

By Representatives Ryu, Kagi, Maxwell, Kenney and Santos.

House Committee on Community Development & Housing

Senate Committee on Economic Development, Trade & Innovation

Background: One of the responsibilities of the Department of Commerce (Department) is to work with businesses to facilitate resolution of siting, regulatory,

expansion, and retention problems. This includes assisting businesses with workforce training and infrastructure needs, identifying and locating suitable business sites, and resolving problems with government licensing and regulatory requirements.

Associate development organizations (ADOs) are local organizations designated by each county to serve as the Department's primary partner in local economic development activities in their county. The ADO's role is broad and is defined by statute and the needs of each community. Broadly, an ADO provides advocacy and leadership, building relationships with its partners in state and local governments, community groups, and local businesses. Specifically, ADOs are an integral part of the state's economic development plan that provides direct technical assistance and funding for economic activities in every county. An ADO's economic development activities can be organized into the following categories:

- recruitment of new businesses into Washington;
- retention and expansion of existing businesses;
- business start-up assistance;
- community asset building; and
- regional planning and collaboration.

The Department maintains a contracted partnership with 34 ADOs, serving 39 counties. As part of the contract, the ADOs are required to submit annual performance reports to the Department.

Summary: The Department is required to establish protocols to be followed by the ADOs and Department staff for the recruitment and retention of businesses, including protocols relating to the sharing of information between the ADOs and the Department. The protocols established may not require the release of proprietary information or the disclosure of information that a client company has requested remain confidential. The Department must require compliance with the protocols in its contracts with ADOs.

The Department is required to provide ADOs with business services training that includes the fundamentals of export assistance and the services available from private and public export assistance providers in the state. The ADOs must provide or facilitate the provision of export assistance to businesses through workshops or one-on-one support.

Additional specificity directing the ADOs to provide business-related assistance and work with partners throughout the county in which they deliver these services is added.

The ADOs serving counties with a population greater than 1.5 million (King County) must include the following additional information in performance reports:

- the number of small businesses that received retention and expansion services, and the outcome of those services; and

- the number of businesses located outside the boundaries of the largest city in its region that received recruitment, retention, and expansion services, and the outcome of those services.

"Small business" is defined as an in-state business, including a sole proprietorship, corporation, partnership, or other legal entity that is owned and operated independently from all other businesses and has either: (1) 50 or fewer employees; or (2) a gross revenue of less than \$7 million annually as reported on its federal income tax return or its return filed with the Department of Revenue over the previous three consecutive years.

Votes on Final Passage:

House	98	0	
Senate	46	0	(Senate amended)
House	96	0	(House concurred)

Effective: July 22, 2011

ESHB 1922

C 242 L 11

Requiring certain vehicles to stop at a port of entry upon entering the state.

By House Committee on Transportation (originally sponsored by Representatives Shea, Taylor and McCune).

House Committee on Transportation
Senate Committee on Transportation

Background: The Washington State Patrol (WSP) operates the Washington weigh stations and has Port of Entry stations at Kennewick, Spokane, Ridgefield, and Bow Hill. These weigh stations use weigh-in-motion scales and transponder readers to electronically screen trucks as the truck approaches the weigh station. If the checks are satisfactory, the truck is cleared to bypass the weigh station, but if unsatisfactory, the truck is required to stop at the weigh station. The WSP also operates interior scales that are staffed on a random or as necessary schedule.

The Director of the Department of Agriculture (Director) may establish points of inspection for vehicles transporting animals on the public roads of this state to determine if the animals being transported are accompanied by valid health certificates, permits, or other documents. Vehicles transporting animals on the public roads of this state are subject to inspection and must stop at any posted inspection point established by the Director, with emphasis on livestock being brought in from outside the state. The Director or appointed officers are authorized to stop a vehicle transporting animals upon the public roads of this state at a place other than an inspection point if there is reasonable cause to believe the animals are being transported in violation of state laws.

Summary: Commercial vehicles with a gross vehicle weight rating of 40,000 pounds or more and transporting cattle are required to stop at a Port of Entry. This

requirement does not apply to the operator of a vehicle in possession of a pasture permit or cattle consigned to a public auction or sales yard. It is clarified that motor vehicles must follow the existing rules and regulations that apply to weigh stations or a Port of Entry when open.

The requirements and penalties apply only in counties located east of the Cascade mountains with a population of at least 450,000 and an adjacent county with a population of at least 13,000 but less than 15,000. Based on the criteria, the requirements and penalties would presently apply to Spokane and Pend Oreille counties.

A penalty of \$1,000 is established for failure to comply, and all of the fines collected must be deposited into the Motor Vehicle Fund. The funds must be used for road maintenance purposes.

The WSP must provide a one-time written notification of these requirements to affected carriers known to have previously entered the State of Washington in the counties identified. The notification requirement is not a defense for a driver from enforcement action if found in violation. The notification must be provided prior to August 1, 2011.

Votes on Final Passage:

House	98	0	
Senate	49	0	(Senate amended)
House	97	0	(House concurred)

Effective: July 22, 2011

SHB 1923

C 294 L 11

Requiring the denial of a concealed pistol license application when the applicant is ineligible to possess a firearm under federal law.

By House Committee on Judiciary (originally sponsored by Representatives Goodman, Reykdal, Hunt, Pedersen, Roberts and Hunter).

House Committee on Judiciary
Senate Committee on Judiciary

Background: State and Federal Firearms Prohibitions.

Both state and federal law prohibit certain categories of persons from possessing firearms. Although there is substantial overlap in the categories of prohibited persons, there are a number of differences, with the result that federal law generally restricts a broader range of persons than state law. Examples of persons who are prohibited from possessing firearms under federal law, but not state law, include a person who:

- is subject to a qualified domestic violence order restraining the person from harassing, stalking, or threatening an intimate partner or child of an intimate partner;
- was dishonorably discharged from the armed forces;
- has renounced citizenship; and

- is an unlawful user of controlled substances.

Federal law also prohibits a nonimmigrant alien from possessing firearms unless the person meets one of several exceptions. Exceptions include nonimmigrants who: possess a valid state-issued hunting license; enter the United States for a competitive target shooting event or sports or hunting trade show; are certain diplomats or foreign officials, if the firearms are for official duties; or have received a waiver from the U.S. Attorney General.

Concealed Pistol Licenses. In Washington it is generally unlawful for a person to carry a concealed pistol unless the person has a valid concealed pistol license. In order to obtain a concealed pistol license, a person must apply with the local law enforcement agency and undergo a fingerprint-based background check to determine eligibility. A person who applies for a concealed pistol license must be eligible to possess a firearm under state law and meet other requirements. The local law enforcement agency must issue the concealed pistol license if the person meets these requirements, even if the person is prohibited under federal law from possessing a firearm. As a result, concealed pistol licenses must contain a warning indicating that federal and state laws on the possession of firearms differ and the state license is not a defense to federal prosecution for possession of a firearm in violation of federal law.

Prior to issuing the license, the law enforcement agency must conduct a background check through the National Crime Information Center, the Washington State Patrol electronic database, the Department of Social and Health Services database, and other agencies or resources as appropriate. Law enforcement agencies are not required to conduct a check through the National Instant Criminal Background Check System (NICS) although in practice many law enforcement agencies do conduct a NICS check.

Summary: A law enforcement agency must deny an application for a concealed pistol license if the applicant is prohibited from possessing a firearm under federal law. Law enforcement agencies must conduct a NICS background check of the applicant to determine the applicant's eligibility for a concealed pistol license.

An applicant for a concealed pistol license who is not a United States citizen must provide the following additional information on the application: country of citizenship; United States issued alien number or admission number; and claimed basis for being exempt from federal restrictions on firearms possession by aliens.

Votes on Final Passage:

House	95	0
Senate	38	9

Effective: July 22, 2011

SHB 1933

C 243 L 11

Addressing certain collector vehicle license plate provisions.

By House Committee on Transportation (originally sponsored by Representative Finn).

House Committee on Transportation
Senate Committee on Transportation

Background: A registered owner may apply for a horseless carriage license plate for a motor vehicle that is at least 40 years old. The original registration fee is \$35, and the plates are valid for the life of the motor vehicle, are not required to be renewed, may not be transferred to any other motor vehicle, and must be displayed on the rear of the motor vehicle. There are approximately 9,000 horseless carriage vehicles registered.

A registered owner may apply for a collector vehicle plate for a motor vehicle that is at least 30 years old. The owner may receive a collector plate that is assigned by the Department of Licensing (DOL) or the owner can provide an actual Washington state-issued license plate designated for general use in the year of the vehicle's manufacture. The original registration is \$35, and the plates are valid for the life of the vehicle, are not required to be renewed, may be transferred from one vehicle to another vehicle if the plate was provided by the owner, and must be displayed on the rear of the motor vehicle. There are approximately 111,000 collector vehicles registered.

These vehicles may only be used for participation in club activities, exhibitions, tours, parades, and occasional driving.

Law enforcement officers, when stopping a motor vehicle, in many cases will run a "wants and warrants" on the registered vehicle's license plate to receive information on the registered owner and vehicle.

Summary: Any person who knowingly provides a false or facsimile collector license plate for a collector vehicle is subject to a traffic infraction. The person must also pay for the cost of a vehicle license plate.

The DOL must provide a method by which law enforcement officers may readily access vehicle information for collector vehicles by using the collector vehicle license plate number.

Votes on Final Passage:

House	98	0	
Senate	47	2	(Senate amended)
House	95	2	(House concurred)

Effective: August 1, 2011
January 1, 2012 (Section 2)

HB 1937

C 85 L 11

Authorizing local improvement district funding to benefit innovation partnership zones for the purposes of economic development.

By Representatives Ryu, Kenney, Moscoso, Ladenburg and Roberts.

House Committee on Community Development & Housing
Senate Committee on Economic Development, Trade & Innovation

Background: Local Improvement Districts. Cities and towns are granted broad authority to create a local improvement district (LID) for the purpose of constructing, reconstructing, or repairing a wide range of publicly owned structures, facilities, and infrastructure, including:

- specified types of public buildings;
- community facilities for recreation, entertainment, and cultural activities;
- bridges and trestles;
- dikes and embankments;
- parks and playgrounds;
- street lighting systems;
- infrastructure for public transportation systems; and
- water and sewer system infrastructure.

A LID may be created by an ordinance passed by the city or town council in accordance with specified statutory procedures. The passage of the ordinance must be in response to either a petition or resolution proposing the creation of the district, with the petition or resolution subject to a public hearing. Under certain circumstances the proceedings necessary to establish a LID must be initiated by the petition of the affected property owners.

The costs of creating a LID are financed, in whole or in part, through special assessments on property that is specially benefited by the improvement.

Innovation Partnership Zones. In 2007 legislation was enacted directing the Department of Community, Trade and Economic Development (now the Department of Commerce) to design and implement an Innovation Partnership Zone (IPZ) Program through which the state would encourage and support research institutions, workforce training organizations, and globally competitive companies to work cooperatively in close geographic proximity to create commercially viable products and jobs.

Using specified criteria, the Department of Commerce with the advice of the Economic Development Commission designates the IPZs for a period of four years. An IPZ may renew its designation through a reapplication process, and may lose its designation for failure to meet performance standards. The IPZs are eligible for funds as provided by the Legislature or at the discretion of the Governor. There are 12 IPZs in Washington.

Summary: The list of projects eligible for LID funding is expanded to include the construction, reconstruction, or repair of research laboratories, testing facilities, incubation facilities, and training centers that are built in IPZ designated areas.

Votes on Final Passage:

House	68	29
Senate	47	0

Effective: July 22, 2011

HB 1939

C 86 L 11

Defining federally recognized tribes as agencies for purposes of agency-affiliated counselors.

By Representative Appleton.

House Committee on State Government & Tribal Affairs
Senate Committee on Government Operations, Tribal Relations & Elections

Background: Legislation enacted in 2008 abolished the registered counselor credential and created eight new counseling credentials. One of those credentials is an agency-affiliated counselor. An agency-affiliated counselor is a person engaged in counseling who is employed by an agency. Agency-affiliated counselors must register with the Department of Health and may not engage in the practice of counseling unless they are affiliated with an agency.

An agency is an agency or facility operated, licensed, or certified by the State of Washington or a county.

Summary: For purposes of agency-affiliated counselors, federally recognized tribes located within the state are included in the definition of agency.

Votes on Final Passage:

House	80	17
Senate	41	6

Effective: July 22, 2011

HB 1953

C 354 L 11

Concerning county and city real estate excise taxes.

By Representatives Springer, Asay, Takko, Upthegrove, Haler, Fitzgibbon, Angel, Smith and Sullivan.

House Committee on Ways & Means
Senate Committee on Government Operations, Tribal Relations & Elections

Background: County legislative authorities may impose an excise tax on each sale of real property in unincorporated areas of the county. Similarly, city and town legislative authorities may impose an excise tax on each sale of real property within their corporate limits. The rate of this real

estate excise tax (REET) I may not exceed 0.25 percent of the selling price. Revenues generated from REET I must be used for financing qualifying capital projects and for housing relocation assistance. Revenue from REET I may not supplant other funds reasonably available for these capital projects. In 2010 134 cities and 20 counties imposed REET I.

Counties, cities, and towns that are required to fully plan under the Growth Management Act (GMA) may impose an additional REET on each sale of real property. The tax rate may not exceed 0.25 percent of the selling price (REET II). Counties, cities, and towns that have opted, but are not required, to fully plan under the GMA may impose REET II with voter approval. With some exceptions, revenues generated from REET II may only be used for financing capital projects specified in the capital facilities element of a comprehensive plan adopted under the GMA. Furthermore, revenue from REET II may not supplant other funds reasonably available for these capital projects. In 2010 132 cities and 19 counties imposed REET II.

Capital projects that may be funded by REET I and REET II revenues include streets, roads, highways, sidewalks, street and road lighting systems, traffic signals, bridges, domestic water systems, storm and sanitary sewer systems, and parks. Additional eligible uses of REET I funds include recreational facilities, law enforcement facilities, fire protection facilities, trails, libraries, judicial facilities, and flood control projects.

Summary: Each year through calendar year 2016, a city, town, and county may use the greater of \$100,000 or 35 percent of real estate excise tax (REET) I revenues, but not exceeding \$1 million, to pay for the maintenance and operation expenditures of existing capital facilities.

Each year through calendar year 2016, a city, town, and county may use the greater of \$100,000 or 35 percent of REET II revenues, but not exceeding \$1 million, to pay for the maintenance and operation expenditures of existing capital facilities. Additionally, counties may use REET II revenues for the payment of existing debt service on any capital project authorized under REET I. The use of revenues for payment of existing debt service is subject to the same fiscal limitations as REET revenues used for maintenance and operation expenditures.

Votes on Final Passage:

House	79	18
Senate	28	20

Effective: July 22, 2011
June 30, 2012 (Section 3)

E2SHB 1965

C 32 L 11 E1

Concerning adverse childhood experiences.

By House Committee on Ways & Means (originally sponsored by Representatives Kagi, Jinkins, Frockt and Kenney).

House Committee on Early Learning & Human Services
House Committee on Ways & Means
Senate Committee on Ways & Means

Background: Family Policy Council. The Family Policy Council (FPC) was established to modify public policy and programs to empower communities to support and respond to the needs of individual families and children, and to improve the responsiveness of services for children and families at risk by facilitating greater coordination and flexibility in the use of funds by state and local service agencies.

Duties of the FPC. The FPC is required to:

- establish boundaries for community networks;
- develop technical assistance and training programs to assist communities in developing networks;
- approve the structure, purpose, goals, plan, and performance measures of each network;
- identify prevention and early intervention programs and funds which could be transferred to a community network and report findings to the Governor and Legislature;
- reward exceptionally successful community networks;
- seek opportunities to maximize federal and other funding that is consistent with the plans approved by the FPC; and
- monitor the implementation of programs contracted by participating state agencies.

Community Networks. The FPC partners with approximately 42 community public health and safety networks. Networks are required to:

- review state and local public health data related to risk factors, protective factors, and at-risk children and youth;
- prioritize risk factors and protective factors to reduce the likelihood of children and youth becoming at-risk;
- develop long-term comprehensive plans to reduce the rate of at-risk children and youth;
- comply with the Department of Health and local boards of health to provide data and determine outcomes; and
- coordinate their efforts with anti-drug use efforts and organizations.

Council for Children and Families. The Council for Children and Families (CCF) was established to increase educational programs and services to prevent child abuse

and neglect in partnership between communities, citizens, and the state.

The CCF is authorized to contract with public or private nonprofit organizations, agencies, schools, or with qualified individuals for the establishment of a range of community-based programs and services designed to reduce child abuse and neglect. The CCF is also charged with:

- facilitating the exchange of information between groups concerned with families and children;
- consulting with the applicable agencies, commissions, and boards to help determine the probable effectiveness, fiscal soundness, and need for proposed educational and service programs for the prevention of child abuse and neglect;
- establishing fee schedules to provide for the recipients of services to reimburse the State General Fund for the cost of services received; and
- accepting and dispersing funds from the Children's Trust Fund.

Adverse Childhood Experiences. The Centers for Disease Control and Prevention (CDC) has conducted a long-term, large-scale study to examine the relationship between adverse childhood experiences and critical outcomes later in life. The study findings have indicated that particular experiences early in life are major risk factors for the leading causes of illness, death, and poor quality of life.

The CDC defines an adverse childhood experience as any of the following conditions in a household of a child under age 18:

- recurrent physical abuse;
- recurrent emotional abuse;
- sexual abuse;
- an alcohol and/or drug abuser in the household;
- an incarcerated household member;
- someone who is chronically depressed, mentally ill, institutionalized, or suicidal;
- mother is treated violently;
- one or no parents; and
- emotional or physical neglect.

In 2010 the first Washington data regarding adverse childhood experiences became available through the Behavioral Risk Factor Surveillance System (BRFSS). According to the Department of Health, the BRFSS is the largest, continuously conducted, telephone health survey in the world. It enables the CDC, state health departments, and other health agencies to monitor modifiable risk factors for chronic diseases and other leading causes of death.

According to the 2010 FPC report, *Adverse Childhood Experiences and Population Health in Washington: the Face of a Chronic Public Health Disaster*, adverse childhood experiences have been common in Washington. The data have indicated a need for "integrated approaches to prevent adverse childhood experiences, and intervene

early on [in the lives of] children... better identification and treatment of the effects of adverse childhood experiences among persons and systems interacting with children...." The FPC concluded that "...development of more integrated approaches will likely contribute to improved treatment of affected persons, and better integration of research priorities, preventive social and educational services and legal venues."

Reinvesting in Youth Program. In 2006 House Bill 1483 (HB 1483) was enacted, requiring the Juvenile Rehabilitation Administration (JRA) to establish a Reinvesting in Youth Program that awards grants to counties for implementing research-based early intervention services that target juvenile justice-involved youth and reduce crime. Under the bill, the Washington State Institute for Public Policy and the JRA were required to develop the guidelines for the implementation of the program. The JRA was also required to form a technical advisory group to assist in the implementation of the program.

Summary: Family Policy Council and Council for Children and Families. The FPC and the CCF are eliminated effective June 30, 2012. Community networks are preserved.

Adverse Childhood Experiences. A definition for "Adverse Childhood Experience" is provided in statute.

Private-Public Initiative. The Secretary of the Department of Social and Health Services (Secretary) and the Director of the Department of Early Learning (Director) must actively participate in the development of a nongovernmental private-public initiative (Initiative) which focuses on coordinating investments, positive development of children, and preventing and mitigating the effects of adverse childhood experiences. The Secretary and Director must convene and co-chair a planning group, with 12 to 15 members, to work with private partners to develop a strategy for reaching the goals of identifying, preventing, and mitigating the harm of adverse childhood experiences, and recommendations to advance the Initiative. The planning group must represent a diversity of interests, including early learning coalitions, community public health and safety networks, organizations that work to prevent and address child abuse and neglect, tribes, public agencies involved in intervention or prevention of adverse childhood experiences, philanthropic organizations, and organizations focused on community mobilization.

The planning group must submit a report on its progress and recommendations to the appropriate legislative committees no later than December 15, 2011.

The Initiative must advise the Secretary regarding the approval of blended funding projects recommended by the community networks.

Authority of the Department of Social and Health Services. The Secretary is authorized to enter into contracts on behalf of the Department of Social and Health Services (DSHS), provide funding to the Initiative, and accept gifts,

grants, or other funds to prevent or reduce adverse childhood experiences.

Duties Transferred to the Department of Early Learning. Beginning July 1, 2011, the CCF and the Department of Early Learning (DEL) must develop a plan for transitioning to the DEL the work of the CCF, including public awareness campaigns. The CCF and the DEL must participate in the development of the Initiative to streamline efforts around the prevention of child abuse and neglect and avoid duplication of efforts.

The Executive Director of the CCF and the Director of the DEL must consult with the planning group convened under this act to develop strategies to maximize Washington's leverage and match of federal child abuse and neglect prevention moneys. No later than January 1, 2012, the CCF and the DEL must report to the Legislature regarding its transition plan.

The duty to fund evidence-based and research-based home visitation programs is transferred from the CCF to the DEL. General funds intended to support home visiting funding must be appropriated to the Home Visiting Services Account with the purpose of maximizing opportunities to obtain matching funds from private entities. The DEL must work with the DSHS, the Department of Health, the Thrive by Five Washington (a private-public partnership created in statute in 2006), and key partners and stakeholders to develop a plan to coordinate or consolidate home visitation services to the extent practicable.

Beginning July 1, 2012, the DEL is authorized to disburse funds from the Children's Trust Fund.

Readiness to Learn. The Superintendent of Public Instruction must award grants to community-based consortiums that submit comprehensive plans that include strategies to improve readiness to learn.

Technical Advisory Committee. The JRA is no longer required to convene a technical advisory committee.

Votes on Final Passage:

House 63 33

First Special Session

House 57 38

Senate 38 8 (Senate amended)

House (House refused to concur)

Senate 34 14 (Senate amended)

House 74 21 (House concurred)

Effective: August 24, 2011

July 1, 2012 (Section 5)

SHB 1966

C 142 L 11

Clarifying that animal manure is an agricultural product for the purposes of commercial drivers' licenses.

By House Committee on Transportation (originally sponsored by Representatives Pearson, Haler and Bailey).

House Committee on Transportation
Senate Committee on Transportation

Background: The operation of commercial motor vehicles is regulated under both state and federal law. In order to operate a commercial motor vehicle in Washington, a person generally must hold a commercial driver's license (CDL) with the applicable endorsements for the vehicle he or she is driving. To receive a CDL from Washington, an applicant must be a resident of the state, pass knowledge and skills tests that comply with minimum federal standards, and successfully complete a course of instruction that has been approved by the Director of the Department of Licensing (DOL) or be certified by an employer as having the skills and training necessary to safely operate a commercial motor vehicle.

The following operators are exempt from the requirement to hold a CDL in the specified circumstances:

- a firefighter or law enforcement officer operating emergency equipment who has completed an approved driver training course;
- the operator of a recreational vehicle used for noncommercial purposes;
- the operator of a commercial motor vehicle for military purposes; or
- the operator of a farm vehicle controlled and operated by a farmer. The vehicle itself must be used to transport agricultural products, farm machinery, or farm supplies to or from a farm. In addition, the vehicle may not be used in the operation of a common or contract motor carrier, and it must be used within 150 miles of the person's farm.

Summary: Animal manure and animal manure compost are added to the list of products that may be carried by the operator of a farm vehicle under the CDL exemption for operators of farm vehicles.

Votes on Final Passage:

House	96	2
Senate	47	0

Effective: July 22, 2011

ESHB 1967

PARTIAL VETO

C 371 L 11

Modifying provisions related to public transportation system planning.

By House Committee on Transportation (originally sponsored by Representatives Fitzgibbon, Armstrong, Liias, Nealey, Clibborn, Billig, Frockt and Reykdal).

House Committee on Transportation
Senate Committee on Transportation

Background: Each April, transit agencies in Washington are required to submit six-year transit development plans for that year and the ensuing five years, as well as system reports identifying public transportation services provided in the previous year and objectives for improvements. Similar reports are due to the Federal Transit Administration in September of each year.

Based on information that is submitted in the system reports, the Washington State Department of Transportation (WSDOT) must prepare an annual report that summarizes individual public transportation systems. This report is due September 1 of each year to the transportation committees of the Legislature and each state municipality.

During 2010 the Joint Transportation Committee was directed to conduct a study to identify the state role in public transportation and to develop a statewide blueprint to guide public transportation investments. The ensuing report, titled *Identifying the State Role in Public Transportation*, made a number of recommendations relating to the state's role, that include:

- integrating public transportation into regional and statewide planning;
- developing and promoting policies to encourage the use of all public transportation modes;
- assessing the adequacy of funding sources and developing new funding strategies to address statewide concerns;
- aligning report and data collection to provide a comprehensive and useful picture of transit; and
- establishing a consistent set of measures to assess public transportation systems.

Summary: The due dates for both the six-year transit development plans and the system reports are changed from April 1 to September 1.

The due date for the annual summary report on the status of public transportation systems prepared by the WSDOT is changed from September 1 to December 1. The WSDOT is also required, if such information is available, to include information about other modes of public transportation, how those modes impact the transportation system, and how public transportation helps the state meet the transportation system policy goals.

New state facilities that are to be located within the boundaries of a public transportation system must be sited in areas that are adequately accessible by transit service.

Votes on Final Passage:

House	64	34	
Senate	44	5	(Senate amended)
House	70	27	(House concurred)

Effective: July 22, 2011

Partial Veto Summary: The Governor vetoed section 3 of the bill, thus removing the provision requiring that new state facilities in transit districts be sited in areas adequately accessible by transit service.

VETO MESSAGE ON ESHB 1967

May 16, 2011

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

Ladies and Gentlemen:

I am returning herewith, without my approval as to Section 3, Engrossed Substitute House Bill 1967 entitled:

"AN ACT Relating to modifying provisions related to public transportation system planning."

Section 3 of the bill would require new state facilities located within a public transportation system to be sited in areas adequately accessible by transit service. Access to public transportation is a priority when siting state buildings. However, it is not always feasible or necessary for each state building to be served by public transportation, depending on the nature of the agency or institution and who it serves. Therefore, I am vetoing Section 3 of this bill. However, I have asked the Department of General Administration to consult with transit agencies to assess the access to public transportation when siting state buildings.

For these reasons I have vetoed Section 3 of Engrossed Substitute House Bill 1967.

With the exception of Section 3, Engrossed Substitute House Bill 1967 is approved.

Respectfully submitted,



Christine O. Gregoire
Governor

EHB 1969

C 275 L 11

Concerning the exemption of flood control zone districts that are coextensive with a county from certain limitations upon regular property tax levies.

By Representatives Hasegawa and Springer.

House Committee on Ways & Means
Senate Committee on Government Operations, Tribal Relations & Elections
Senate Committee on Ways & Means

Background: Flood Control Districts. Flood control zone districts may be established in a county for the purpose of operating or maintaining flood or storm water control. A flood control zone district is an independent taxing authority and may receive funding from a variety of

sources, including: property tax receipts; rates, charges, and assessments; and debt proceeds. A flood control zone district may impose annual, nonvoter-approved regular property tax levies of up to \$0.50 per \$1,000 of assessed value.

Property Tax Levy. The state Constitution limits regular property tax levies to a maximum of 1 percent of the property's value (\$10 per \$1,000 of assessed value). Voters within a taxing district may vote to tax themselves higher than this 1 percent limit with an excess levy.

State statutes establish individual district rate maximums and aggregate rate maximums to keep the total tax rate for regular property taxes within the constitutional limit. For example, the state levy rate is limited to \$3.60 per \$1,000 of assessed value, county general levies are limited to \$1.80 per \$1,000 of assessed value, county road levies are limited to \$2.25 per \$1,000 of assessed value, and city levies are limited to \$3.375 per \$1,000 of assessed value. These districts are known as "senior" districts. Junior districts such as fire, library, hospital, and flood control districts each have specific rate limits as well. The tax rates for most of these senior and junior districts must fit within an overall rate limit of \$5.90 per \$1,000 of assessed value. State statutes contain schedules specifying the preferential order in which the various junior taxing district levies will be prorated in the event that the \$5.90 limit is exceeded. Under this prorating system, senior districts are given preference over junior districts

Property Tax "Gap". A few regular property tax levies are not placed into the \$5.90 aggregate rate limit: emergency medical service, conservation futures, affordable housing, metropolitan park districts, county ferry districts, criminal justice, fire districts, and county transit. However, these districts are subject to reduction if the rates for these districts, the state property tax, and the districts subject to the \$5.90 limit together exceed the constitutional limit of \$10 per \$1,000 of market value. These districts are in what has been called the "gap," the \$0.50 cents remaining after subtracting the \$3.60 state levy and the \$5.90 in local regular levies from the statutory \$10 limit.

As noted earlier, flood control zone districts are categorized as "junior districts" and, therefore, are subject to the statutory provisions that include districts within the \$5.90 aggregate rate limit. However, in the statutory schedule determining the order of proration, flood control districts are in the second tier of junior districts to get prorated. In the latest tax year, the King County Flood Control Zone District was subject to prorationing.

Summary: For taxes levied for collection in 2012 through 2017, a flood control district in a county with a population of 775,000 or more with boundaries coextensive with a county may place up to 25 cents of the district's 50 cent levy outside the \$5.90 limit to avoid prorationing. The levy for such flood control districts is still within the constitutional \$10 limit. Should the \$10 limit be exceeded, a flood control district will be the first levy to be

ESHB 1981

prorated. Flood control zone districts with a population of less than 775,000 are moved from the second tier to the third tier of prorationing under the \$5.90 limit.

The act expires January 1, 2018.

Votes on Final Passage:

House	75	22	
Senate	42	5	(Senate amended)
House	71	27	(House concurred)

Effective: July 22, 2011

ESHB 1981

C 47 L 11 E1

Addressing public employee postretirement employment and higher education employees' annuities and retirement income plans.

By House Committee on Ways & Means (originally sponsored by Representatives Bailey and Carlyle).

House Committee on Ways & Means
Senate Committee on Ways & Means

Background: The various plans of the Washington State Retirement System each contain rules prescribing the circumstances under which a retired employee may return to employment within a retirement system-covered position and continue to receive retirement benefits. Between 2001 and 2007, the rules for the Public Employees' Retirement System (PERS) and Teachers' Retirement System (TRS) Plan 1 underwent a series of changes, including the addition of rules that permitted PERS and TRS Plan 1 members to work for up to 1,500 hours per year for three years (or certain part-time equivalents) without suspension of retirement benefits. For the Plans 2 and 3 of PERS and TRS, as well as for the School Employees' Retirement System (SERS) and the Public Safety Employees' Retirement System (PSERS), upon returning to employment into a retirement system-covered position, a retiree generally is able to receive retirement benefits for the first 867 hours of employment each year.

Separation From Service. A member must separate from service in order to qualify for a retirement allowance. Separation from service is defined in the PERS and TRS to mean that the member has no oral or written agreement to resume work with his or her employer after entering retirement. After entering retirement status, a member may begin his or her retirement allowance on the first day of the month following the month that he or she applies for retirement benefits. The date that retirement benefits begins is referred to as a member's "accrual date."

Length of Separation From Service. Members of the PERS, TRS, SERS, or PSERS who re-enter employment with an eligible employer within one month of retiring are subject to a benefit reduction. The reduction is equal to 5.5 percent of the monthly benefit for every eight hours worked that month and is applied until such time as the

retiree remains absent from eligible employment for at least one full calendar month.

Retirees from the PERS, TRS, SERS, or PSERS who have been separated from service for one calendar month after their accrual date may work up to 867 hours per calendar year without a reduction in pension benefits. Retirees from TRS Plan 1 who have been separated for one and one-half month, or retirees from PERS Plan 1 who have been separated from service for three calendar months, and whose hiring meets specific approval and record-keeping requirements, may work up to 1,500 hours per calendar year without a reduction in pension benefits. Once the 1,500-hour limit is exceeded, pension benefits are suspended until the beginning of the next calendar year.

The number of years a PERS Plan 1 or TRS Plan 1 retiree may work for 1,500 hours without a reduction in benefits is limited. Each retiree from these two plans may only work for a lifetime cumulative limit of 1,900 hours beyond 867 hours per calendar year.

False Claims. Both PERS and TRS have provided sanctions for filing false statements to the Department of Retirement Systems (DRS) since 1947. A person (employer or employee) who files a false record or false statement to the DRS in any attempt to defraud the retirement systems for a claim related to separation from service or qualification for retirement is guilty of a gross misdemeanor.

Higher Education Retirement Plan. State institutions of higher education are authorized to offer the Higher Education Retirement Plan (HERP) to faculty and other employees whose positions are designated as eligible by their respective boards. The HERPs are administered by each institution, unlike the other state retirement systems that are administered by the DRS. The HERPs provide defined contributions, typically 5 percent of pay from each of the employer and employee until age 35, 7.5 percent of pay from each until age 50, and the employer matching up to 10 percent of pay from age 50 until retirement.

The HERP also has a guaranteed defined benefit, called the HERP Supplemental Benefit, which pays a monthly supplemental allowance to insure that the HERP member receives a total benefit worth about 50 percent of the average of a member's highest two consecutive years of salary. The value of the member's defined contributions, calculated as if they had been invested in a model portfolio, are subtracted from any HERP Supplemental Benefit obligation. The HERP Supplemental Benefit costs are paid out of institution operating budgets, and are largely not pre-funded. Current and projected HERP Supplemental Benefit obligations have grown in recent years.

Positions covered by the HERP are not considered to be Washington State Retirement System-covered for purposes of the post-retirement employment rules in the PERS, SERS, or PSERS.

Summary: State institutions of higher education may offer the Higher Education Retirement Plan (HERP), instead of the Public Employees' Retirement System (PERS) Plans 2 or 3, only to employees exempt from civil service.

The HERP Supplemental Benefit is eliminated for employees that enter the plan after July 1, 2011, and employees offered participation in HERP on or after July 1, 2011, have the option of joining the Teachers' Retirement System (TRS) Plan 3 or Public Employees' Retirement System (PERS) Plan 3.

State funding for the HERPs is limited to 6 percent of salary.

The PERS and TRS Plan 1 provisions permitting retirees to receive benefits while employed in retirement system-covered positions for up to 1,500 hours per year are eliminated beginning January 1, 2011. (Retirees in PERS and TERS Plans 1 may continue to work up to 867 hours per year without a reduction in pension benefits.) Positions covered by the HERP are added to those included in the post-retirement employment pension restrictions for the PERS, TRS, School Employees' Retirement System (SERS), and PSERS.

A reference to the defunct Public Pension Commission is replaced with the Select Committee on Pension Policy among the legislative committees responsible for periodically reviewing the HERPs and adjusting contribution rates.

Higher education institutions responsible for payment of HERP Supplemental Benefits are required to contract with and provide data to the Office of the State Actuary for actuarial valuations every two years beginning June 30, 2013, and experience studies of the HERPs at least once in every six-year period, with the first being due by June 30, 2013. A 0.25 percent of pay employer contribution rate is initiated for HERP-covered employees beginning January 1, 2012, to a new supplemental benefit fund. The contribution rate increases to 0.5 percent of pay beginning July 1, 2013. This fund is invested by the State Investment Board. Upon completion of the first actuarial valuation by the State Actuary (no later than June 30, 2013), the Pension Funding Council (PFC), may make changes to the 0.5 percent contribution rate. The PFC is authorized to recommend legislation, upon accumulation of sufficient funding in the Supplemental Benefit Fund, to transfer responsibility for benefit payments to the new fund and adjust contribution rates to reflect the transfer of responsibility.

Votes on Final Passage:

First Special Session

House	91	4	
Senate	42	0	(Senate amended)
House	94	2	(House concurred)

Effective: July 1, 2011
January 1, 2012 (Sections 10 and 19)

EHB 2003

C 33 L 11 E1

Concerning premium payments for children's health coverage for certain families who are not eligible for federal children's health insurance coverage.

By Representatives Pettigrew, Hunter, Ryu and Kenney.

House Committee on Ways & Means
Senate Committee on Ways & Means

Background: The Department of Social and Health Services (DSHS) operates the Apple Health for Kids program, which provides medical coverage for children under age 19 in families with incomes at or below 300 percent of the federal poverty level (FPL). Apple Health for Kids includes three programs for financing this coverage. The joint state-federal Medicaid program provides coverage for children with family incomes at or below 133 percent of the FPL. The joint state-federal Children's Health Insurance Program (CHIP) provides coverage for children with family incomes above 133 percent and at or below 300 percent of the FPL. The state-funded Children's Health Program (CHP) provides coverage for children with family incomes at or below 300 percent of the FPL who are not eligible for Medicaid or CHIP due to their citizenship status.

Children with family incomes greater than 200 percent of the FPL are required to pay premiums for health care coverage. The premiums are based on family income and may not exceed the premium limitations in the federal Social Security Act.

Summary: Children in families with incomes greater than 200 percent of the FPL who are not eligible for the federally-funded CHIP are required to pay premiums at a level set every two years that is no greater than the average state-only per capita cost of coverage in the state-funded CHP.

Votes on Final Passage:

House	96	0
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First Special Session

House	96	0
Senate	46	0

Effective: April 1, 2011

SHB 2017

C 298 L 11

Concerning the master license service program.

By House Committee on Ways & Means (originally sponsored by Representative Hunter).

House Committee on Ways & Means
Senate Committee on Ways & Means

Background: The Department of Licensing (DOL) performs several functions, including providing information to law enforcement, licensing and regulating drivers, registering vehicles and vessels, licensing and regulating 30 different professions, and issuing business licenses through the Master License Service (MLS). The Department of Revenue (DOR) is the state's primary tax collection agency. The DOR oversees approximately 60 different taxes.

The MLS program was established in the mid-1970s to serve as a one-stop licensing service for businesses. A "master license" refers to the single document designed for public display issued by a licensing center and certified by the DOL. The master license application may be used to:

- open or reopen a business;
- change ownership of a business;
- open a new business location;
- change business locations;
- register or change a trade name;
- hire employees;
- obtain a Minor Work Permit;
- add licenses to an existing business location;
- obtain optional insurance coverage for the business owner;
- hire people to work in or around your home; or
- apply for a Washington State Unified Business Identifier number or tax registration number.

The DOL administers the MLS program and issues over 100 state licenses. In addition, the MLS program may be used to apply for over 200 state endorsements and over 70 city licenses.

The DOL collects a \$15 handling fee for each new master license issued and a \$9 license renewal fee. All receipts must be deposited into the appropriated Master License Account (Account). Expenditures from the Account may be used only to administer the MLS program.

The MLS provisions do not apply to certain regulated business and professional activities, including those regulated under the Consumer Loan Act, credit unions, banks and trust companies, mutual savings banks, savings and loan associations, and those regulated under the insurance statutes.

Summary: The Master License Service (MLS) program is transferred from the Department of Licensing (DOL) to the Department of Revenue (DOR). All powers, duties, and functions of the DOL pertaining to the administration

of the MLS program are transferred and references in statute to the DOL are replaced with the DOR. All funds, credits, or other assets held in connection with the MLS program are assigned to the DOR. Any appropriations made to the DOL for carrying out the MLS program are transferred and credited to the DOR.

All employees of the DOL primarily engaged in the MLS program are transferred to the jurisdiction of the DOR. All employees classified under the state civil service law are assigned to the DOR to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action in accordance with the laws and rules governing state civil service. All classified employees of the DOL assigned to the DOR whose positions are within an existing bargaining unit description at the DOR become a part of the existing bargaining unit at the DOR and are considered an appropriate inclusion or modification of the existing bargaining unit.

All rules and all pending business before the DOL pertaining to the MLS program must be continued and acted upon by the DOR. All existing contracts and obligations remain in full force and must be performed by the DOR.

To ensure a seamless transfer of the MLS program and to prevent any disruption of service, the DOR is authorized to contract with the DOL for support. Any contract entered into must be for a duration no longer than necessary to fully and effectively transfer the MLS program from the DOL to the DOR.

The DOR must set the amount of the MLS handling fees by rule. The MLS handling fees may not exceed \$19 for each master application and \$11 for each renewal application filing. The rule-making process for setting master application and trade name registration fees is the same as the process for any rule setting fees pursuant to legislative standards. The DOR is authorized to increase handling and renewal fees for the purposes of making improvements in the MLS program. Improvements are identified as including technology and customer service, expanded access, and infrastructure.

Definitions for purposes of the Business License Center Act are modified to include references to local government and "participating local government." The DOR is authorized to issue and renew licenses and registrations for local governments participating in the MLS program.

A single set of rules governing the confidentiality and disclosure of licensing information, similar to the standards applied by the DOR for excise tax information, is provided along with the conditions in which the DOR is not prohibited from disclosing such information. A misdemeanor offense is established for the disclosure of certain confidential licensing information. If the violator is a current state employee or officer, future employment with the state is prohibited for two years.

The criterion for which the DOR may not issue or renew a master license to a person is expanded.

Expenses incurred by the DOL in carrying out licensing and regulatory activities associated with for-hire vehicles and limousines are supported through the Highway Safety Account. In addition, commercial telephone solicitation, whitewater river outfitters, and body art, body piercing, and tattooing are added to the list of programs covered by the Business and Professions Account.

The DOR and the Secretary of State may enter into agreements designating the DOR as the Secretary of State's agent for issuing legal entity renewals.

The DOR is provided the authority to issue a warrant, the amount of which may become a lien upon the title to real and personal property, and compute interest for any unpaid registration assessments and delinquency fees related to manufactured or mobile home communities. This acts to replace the DOL's authority to send delinquent accounts to a collection agency and to sue landlords deemed noncompliant.

Any person feeling aggrieved by actions taken against him or her by the DOR is allowed the opportunity to request a review of the DOR's action held as a brief adjudicative proceeding.

Votes on Final Passage:

House	87	5
Senate	38	10

Effective: July 1, 2011

HB 2019

C 334 L 11

Concerning the deposit of the additional cigarette tax.

By Representative Dunshee.

House Committee on Ways & Means
Senate Committee on Ways & Means

Background: The cigarette tax is added directly to the price of cigarettes before the sales tax is applied. The cigarette tax is due from the first person who sells, uses, consumes, handles, possesses, or distributes the cigarettes in the state. The cigarette tax rate is \$3.025 per pack of 20 cigarettes. The taxpayer pays the cigarette tax by purchasing cigarette tax stamps that are placed on cigarette packs.

Since July 1, 2009, all cigarette taxes have been deposited in the State General Fund, except for the \$0.60 per pack tax that is deposited in the Education Legacy Trust Account.

Summary: Beginning July 1, 2010, the \$0.60 per pack cigarette tax that is deposited in the Education Legacy Trust Account is deposited in the State General Fund.

Votes on Final Passage:

House	67	29
Senate	40	8

Effective: May 12, 2011

ESHB 2020

C 49 L 11 E1

Funding capital projects.

By House Committee on Capital Budget (originally sponsored by Representative Dunshee).

House Committee on Capital Budget

Background: The programs and agencies of state government are funded on a two-year basis, with each biennium beginning on July 1 of each odd-numbered year. The state omnibus capital appropriations act (capital budget) includes appropriations for the acquisition, construction, and repair of capital assets such as state office buildings, prisons, juvenile rehabilitation centers, residential habilitation centers, mental health facilities, military readiness centers, and higher education facilities. The capital budget also funds a variety of environmental and natural resource projects, parks and recreational facilities, public K-12 school construction, and grant and loan programs that support housing, public infrastructure, community service facilities, and art and historical projects. The sources of funding for the capital budget primarily are state general obligation bonds, trust revenues, and dedicated fees and taxes.

Washington periodically issues general obligation bonds to finance projects authorized in the capital and transportation budgets. General obligation bonds pledge the full faith, 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 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.

Summary: The 2011-13 Capital Budget appropriates \$1.1 billion in new state general obligation bonds to support projects in the 2011-13 biennium. State bond reappropriations of \$1.1 billion are authorized for projects approved in prior biennia. The 2011 Supplemental Capital Budget reduces state bond appropriations by \$33 million.

The State Finance Committee is authorized to issue state general obligation bonds to finance \$1.1 billion in

projects in the 2011 Supplemental and 2011-13 Capital Budgets. 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. A June 30, 2013, expiration date is added to several bond authorizations that remain unissued.

Votes on Final Passage:

First Special Session

House	84	10
Senate	46	1

Effective: June 15, 2011

SHB 2021

C 362 L 11

Limiting the annual increase amounts in the public employees' retirement system plan 1 and the teachers' retirement system plan 1.

By House Committee on Ways & Means (originally sponsored by Representatives Pettigrew, Darneille, Seaquist, Carlyle, Hunter and Cody; by request of Governor Gregoire).

House Committee on Ways & Means

Background: The basic retirement allowance of a member of Plan 1 of the Public Employees' Retirement System (PERS Plan 1) or the Teachers' Retirement System (TRS Plan 1) is equal to 2 percent of the member's average final compensation, calculated on the members' highest consecutive two years of compensation, for each year of service. Retirement benefits are available to members after 30 years of service at any age, with 25 years of service at age 55, and with 5 years of service at age 60.

Retirees' benefits may be eligible for an annual increase from a benefit generally referred to as the "Uniform" cost of living adjustment (COLA), or "Uniform COLA." The Uniform COLA was created in 1995, and is an automatic, annual, service-based COLA paid every July 1. The Uniform COLA is payable on the first calendar year in which the recipient turns age 66 and has been retired for one year.

The Uniform COLA is a fixed dollar amount multiplied by the member's total years of service. The dollar amount of the Uniform COLA is currently \$1.88 and increases by 3 percent every year on July 1. The statute specifies that members do not have a contractual right to future increases to the Uniform COLA. For a member with 30 years of service, the Uniform COLA would have most recently increased the member's benefit by \$56.40 per month.

There are two minimum benefits in place for members of PERS Plan 1 and TRS Plan 1. The basic minimum benefit is a fixed dollar amount per month multiplied by the member's total years of service. The basic minimum

benefit is currently \$42.63 and increases on July 1 every year by the dollar amount of the Uniform COLA. A member with 25 years of service is therefore eligible for a minimum benefit of \$1,065.75 per month, and, with 30 years of service, the minimum benefit is \$1,278.90 per month.

The other minimum benefit provides a benefit of \$1,000 per month and was established in 2004 for members of PERS 1 and TRS 1 who have either at least 25 years of service credit and have been retired for at least 20 years, or at least 20 years of service credit and have been retired for at least 20 years. The \$1,000 minimum monthly benefit, which is also subject to reductions if the member selects the enhanced cost-of-living adjustment or survivor benefit options, is increased annually by 3 percent per year.

Summary: Public Employees' and Teachers' Retirement Systems Plan 1 (PERS Plan 1 and TRS Plan 1) members benefits are no longer increased through the Uniform COLA above the amount in effect on July 1, 2010, unless a retiree qualifies for the basic minimum benefit. Members of PERS Plan 1 and TRS Plan 1 that qualify for the minimum benefit formulas in the plans will continue to receive the Uniform COLA.

The minimum contribution rates for PERS Plan 1 unfunded liability is reduced from 5.25 to 3.5 percent, and for TRS Plan 1 unfunded liability from 8.0 to 5.75 percent.

The alternative minimum benefit, commonly referred to as the "\$1,000 minimum benefit," is increased to \$1,500 and after the increase continues to be indexed by 3 percent per year.

Votes on Final Passage:

House	52	45
Senate	28	17

Effective: June 30, 2011

ESHB 2065

C 34 L 11 E1

Regarding the allocation of funding for students enrolled in alternative learning experiences.

By House Committee on Ways & Means (originally sponsored by Representative Hunt).

House Committee on Ways & Means

Senate Committee on Ways & Means

Background: Alternative learning experience (ALE) programs are public school alternative options that are primarily characterized by learning activities that occur away from the regular public school classroom. The requirements and expectations of ALE activities are detailed in a written student learning plan developed and supervised by a public school teacher.

The regulatory requirements for ALE programs are in the Washington administrative rules. The ALE students

are funded on the basis of hours towards a student learning plan, which is in contrast to the "seat time" requirements for basic education funding in non-ALE programs, where school districts claim basic funding only for enrolled students who are expected to physically attend school each day for a specified number of hours.

The ALE programs are different than home-based instruction. An ALE is a public school learning experience which is planned and supervised by a public school teacher. Home-based education is planned and supervised under the authority of the parent, not the school district. Home-based students may enroll part-time in public school classes and programs, including ALE.

Alternative learning experience program enrollment has increased significantly over time. Although ALE enrollment was inconsistently reported in the early years of the program, survey data and research reports suggest that total enrollment has increased over 450 percent since 1995. Survey reports estimate 1995 ALE enrollment at about 5,000 full-time equivalent (FTE) students, as compared to February 2011 enrollment of approximately 28,826 FTEs.

Alternative learning experience student FTEs are funded at the same general apportionment rate as non-ALE students. Total funding for ALE programs is estimated at approximately \$150 million per school year. Alternative learning experience students generally fall into three major categories of ALE program offerings: digital and online programs, parent partnerships, and contract-based learning programs.

Digital or Online Learning Programs. Digital, online learning programs are defined and authorized in statute. Students often enroll as non-resident students in geographically removed school districts that offer virtual programs. Many schools offer online learning courses, but claim enrollment for only the hours the student is in an on-site classroom. Online learning only becomes an ALE when the student is engaged in learning away from school, and the school district is using the time the student engages in this away-from-school learning as part of the FTE claimed for basic education apportionment. There are about 7,923 student FTEs in these programs as of February 2011.

Parent Partnership Programs. Parent partnership programs offer a significant role for parents in the development and provision of public education. These programs are not specifically defined or authorized in statute. Many students in parent partnership programs may have been receiving home-based instruction prior to enrolling in the ALE program. However, parent partnerships are not home-based instruction because the school district is ultimately responsible for student learning, not the parent. Although there are a variety of different program models in the parent partnership category, with districts requiring varying degrees of in-person contact time in a classroom setting, all programs operate outside the standard seat-time requirements for funding required in the non-ALE

setting. There are about 12,187 student FTEs in these programs as of February 2011.

Contract-based Learning Programs. Contract-based learning is usually limited to secondary students, and is often used for credit retrieval or credit acceleration. Contract-based ALE programs are not specifically defined or authorized in statute. Many alternative middle and high schools offer some form of contract-based learning, as do a smaller number of comprehensive high schools; however, not all alternative high schools are ALE programs. Many contract-based programs offer flexibly-structured programs for students not succeeding in a general education high school format. There are about 8,716 student FTEs in these programs as of February 2011.

A number of studies of ALE programs in Washington have been done. The earliest known report on ALE was conducted by the Office of Superintendent of Public Instruction (OSPI) in 1999. It provides a review of ALE programs prior to mainstream use of the Internet as a tool for distance learning, and also during a time when ALE programs were just becoming available in grades K-8. Additionally, the Joint Legislative Audit and Review Committee did an extensive review of all ALE programs in 2005, including analysis of the use of parent stipends. The OSPI performed a study in December of 2009, analyzing just the digital and online aspects of ALE.

Summary: The Legislature finds that there is ample evidence of the need to reexamine and reconsider the method by which the state funds ALE programs, and the state does not have a legal obligation to provide basic instruction using any particular delivery method or program.

A definition of ALE programs is established which includes the following components:

- The ALE program is provided in whole or in part outside the classroom setting.
- The ALE program is supervised by a certified teacher of the district or under contract.
- The ALE program is provided according to a written learning plan under district policy and the OSPI rules.

Additionally, the ALE definition includes online programs defined under current law, programs with significant participation and partnership with parents, and contract-based learning programs.

The use of parent stipends in ALE programs is prohibited, but districts may purchase materials in a student learning plan as long as they remain the property of the district. Instructional experiences and services made available to ALE students in the student learning plan must be "substantially similar" to what is available to all students in the district.

Beginning in the 2012-13 school year, state funding for students in ALE online programs is limited to those offered by an online provider approved by the OSPI under the process in statute. Definitions of "online course" and "online school program" are clarified to align with the

EHB 2069

operating definitions used by the OSPI in approving online providers. The definition of online courses is changed to specify that more than half of the instruction in these courses is provided remotely, via the Internet or other computer-based method. School districts must award credit for online high school courses that meet the district's graduation requirements and are affected by an approved online provider.

Funding is reduced by an aggregate amount of 15 percent for ALE programs for the 2011-12 and 2012-13 school years. The OSPI is tasked with determining the methodology for achieving the savings, so long as no particular ALE program receives less than a 10 percent reduction or more than a 20 percent reduction in funding.

School districts are exempt from minimum staffing requirements for certificated instructional staff for that portion of the student population participating in ALE programs.

Votes on Final Passage:

First Special Session

House	63	32	
Senate	34	11	(Senate amended)
House	71	25	(House concurred)

Effective: August 24, 2011
September 1, 2011 (Sections 9 and 10)

EHB 2069

C 35 L 11 E1

Concerning hospital payments.

By Representative Cody.

House Committee on Ways & Means
Senate Committee on Ways & Means

Background: Medical assistance is available to eligible low-income state residents and their families from the Department of Social and Health Services, primarily through the Medicaid program.

Pursuant to Engrossed Second Substitute House Bill 2956 (hospital safety net assessment), hospital provider assessments are imposed on most hospitals and proceeds from the assessments are deposited into the Hospital Safety Net Assessment Fund (Fund). Money in the Fund may be used for various increases in hospital payments. Inpatient and outpatient payment rates were restored to levels in place on June 30, 2009. Beyond that restoration, hospitals reimbursed under the prospective payment system (PPS) received a 13 percent increase in rates for non-psychiatric inpatient services and a 36.83 percent increase in rates for outpatient services. The sum of \$49.3 million per biennium may be expended from the Fund in lieu of State General Fund payments to hospitals.

Summary: Starting July 1, 2011, the inpatient and outpatient rate increases for medical assistance services provided by PPS hospitals are reduced. The inpatient rate

increase is reduced from 13 percent to 3.96 percent, and the outpatient rate increase is reduced from 36.83 percent to 27.25 percent.

The sum of \$199.8 million may be expended from the Fund in lieu of State General Fund payments to hospitals in the 2011-13 fiscal biennium.

Votes on Final Passage:

First Special Session

House	52	44	
Senate	26	20	

Effective: July 1, 2011

HB 2070

C 5 L 11 E1

Determining average salary for the pension purposes of state and local government employees as certified by their employer.

By Representative Seaquist.

House Committee on Ways & Means
Senate Committee on Ways & Means

Background: In the Public Employees' Retirement System (PERS), the Teachers' Retirement System (TRS), the School Employees' Retirement System (SERS), the Public Safety Employees' Retirement System (PSERS), the Washington State Patrol Retirement System (WSPRS), and the Law Enforcement Officers' and Fire Fighters Retirement System (LEOFF) Plans 1 and/or 2, benefits are calculated by multiplying a member's years of eligible service by 2 percent of the member's final average compensation. For members of the PERS Plan 1, for example, final average compensation is the average level of annual pay received from plan-eligible employment over the highest consecutive two-year period. For members of the PERS Plan 2, final average compensation is calculated in a similar fashion but over the highest paid consecutive five years of plan-eligible employment rather than two years. Most of the Plans 1 and 2 use similar methods of calculating average final compensation, although the terminology differs slightly by retirement system.

The PERS, TRS, and SERS Plans 3 are a "hybrid" plan design in which employer contributions are made to support a defined benefit, and employee contributions are made into individual defined contribution accounts. A Plan 3 member's defined benefit is based upon the number of qualified years of service the member has worked multiplied by 1 percent of the average final compensation. A member's final average compensation in the Plan 3 is computed using the same formula used for members of the Plan 2, using a five-year average final compensation.

A retirement system member whose salary is reduced during the two- or five-year period prior to retirement due to a reduced schedule, leave without pay, or other reasons will receive a smaller retirement allowance due to the

lower final average compensation. A member may purchase up to two years of service credit for time spent on leave without pay; however, there are no provisions to purchase an increase of a member's final average compensation in the event that the member works a reduced schedule.

During the 2009-11 fiscal biennium, Chapter 430, Laws of 2009 (Senate Bill 6157) was enacted. Under this legislation, the average final compensation of a PERS member who is a state employee includes any compensation that is forgone by the member during the 2009-11 fiscal biennium as a result of reduced work hours, voluntary leave without pay, or temporary furloughs, provided that the reduced compensation is part of the employer's efforts to reduce expenditures. As part of the enactment of Chapter 32, Laws of 2010, first special session (Engrossed Second Senate Bill 6503), the 2009 law was extended to members of the LEOFF, TRS, PSERS, and WSPRS employed by the state.

Summary: Pensions from specified Washington retirement systems based on salaries earned during the 2011-13 biennium will not be reduced by compensation forgone by a member employed by either the state or local governments due to reduced work hours, mandatory leave without pay, temporary layoffs, or reductions to current pay if the measures are an integral part of a state or local government employer's expenditure reduction efforts.

State retirement systems covered by the provisions are the Law Enforcement Officers' and Fire Fighters' Retirement System, the School Employees' Retirement System, the Washington State Patrol Retirement System, the Teachers' Retirement System, the Public Safety Employees' Retirement System, and the Public Employees' Retirement System.

Votes on Final Passage:

First Special Session

House	90	4
Senate	40	4

Effective: July 1, 2011

ESHB 2082
C 36 L 11 E1

Concerning certain assistance programs and the essential needs and housing support program.

By House Committee on Ways & Means (originally sponsored by Representatives Darneille, Goodman, Dickerson, Roberts, Pettigrew, Appleton, Ryu, Fitzgibbon, Finn, Orwall, Ormsby, Ladenburg, Kenney and Moscoso).

House Committee on Ways & Means
Senate Committee on Ways & Means

Background: Disability Lifeline Program. Prior to 2010, an individual with a low income could be eligible for the General Assistance-Unemployable Program if he or she

met income criteria and was: (1) pregnant and not eligible for Temporary Assistance for Needy Families (TANF); or (2) incapacitated from gainful employment because of physical or mental infirmity likely to continue for at least 90 days in duration. A person with an infirmity primarily due to a drug or alcohol addiction was not eligible for the General Assistance-Unemployable Program.

In 2010 Engrossed Second Substitute House Bill (E2SHB 2782) was enacted. Under that act, the General Assistance Program was renamed the Disability Lifeline (DL) program. The eligibility requirements and conditions that were in place for the General Assistance Program remained the same. A time limit of 24 months in a 5-year period was established for DL benefits. This time limit was retroactive, and applied to persons already receiving benefits. Since the passage of E2SHB 2782, the Department of Social and Health Services (DSHS) has been restrained by court order from implementing the time limit provisions and the cash assistance grant has been reduced. The maximum monthly grant amount for a client, as of April 2011, is \$197. An individual is not eligible to receive DL benefits if he or she refuses without good cause to participate in needed treatment or other program services. Good cause includes an emotional or physical disability that prevents participation or the unavailability of treatment. The DL-Unemployable Program makes up the largest category of DL recipients.

Under E2SHB 2782, the DSHS was required to adopt medical criteria for DL incapacity determinations to ensure that the eligibility decisions were consistent with statutory requirements and based on clear, objective medical information. The standard for incapacity is not intended to be as stringent as the federal Supplemental Security Income (SSI) disability standards. Clear and convincing reasons are required for any eligibility decision which rejects uncontroverted medical opinion.

Medical Care Services. Medical Care Services are a limited scope of medical care offered to DL benefits recipients and recipients of drug and alcohol addiction services.

Disability Lifeline Expedited. Persons eligible for DL and who have been determined to be likely eligible for federal SSI benefits are eligible for the DL Expedited Program. Under E2SHB 2782, the DSHS was required to implement the Early SSI Transition Project, beginning in three counties: King, Pierce, and Spokane. In the transition project, potentially eligible persons are systematically screened and evaluated for SSI benefits and provided case management services to support the transition to SSI and Medicaid benefits.

Housing Voucher Program. The Department of Commerce (COM) and the DSHS are required to jointly develop a Housing Voucher (HV) Program. The COM administers the HV Program and must identify the current supply of private and public housing, including acquisition and rental of existing housing stock. The COM must also develop funding strategies and design the HV

Program to maximize the ability of the DSHS to recover federal funding.

Under E2SHB 2782, homeless applicants assessed as needing chemical dependency or mental health treatment, or both, are required to agree as a condition of eligibility to accept a HV in place of a cash grant if a voucher is available. The dollar value of the HV is established by the DSHS and may differ from the value of the cash grant. Persons receiving a HV will also receive a \$50 cash stipend per month. Persons who refuse to accept a HV, but are otherwise eligible for DL benefits, remain eligible for medical care services benefits.

Referral to the Division of Vocational Rehabilitation. The Economic Services Administration must work jointly with the Division of Vocational Rehabilitation (DVR) to develop an assessment tool to determine whether the programs offered by the DVR could assist persons receiving DL benefits in returning to the work force. The assessment tool was to be completed and in use no later than January 1, 2011. By December 10, 2011, the DSHS must report on the use of the tool and the success of DVR programs in returning persons to the work force.

Referral to the Department of Veterans Affairs. During the application process for DL benefits, the DSHS must inquire as to whether the applicant has ever served in the United States Military. For any applicant who has served, the DSHS must confer with a veteran's benefit specialist with the Washington Department of Veterans Affairs to determine whether the applicant is eligible for any benefits or programs offered by either the state or federal government.

Access to Chemical Dependency Treatment. If the DSHS or an entity that has contracted with the DSHS to provide medical care services to DL program clients determines that chemical dependency treatment is necessary to improve a client's health status for transition to employment or transition to federal disability benefits, the DSHS or the contracting entity must give the client high priority to enroll in chemical dependency treatment within funds appropriated for chemical dependency treatment. The first priority goes to pregnant women and parents.

Study of Terminations from DL Benefits. By December 1, 2012, the Washington State Institute for Public Policy (WSIPP) is to analyze and report on the experience of persons terminated from DL benefits.

Summary: The Aged, Blind, or Disabled Assistance Program and the Pregnant Women Assistance Program. All components of the DL program are terminated effective October 31, 2011, and statutory references deleted. The Aged, Blind, or Disabled Assistance Programs are established effective November 1, 2011. The DSHS is to provide financial assistance under the Aged, Blind, or Disabled Assistance Program to persons who meet eligibility requirements provided in the act. Clients must meet income, resource, and incapacity standards, which include having a medical or mental health impairment that is likely

to meet federal SSI disability standards. A person is ineligible for the Aged, Blind, or Disabled Assistance Program if there has been a final determination that he or she is not eligible for federal SSI.

Effective November 1, 2011, the Pregnant Women Assistance Program is established for persons who meet TANF income and resource standards but are ineligible for the TANF program for reasons other than failure to cooperate. Persons eligible for these programs are eligible to receive assistance in the form of a cash grant.

Essential Needs and Housing Support Program. Effective November 1, 2011, the Essential Needs and Housing Support Program (ENHS) is created. Individuals who are eligible for medical care services, and who are not recipients of alcohol and addiction services or the Aged, Blind, or Disabled Assistance Program, must be referred to the ENHS. No cash grant is awarded under the ENHS.

The DSHS must review the cases of individuals who are not recipients of alcohol and addiction treatment services or recipients of the Aged, Blind, or Disabled Assistance Program and have received medical care services for 12 months, and annually thereafter, to determine whether they are likely to be eligible for the Aged, Blind, or Disabled Assistance Program.

Grants to Local Governments and Community-Based Organizations for the ENHS. *Distribution of Funds.* The COM is required to distribute funds for the ENHS. The first distribution of funds must be completed by September 1, 2011. Funding is to be provided to the designated essential needs support and housing support entities. The amount of the distribution is designated in the biennial state omnibus operating appropriations act. The COM must approve the expenditure plans submitted by the designated entities.

During the 2011-2013 biennium, the funding for housing support is to be used for clients who are homeless. A contingency fund is established for clients who are at substantial risk of losing stable housing. After July 2013, the designated housing support entity must give first priority to serving clients who are homeless and second priority clients who would be at substantial risk of losing stable housing.

The appropriations by the Legislature for the ENHS are to be based on the forecasted program caseloads, and the Caseload Forecast Council must provide a courtesy forecast for the medical care services recipients who are homeless. The COM may adjust funding between counties to reflect caseload changes.

The designated entities must begin to provide essential needs and housing support on November 1, 2011. The essential needs and housing support entities must partner with other public and private organizations to maximize the beneficial impact of funds distributed and should attempt to leverage other sources of public and private funds to serve clients. The COM must not use more than

5 percent of the funding for administrative expenses. Essential needs and housing support entities must not use more than 7 percent of the funding for administrative expenses.

The COM, in collaboration with the DSHS, must develop a mechanism to allow the COM and essential needs and housing support entities to verify a person's eligibility for services. The COM must require Housing Support entities to enter data into the Homeless Client Management Information System and, in collaboration with the DSHS, report annually to the Legislature.

The first report regarding recipients served and referred is due December 31, 2011, and must describe the actions taken to achieve the objectives of the act and efforts made to partner with other entities to leverage public and private funds.

The COM must review data submitted by the essential needs and housing support entities and make recommendations for program improvements and administrative efficiencies. The COM may change designated entities if performance or other aspects of the ENHS do not meet the requirements of the COM.

Civil Liability. The COM, counties, and essential needs and housing support entities are not civilly or criminally liable and may not be subject to any cause of action regarding decisions related to the type of housing arrangements supported with funds under this act as a result of good faith actions. Rights to enforce statutory or contractual duties and obligations remain.

Medical Care Services. Persons are eligible for medical care services if they are incapacitated from gainful employment for a minimum of 90 days. To be eligible, a person must have countable income at or below \$339. Additionally, persons who qualify for the Aged, Blind, and Disabled Assistance Program or the Alcohol and Drug Addiction Services are eligible for the Medical Care Services Program.

Chemical Dependency. The provision related to DL terminations due to time limits is removed from the statute that specifies priority populations for drug and alcohol treatment.

Disability Lifeline Housing Voucher Program. The statute authorizing the DL HV Program is repealed.

Study of Terminations from DL Benefits. The statute directing a WSIPP study regarding persons terminated from the DL program is repealed.

Votes on Final Passage:

First Special Session

House	53	36	
Senate	43	2	(Senate amended)
House	56	40	(House concurred)

Effective: June 15, 2011
 July 22, 2011 (Section 6)
 November 1, 2011 (Section 8)

ESHB 2088

C 13 L 11 E1

Creating the opportunity scholarship board to assist middle-income students and invest in high employer demand programs.

By House Committee on Ways & Means (originally sponsored by Representatives Probst, Haler, Frockt, Zeiger, Tharinger, Asay, Orwall, Armstrong, Carlyle, Maxwell, Springer, Kenney, Seaquist, Finn, Haigh, Dammeier, Smith, Goodman, Lytton, Stanford, Dahlquist, Ladenburg, Wylie and Rivers).

House Committee on Ways & Means
 Senate Committee on Ways & Means

Background: There are various kinds of student financial aid; some is privately supported, some is federally supported, and some is supported by the state, such as the State Need Grant (SNG). The SNG program helps the state's lowest-income undergraduate students pursue education. Students may use the grants at eligible institutions, including public two- and four-year colleges and universities and many accredited independent colleges, universities, and career schools in Washington. Grants are awarded to individuals with family income up to 70 percent of the median family income.

Past legislation has created public-private partnership scholarship programs. As an example, the GET Ready for Math and Science Program was enacted in 2007. The Higher Education Coordinating Board contracted with a program administrator, and the administrator solicited funds from private contributors. The state then matched those contributions, and the administrator awarded conditional math and science focused scholarships.

Summary: The Opportunity Scholarship and Opportunity Expansion programs are created to mitigate the impact of tuition increases, increase the number of baccalaureate degrees in high employer demand and other programs, and invest in programs and students to meet labor market demands. The scholarships are funded by a combination of private and state moneys. The expansion awards are funded with voluntary contributions of high technology research and development tax credits.

Opportunity Scholarship Board. These two programs are overseen by the Opportunity Scholarship Board (Board), made up of seven persons appointed by the Governor. With respect to two of these appointments, the Governor is to consider names from a list provided by the Speaker of the House and the President of the Senate. Four of the persons appointed by the Governor are to be selected from a list of nominees provided by the private sector donors to the Opportunity Scholarship and Opportunity Expansion programs. Upon request, the Governor may request that the donors submit an additional list or lists.

The Board will identify eligible education and training programs for purposes of the opportunity scholarship, select institutions of higher education to receive opportunity expansion awards, and make recommendations with respect to funding sources for opportunity expansion awards. The Board's oversight and guidance of the programs must be consistent with legislative priorities. Together, with the program administrator, the Board must set annual fund raising goals and solicit funds.

Program Administrator. The Higher Education Coordinating Board (HECB), or its successor, contracts with a program administrator, defined as a college scholarship organization that is a private nonprofit entity with expertise in managing scholarships and college advising. The program administrator sets up and manages the scholarship and endowment accounts, staffs the Board and administers the Opportunity Scholarship Program. The program administrator is paid an administrative fee as determined by the Board.

Opportunity Scholarships. Scholarship recipients must: (1) be accepted into a high employer demand program, deemed an eligible education program by the Board; (2) declare an intention to obtain a baccalaureate degree (whether starting at two- or four-year school); (3) have a family income at or below 125 percent of the median family income; and (4) have received their high school diploma or General Educational Development (GED) in Washington. Generally, the annual amount of a scholarship is \$1,000 or the dollar difference between tuition fees charged in the 2008-09 academic year and the academic year for which a scholarship is being distributed, but the amount may be an amount necessary to cover all eligible expenses, as determined by the administrator.

Opportunity scholarships are issued from one of two accounts set up and managed by the program administrator, either the Scholarship Account or the Endowment Account. These scholarships are funded by a combination of private contributions and state match moneys.

At least 50 percent of all private contributions must be deposited into the Scholarship Account until total receipts in that account reach \$20 million, after which the Board determines the distribution between scholarship and Endowment Accounts, carefully balancing the need for a long-term funding mechanism and short-term needs of students and families. State match, which must be appropriated by the Legislature, is earned for private contributions made after the effective date of the act and must be paid beginning the later of January 1, 2014, or the first year in which state revenues are 10 percent higher than those received in fiscal year 2008. These state match payments are capped at \$50 million annually.

Scholarships may be issued from principal and earnings in the Scholarship Account, and disbursement from this account must commence in December 2011 as long as at least \$5 million in state match has been received in the Scholarship Account.

By contrast, the principal in the Endowment Account may not be invaded. Additionally, scholarships may be issued from the Endowment Account only after: state match has been paid to both the Scholarship Account and the Endowment Account; state appropriations to the SNG meet or exceed such appropriations made in 2011-13; and eligibility for the SNG is maintained at a minimum of 70 percent of the median family income. Additionally, progress must have been made toward reaching global challenge state funding goals, meaning that the state must demonstrate progress toward the goal of total per-student funding levels, from state appropriations plus tuition, of at least the 60th percentile of total per-student funding at similar public institutions of higher education in Washington's global challenge states. (Washington's global challenge states are California, Colorado, Maryland, New Jersey, Connecticut, Virginia, Minnesota, and North Carolina.)

Opportunity Expansion Program. Opportunity expansion moneys are awarded to public institutions of higher education that propose programs designed to increase the number of baccalaureate degrees produced in high employer demand and other programs of study. These programs must have a strong emphasis on serving students who received their high school diploma or GED in Washington or are adult Washington residents who are returning to school. This program will initially be funded through voluntary contributions of the existing high tech research and development (R&D) tax credits. The Department of Revenue (DOR) reports the amount contributed to the State Treasurer, and the Legislature appropriates the funds.

Reporting Requirements. The following reports are required:

- The Office of Financial Management must report annually, by December 1, regarding the percentage of Washington households with incomes in the middle-income bracket or higher.
- The HECB must report regarding the increase in the number of degrees in high employer demand or other programs of study over the average of the preceding 10 academic years.
- The Workforce Training and Education Board must include in its comprehensive plan specific strategies to reach the goal of increasing the percentage of Washington households living in the "middle-income bracket" or higher.
- The DOR must report to the State Treasurer on the amount of R&D tax credits voluntarily contributed to the Opportunity Expansion Program.
- By December 1, 2012, and annually thereafter, the Board and the program administrator must report to the HECB, the Governor, and the Legislature with respect to the Opportunity Scholarship and Expansion programs.

- In 2018 the Joint Legislative Audit and Review Committee must evaluate and report upon the Opportunity Scholarship and Expansion programs.

Votes on Final Passage:

First Special Session

House	84	8	
Senate	43	2	(Senate amended)
House	91	5	(House concurred)

Effective: June 6, 2011

ESHB 2115

C 6 L 11 E1

Concerning legislative review of performance standards for the statewide student assessment.

By House Committee on Education (originally sponsored by Representatives Haigh and Dammeier).

House Committee on Education

Background: It is the responsibility of the State Board of Education (SBE) to identify the scores that students must achieve on the statewide student assessments in order to meet the state standard of performance for purposes of school accountability and, in the case of high school students, for graduation. The SBE sets these performance standards in consultation with the Office of the Superintendent of Public Instruction (OSPI) and considers recommendations of technical and advisory groups.

The initial performance standards for the high school assessment and any changes to them must be presented to the education committees of the Legislature by November 30 of the school year in which the changes take effect, and the Legislature must be permitted to take statutory action if desired before the changes are implemented. For the elementary and middle school assessments, the Legislature must merely be advised of the initial performance standards and any changes.

In the spring of 2011 the OSPI is administering two new mathematics end-of-course assessments. In the case of a newly developed assessment, it is not technically possible to set the performance standards until the actual range of student scores is known, which will not occur until late spring of the 2010-11 school year.

Summary: Rather than requiring the SBE to submit initial high school performance standards to the education committees by November 30 of the school year in which they take effect, the Legislature must be advised of the initial performance standards.

For all grade levels of the statewide student assessment, the SBE must provide an explanation and rationale for initial performance standards and any changes. If the SBE changes any performance standards, the OSPI must recalculate the results from the previous 10 years of administering that assessment and post a comparison of the original and recalculated results on the agency website.

Votes on Final Passage:

First Special Session

House	85	4
Senate	41	0

Effective: May 31, 2011

SHB 2119

C 24 L 11 E1

Requiring another one-time sum due by beneficiaries for reporting certain notices of default.

By House Committee on Ways & Means (originally sponsored by Representatives Orwall, Hope, Eddy, Hunter, Rodne and Pedersen).

House Committee on Ways & Means

Background: During the 2011 Regular Session, Second Substitute House Bill 1362 (2SHB 1362) was enacted which makes numerous changes to the deeds of trust foreclosure process. There is a mechanism in 2SHB 1362 that provides funding for increasing the number of housing counselors and attorneys available to assist individuals at risk of default, establishing a foreclosure mediation program, enforcing new consumer protection requirements, and conducting homeowner prepurchase and postpurchase outreach and education programs. Although the foreclosure mediation program and other provisions do not take effect until July 22, 2011, the provisions creating the funding mechanism took effect April 14, 2011.

Second Substitute House Bill 1362 provides that no later than 30 days after April 14, 2011, certain beneficiaries must remit to the Department of Commerce (COM) a lump sum payment of \$250 per owner-occupied residential real property for which the beneficiary has issued a notice of default during the three months prior to April 14, 2011. That remittance period covers the number of properties receiving notices of default during the period of mid-February through mid-April.

In addition, 2SHB 1362 provides that beginning October 1, 2011, and every quarter thereafter, certain beneficiaries must remit to the COM a lump sum payment based on the number of properties for which a notice of default is issued during the previous quarter. The October 1, 2011, remittance requirement covers the period from July 1 through September 30, 2011.

There is no remittance requirement for the period between mid-April and June 30, 2011.

The reporting and remitting requirements do not apply to financial institutions and loan servicers that have issued fewer than 250 notices of default in the preceding year or to association beneficiaries.

Summary: The beneficiaries required to remit payments to the COM must make a one-time lump sum payment of \$250 per owner-occupied residential real property for which notices of default were issued from April 14, 2011,

through June 30, 2011. Beneficiaries must remit the one-time payment by July 31, 2011.

Votes on Final Passage:

First Special Session

House	63	24
Senate	36	9

Effective: June 7, 2011

EHB 2123

C 37 L 11 E1

Addressing the workers' compensation system.

By Representatives Green and Condotta; by request of Governor Gregoire.

Background: Under the state's industrial insurance laws, employers must insure through the State Fund administered by the Department of Labor and Industries (Department) or may self-insure if qualified. Workers who, in the course of employment, are injured or disabled from an occupational disease are entitled to benefits. Workers receive medical, temporary time-loss, and vocational rehabilitation benefits, as well as benefits for permanent disabilities. The law provides that a worker may not waive industrial insurance benefits by an agreement and that any such agreement is void.

The Workers Compensation Advisory Committee (WCAC) is a 10-member committee tasked with studying aspects of the workers' compensation system. Workers and employers are represented on the WCAC.

Temporary Time-Loss. Workers temporarily unable to work receive time-loss benefits. The amount of the time-loss is 60 to 75 percent of the worker's wages, depending on the worker's family status and number of dependents, and subject to minimum and maximum amounts.

Return to Work. An employer may request that a worker receiving time-loss benefits be certified by a physician or Advanced Registered Nurse Practitioner (ARNP) to be able to perform light duty or transitional work. The physician or ARNP must decide whether the worker is physically able to perform the work. If so, the worker's time-loss benefits end.

Permanent Disabilities. A worker who suffers specified catastrophic injuries or other condition permanently incapacitating the worker from performing any work at any gainful occupation is entitled to permanent total disability (TPD or also referred to as pension) benefits. The worker may choose benefits at the same rate as temporary time-loss benefits or may select from other options. If a permanent partial disability (PPD) results from an injury, a worker receives one-time compensation under a statutory schedule. If the award is more than three times the average monthly wage, however, payment is made

monthly and interest is paid at the rate of 8 percent on the balance.

If a worker receives a pension award following a PPD award, any portion of the PPD award that exceeds the amount that would have been paid if the TPD award had been paid in the first instance is deducted from the worker's TPD benefits. This provision has been interpreted to result in no deduction of PPD awards in many cases. If amounts are deducted, the worker has a choice of whether the deduction is from the worker's monthly benefit amount or from the pension reserve for the worker. The deduction from the monthly benefit amount is capped at 25 percent of the monthly amount or one-sixth the total overpayment, whichever is less.

Cost-of-Living Adjustment. Workers receiving time-loss or a pension and certain survivors receive a cost-of-living adjustment (COLA) on July 1 of each year. The COLA begins the first July 1 after injury. The COLA is based on the average monthly wage, and the formula depends on whether the worker began receiving compensation before, or on or after July 1, 1971.

Premiums and Funds. State Fund employers pay into the Accident Fund, which pays for time-loss, PPD, and pension benefits, and the Medical Aid Fund, which pays for medical and vocational rehabilitation benefits. Workers also pay into the Medical Aid Fund. The Department classifies industries by risk and sets basic premium rates. The basic premium rate is adjusted by an experience rating for each employer. The rates must be the lowest necessary to maintain the actuarial solvency of the Accident and Medical Aid Funds in accordance with recognized insurance principles, and must be designed to attempt to limit fluctuations in premium rates. The WCAC advises the Department on appropriate levels of a contingency reserve, and when surplus funds exist, the circumstances under which the Department should give premium dividends, or similar measures, or temporarily reduce rates.

Safety and Health Investment Projects Program. Beginning in 2008, the state omnibus operating appropriations act (operating budget) has appropriated funds from the Medical Aid Fund to the Department for the Safety and Health Investment Projects (SHIP) Program. By the terms of the operating budget provisos, priority must be given to projects fostering accident prevention through cooperation between employers and employees or their representatives. Under rules adopted by the Department, grants may be awarded to trade and business associations, labor unions, employers, and other groups.

Summary: Stay-at-Work. Legislative findings are made that long-term disability and the cost of injuries are significantly reduced when injured workers remain at work.

A State Fund employer may receive a wage subsidy and other reimbursements under certain circumstances for employing a worker at light duty or transitional work. To

be eligible, an employer must submit a request for the subsidy or other reimbursement within one year of the date the work was performed. Wage subsidies and reimbursements are payable only if the physician or Advanced Registered Nurse Practitioner (ARNP) has restricted the worker from performing the worker's usual work and the physician or ARNP has released the worker to perform the work offered.

Wage subsidy. The wage subsidy is 50 percent of basic, gross wages paid for the work for a maximum of 66 work days in a consecutive 24-month period, up to a maximum of \$10,000. No subsidy is paid for compensation other than wages or salary, such as tips, health care, other specified payments, or any other payments. No subsidy is payable for a day in which the worker does not work.

Reimbursement. The employer is also eligible for reimbursement for the following:

- Training or instruction – tuition, books, fees, and materials, up to \$1,000.
- Clothing – up to \$400. No reimbursement is available for any clothing that an employer normally provides to its workers. The clothing becomes the worker's property.
- Tools or equipment – up to \$2,500. The reimbursement does not apply to any tools or equipment purchased before offering the work to the worker or for tools or equipment that the employer normally provides. The tools and equipment are the property of the employer.

Payments made for wage subsidies and reimbursements through willful misrepresentation are subject to a penalty of the amount paid plus 50 percent. An employer's experience rating is not affected by wage subsidies. A dispute about the validity of the work offered or the worker's ability to perform is an appealable order. The reimbursements are paid out of a newly created Stay-at-Work Account, which is funded by assessments of State Fund employers for the costs of the payments and a reserve. Employers may collect up to one-half the assessment from workers.

Claim Resolution Structured Settlement Agreements.

General. Certain injured workers may resolve their claims with a claim resolution structured settlement agreement (agreement). Beginning January 1, 2012, when settlements may first be agreed to, workers must be age 55 or older. Beginning January 1, 2015, workers must be age 53 or older, and beginning January 1, 2016, workers must be age 50 or older. The agreement may not settle medical benefits or reverse or set aside an order allowing a claim. The parties may initiate agreements after 180 days from the receipt of the claim by the Department or self-insurer. The order allowing the claim must be final and binding.

The agreement must provide a periodic payment schedule equal to at least 25 percent, but not more than 150

percent, of the average monthly wage except that the first payment may be up to six times the average monthly wage. A third party administrator of a self-insured employer must disburse payment pursuant to the agreement.

Process. All agreements must be approved by the Board of Industrial Insurance Appeals (Board). If the worker is unrepresented, an industrial appeals judge (IAJ) with the Board must schedule a conference with the parties within 14 days of submittal for purposes of reviewing the agreement terms and ensuring the worker has an adequate understanding of workers' compensation benefits and that an agreement may alter the benefits. The IAJ may approve an agreement only if the agreement is in the best interest of the worker. The IAJ must consider the following best interest factors, with no factor being determinative: nature and extent of the worker's injuries and disabilities; the worker's age and life expectancy; the worker's other benefits and the effect of an agreement on those benefits; and the marital and domestic partnership status of the worker. Within seven days of the conference, the IAJ must allow or reject the agreement. There is no appeal from this decision. If a worker is represented by an attorney, the parties submit the agreement directly to the Board.

The Board must approve the agreement within 30 days unless it finds that: (1) the parties have not entered into the agreement knowingly or willingly; or (2) the agreement (a) is the result of a material misrepresentation of law or fact, (b) is the result of harassment or coercion, or (c) is unreasonable as a matter of law. A party may revoke consent to the agreement within 30 days after the Board approves the agreement. An agreement is not subject to appeal.

Other provisions. For a State Fund claim, the parties are the worker, the employer, and the Department of Labor and Industries (Department). An employer is not a party if the claim costs are no longer included in the calculation of the employer's experience factor, or the employer cannot be located, is no longer in business, or fails to respond or declines to participate. For a self-insured claim the parties are the worker and employer. An unrepresented worker may request the self-insured ombudsman to provide assistance or be present during negotiations. With respect to medical benefits, the agreement may provide that the claim remain open for future treatment or that further specific treatment may be provided. In addition, the worker may apply as under current law to reopen the claim for medical benefits.

The Director of the Department (Director) must approve subjecting any industrial insurance funds to any responsibility or burden. An agreement may not bind an employer not signatory to the agreement. Agreements must be signed by the parties or their representatives and clearly state the parties understand and agree to the terms.

The Department must maintain copies of agreements and must furnish copies upon request to any party actively negotiating a subsequent agreement with the worker.

To the extent the worker is entitled to any benefits, the benefits must be paid until the agreement is final.

Attorneys' fees are limited to 15 percent of the total amount to be paid to the worker. The Board hears any disputes regarding attorneys' fees.

Certain penalties and prohibitions apply. If a party fails to comply with an agreement, any other party may petition the Board within one year from the failure to comply. If the Board finds noncompliance, it must order compliance and impose a penalty of up to 25 percent of the amount unpaid. If the Department determines an employer has engaged in a pattern of harassment or coercion, the employer may be subject to penalty or corrective action, and may be removed from the retrospective rating program or be decertified as a self-insurer. Consideration of an agreement when making an employment decision is prohibited.

The Department and Board must adopt rules to implement the provisions.

On December 1, 2011, and annually thereafter through December 1, 2014, the Department must report to the Legislature on the implementation of agreements. In 2015, 2019, and 2023, the Department must contract, in consultation with the Workers Compensation Advisory Committee (WCAC), for an independent study of agreements. The studies must evaluate the quality and effectiveness of agreements, provide information on the impact of agreements to State Fund and self-insured employers, and evaluate worker outcomes. Studies must be submitted to the Legislature.

Safety and Health Investment Projects Program. The SHIP Program is placed in statute. The Director may provide funding from the Medical Aid Fund, by grant or contract, for projects for State Fund workplaces. The funding authority includes projects to: prevent workplace injuries, illnesses, and fatalities; create early return-to-work programs; and reduce long-term disability through the cooperation of employers and employees or their representatives. Organizations that may receive awards include: trade and business associations; employers and employees; labor unions; employee organizations; joint labor and management groups; and education institutions in collaboration with State Fund employer and employee representatives. Funds may not be used for: lobbying or political activities; supporting, opposing, or developing legislative or regulatory initiatives; any activity not designed to reduce workplace injuries, illnesses, or fatalities; or reimbursing employers for the normal costs of complying with safety and health rules.

Funds must be distributed as follows:

- 25 percent – projects designed to develop and implement innovative and effective return-to-work programs for injured workers;
- 25 percent – projects that specifically address small business needs; and
- 50 percent – projects that foster workplace injury and illness prevention by addressing priorities identified by the Department in cooperation with the Washington Industrial Safety and Health Act Advisory Committee and the WCAC.

Permanent Total and Permanent Partial Disability Awards. If a pension is awarded after a permanent partial disability (PPD) award, all PPD compensation must be either deducted from the worker's monthly pension benefits or deducted from the pension reserve. Any interest paid is not deducted. Deductions from monthly pension benefits are not capped. This provision applies to pension determinations on or after July 1, 2011.

Interest paid on monthly PPD awards is eliminated.

Cost-of-Living Adjustments. Cost-of-living adjustments (COLAs) are suspended for July 1, 2011, with no "catch up." The COLA is the percentage change in the average monthly wage for the preceding year. (The new COLA formula applies regardless of when the worker first began receiving benefits.) The first COLA occurs the second July 1, rather than the first July 1, after the date of injury or disease manifestation.

Rainy Day Fund. An Industrial Insurance Rainy Day Fund (Rainy Day Fund) is created. Before proposing premium rates, the Director must determine whether the assets of the Accident and Medical Aid Fund combined are at least 10 percent, but not more than 30 percent, in excess of funded liabilities, and if so, must transfer any excess to the Rainy Day Fund. However, the Director may not transfer funds if a transfer would threaten the Department's ability to meet industrial insurance obligations or result in total assets of the Rainy Day Fund combined with Accident and Medical Aid Funds assets to exceed 30 percent of the Accident and Medical Aid Funds' liabilities. The WCAC must create a Finance Subcommittee made up of three members representing business and three members representing labor. The Finance Subcommittee must provide recommendations for any changes to the 30 percent cap on total assets exceeding liabilities to the Legislature by December 1, 2011.

When adopting rates the Director may transfer moneys from the Rainy Day Fund into the Accident or Medical Aid Fund if a transfer is necessary to reduce a rate increase or aid businesses in recovering from or during economic recessions. The Director may also transfer moneys at any time liabilities increase so that total liabilities exceed assets.

Fund transfer decisions are announced as part of rule-making and are not reviewable by any court or tribunal.

The Director must separately account for moneys from the Accident and Medical Aid Funds. Rainy Day Fund assets may not be used for any purposes other than industrial insurance.

Earnings from the Rainy Day Fund are deposited into the Rainy Day Fund and the State Investment Board may invest moneys in the Rainy Day Fund in the same manner as other industrial insurance funds.

Fraud. The Department is directed to continue to apply best practices to address employer fraud and to apply these same best practices to address worker and provider fraud. These practices include participating in a national information exchange with other workers' compensation insurers to avoid duplication of claims and benefits, increasing public awareness of fraud and how to report fraud, establishing criteria for periodic review of pension recipients to determine whether they can be gainfully employed, and identifying provider billing patterns to target potentially abusive practices.

The Department's fraud activities must include approaches to prevent, educate, and ensure compliance by providers, employers, and workers.

The Department must provide a report to the Governor and appropriate legislative committees by December 1, 2012, that describes the Department's efforts and outcomes and makes recommendations for statutory changes to address barriers to addressing fraud.

Performance Audit of Claims Management System. The Joint Legislative Audit and Review Committee (JLARC), in consultation with the Department and the WCAC, must conduct a performance audit of the workers' compensation claims management system, including self-insured claims. The JLARC may contract with an independent expert. The audit must evaluate the extent to which the Department: (1) makes fair and timely decisions and resolves complaints in a timely, fair, and effective manner; and (2) communicates in a timely, responsive, and accurate manner. The audit must also: determine if current claims management organization and service delivery models are the most efficient available; analyze organization and delivery for retrospective rating plan participants as compared to nonparticipants; and determine whether current initiatives improve service delivery, and meet other specified criteria. The JLARC must make recommendations regarding administrative changes to improve efficiency and any needed legislative changes.

Progress reports to the Legislature are due by December 1, 2012, and December 1, 2013, and the audit results are due by June 30, 2015.

Occupational Disease. In consultation with the WCAC, the Department must contract with an independent entity with research experience in workers' compensation issues to study occupational disease claims. The study must include an examination of the frequency and

severity of occupational disease claims, the impact of claims on long-term disability and pension trends, the definition of occupational disease, including a comparison to other jurisdictions, and the statute of limitations compared to other jurisdictions. The study must be submitted to the appropriate committees of the Legislature by December 1, 2012.

Votes on Final Passage:

First Special Session

House	69	26
Senate	35	12

Effective: June 15, 2011

HB 3225

C 1 L 10 E2

Making 2009-2011 supplemental operating appropriations.

By Representatives Sullivan and Alexander.

House Committee on Ways & Means

Background: The state government operates on a fiscal biennium that begins July 1 of each odd-numbered year. The 2009-11 State Omnibus Operating Appropriations Act (Operating Budget), as amended by the 2010 Supplemental Operating Budget (ESSB 6444, Chapter 37, Laws of 2010), appropriated \$31 billion from the State General Fund and two other accounts, together referred to as the State Near General Fund. The total budgeted amount, which includes state and federal funds, is \$60.2 billion.

Summary: Appropriations are modified for the 2009-11 biennium. State Near General Fund appropriations are reduced by \$490.4 million, while the total budgeted amount is reduced by \$336.5 million.

Technical adjustments are made to some appropriations to reflect vetoes of provisions in the 2010 Supplemental Operating Budget (ESSB 6444).

Votes on Final Passage:

Second Special Session

House	86	6
Senate	30	9

Effective: December 11, 2010

HJM 4004

Requesting the designation of an "Honor and Remember Flag" as an official symbol to recognize Armed Forces members who have died in the line of duty.

By Representatives Short, Blake, Bailey, Hunt, Crouse, Nealey, Haler, Rodne, McCune, Buys, Asay, Klippert, Warnick, Shea, Kelley, Johnson, Seaquist, Taylor, Roberts, Haigh, Ross, Ahern, Upthegrove, Smith and Kristiansen.

House Committee on State Government & Tribal Affairs
Senate Committee on Government Operations, Tribal Relations & Elections

Background: A national campaign is underway to convince Congress to adopt an "Honor and Remember Flag" as a national flag honoring all fallen servicemen and servicewomen. The flag would be added to the official United States flag displays on military holidays alongside the United States flag and the Missing in Action/Prisoner of War flag. The campaign was started by the father of a soldier killed while serving in Iraq.

A bill was introduced in the United States House of Representatives during the 110th Congress, House Resolution 1034, to designate the "Honor and Remember Flag" as an official symbol to recognize members of the United States Armed Forces who died in the line of duty. The bill was introduced and referred to committee, but did not get a hearing.

Summary: A request is made to the United States Senate and House of Representatives to enact a bill to create an "Honor and Remember Flag" to serve as a national symbol and establish a permanent national flag to fly continuously in eternal honor and remembrance of those who have given their lives in military service for our nation.

Copies of the memorial must be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, and each member of Congress from the State of Washington.

Votes on Final Passage:

House	93	0
Senate	48	0

ESHCR 4404

Continuing the work of the joint select committee on health reform implementation.

By House Committee on Health Care & Wellness (originally sponsored by Representatives Schmick, Cody, Hinkle and Frockt).

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

Background: Enacted in 2010, the federal Patient Protection and Affordable Care Act (PPAC Act), along with the Health Care and Education Reconciliation Act, provides for a wide variety of changes in health care and health insurance over a number of years.

Soon after enactment of the PPAC Act, the Governor's Health Care Cabinet (Cabinet) began coordinating health reform efforts among the state agencies and convening work groups to assist the Cabinet in understanding the administrative and policy impacts. In addition, the Realization Committee, established in December 2009 by the Office of the Insurance Commissioner, has been functioning as a forum for the consideration of health insurance exchanges and insurance market reforms.

In 2010 the State Omnibus Operating Appropriations Act (Engrossed Substitute Senate Bill 6444) established a Joint Select Committee on Health Reform Implementation (Joint Select Committee) to review policies related to health reform. The Joint Select Committee met four times during the 2010 legislative interim and formed three advisory groups on workforce, exchange and insurance reforms, and low-income coverage. In addition to receiving reports and recommendations from these advisory groups, the Joint Select Committee received updates and recommendations from other state agencies working on aspects of health reform, including the Governor's Office, the Office of the Insurance Commissioner, the Health Care Authority, and the Department of Social and Health Services.

The authorization for the Joint Select Committee expires June 30, 2011.

Summary: The Joint Select Committee on Health Reform Implementation (Joint Select Committee) is continued. The Joint Select Committee membership will consist of the chairs of the health committees of the Senate and the House and eight additional legislative members, four from the Senate and four from the House, appointed by the leadership of the two largest caucuses of the Senate and the House. The Governor will be invited to appoint a non-voting liaison member.

The chairs of the Senate and House health care committees will serve as co-chairs. The co-chairs may direct the formation of advisory committees to focus on specific topic areas, including insurance regulation, access to and expansion of public and private programs, cost containment, and workforce issues. Interested stakeholders and experts may be invited to advise the Joint Select Committee.

The co-chairs must establish an advisory committee to provide advice and recommendations to the Department of Social and Health Services and the Health Care Authority in the development of an implementation plan to coordinate the purchase and delivery of acute care, long-term care, and behavioral health services.

The Joint Select Committee expires on or before June 30, 2014.

Votes on Final Passage:

House	92	5	
Senate	47	1	(Senate amended)
House	90	5	(House concurred)

E2SSB 5000

C 167 L 11

Mandating a twelve-hour impound hold on motor vehicles used by persons arrested for driving under the influence.

By Senate Committee on Transportation (originally sponsored by Senators Haugen, Ericksen, Hatfield, Schoesler, Shin, Conway, Tom, Sheldon and Kilmer).

Senate Committee on Judiciary
Senate Committee on Transportation
House Committee on Judiciary
House Committee on Transportation

Background: Law enforcement officers may impound a vehicle for a number of reasons, including when the operator of a vehicle is arrested for driving under the influence of alcohol or drugs (DUI). There is no requirement that officers impound a vehicle driven by a person arrested for DUI.

When a vehicle is impounded, the tow truck operator must notify the legal and registered owners of the impoundment, the right of redemption, and the opportunity for a hearing to contest the validity of the impoundment or the amount of towing and storage charges. An impounded vehicle may be redeemed only by a registered owner of the vehicle, a legal owner (such as a lien holder), or a person who has permission of a registered owner, and only upon payment of all costs associated with the impound.

If, in a hearing contesting the impoundment, the impound is found to be in violation of the impound laws, the person or agency that authorized the impound is responsible for costs associated with the impound, the filing fee, and reasonable damages for loss of use of the vehicle. However, if the impound is based on driving with a suspended license and the impound is found to be improper, the law enforcement officer and the agency employing the officer are not liable for damages for loss of use of the vehicle if the officer relied in good faith and without gross negligence on the Department of Licensing's driving records.

In a 2002 Washington supreme court case, *All Around Underground v. The Washington State Patrol*, the Court held that a Washington State Patrol rule requiring impoundment of the vehicle operated by a person arrested for having a suspended license exceeded statutory authority because the impoundment statute requires officer discretion in whether or not to impound. While the case was decided on statutory grounds, the majority opinion noted that courts have generally found that in order to satisfy

constitutional requirements, impoundment must be reasonable, which includes taking into account whether reasonable alternatives to impoundment exist. Under both the state and federal Constitutions, seizures of property must be reasonable.

Summary: The Legislature finds that protecting the public from an intoxicated person operating a vehicle is the primary reason for impounding the vehicle driven by a person arrested for DUI.

When a law enforcement officer arrests a person for DUI, the officer must impound the vehicle. When the driver of the vehicle is a registered owner of the vehicle, the impounded vehicle may not be redeemed until 12 hours after the vehicle arrives at the tow truck operator's storage facility, unless there are two or more registered owners or there is a legal owner of the vehicle. If there are two or more registered owners or a legal owner, the registered owner or the legal owner who is not the driver of the vehicle may redeem the vehicle upon impound. When the driver of the vehicle is not a registered owner, the registered owner may redeem the vehicle once impounded. The law enforcement officer directing the impound must notify the driver of the vehicle that a registered owner or a legal owner who is not the driver may redeem the vehicle.

If the police officer who directed that a vehicle be impounded is presented with exigent circumstances and has waited 30 minutes after contacting the police dispatcher requesting the registered tow truck operator, the officer may leave the vehicle after placing inside it the completed impound order and inventory and securing the vehicle. The officer and the government or agency employing the officer are not liable for damages or theft of the vehicle or its contents, or for the actions of any person who removes the vehicle prior to the arrival of the tow truck operator, as long as the officer has secured the vehicle and followed the specified procedures.

If the vehicle subject to impoundment is a commercial or farm transport vehicle, the police officer must attempt, in a reasonable and timely manner, to contact the owner of the vehicle and may release it to the owner as long as he or she was not in the vehicle at the time of the stop and arrest.

Registered tow truck operators that release an impounded vehicle in compliance with these impound requirements are not liable for injuries or damages sustained by the vehicle operator or by other parties that may result from the vehicle operator's intoxicated state. If an impoundment is found improper, the arresting officer and the officer's government employer are not liable for damages for loss of use of the vehicle if the officer had reasonable suspicion to believe the operator was driving or controlling a vehicle while under the influence of alcohol or drugs.

A farm transport vehicle is defined.

The act is to be known as Hailey's Law.

ESB 5005

Votes on Final Passage:

Senate	47	0	
House	92	1	(House amended)
House	95	0	(House reconsidered)
Senate	46	0	(Senate concurred)

Effective: July 22, 2011
July 1, 2011 (Section 6)

ESB 5005

C 299 L 11

Concerning exemption from immunization.

By Senators Keiser, Honeyford, Pflug, Becker, Regala, Carrell, Hobbs, Nelson, Rockefeller, Shin and Chase.

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

Background: Before the first day of school, students at Washington's public and private schools (preschool through 12th grade) and children attending licensed day care must provide proof of immunization against certain vaccine-preventable diseases as determined by the Washington State Board of Health (BOH). However, a parent or guardian may exempt a child for one of several reasons including if a physician advises against a specific vaccine for a child, parents certify that the vaccine conflicts with their religious beliefs, or parents certify that they have philosophical or personal objections to the child's immunization.

Under BOH rules, the required immunization schedule includes vaccinations against 11 diseases. Nearly all states allow medical and religious exemptions from their school immunization requirements. According to a 2005 Centers for Disease Control and Prevention report, 20 states allow exemptions based on philosophical or personal objections.

Summary: Modifications are made to the certification, that a parent or guardian must present, to exempt a child from school immunization requirements. The form used to certify the exemption for either medical, religious, or personal objections must include a statement, signed by a health care practitioner, that the parent or guardian has been informed of the benefits and risks of the immunization to the child. Health care practitioners may sign forms at any time before the enrollment of the child in a school or licensed day care. Photocopies of the signed form or a letter from the health care practitioner are allowed in lieu of the original form.

A health care practitioner is defined as a licensed physician, licensed naturopath, licensed physician assistant, or advanced registered nurse practitioner.

A parent or legal guardian who exempts his or her child from immunization requirements because of religious beliefs is not required to have the form signed by a health care practitioner if they belong to a church with

teachings that preclude a health professional from providing medical treatment to the child.

Votes on Final Passage:

Senate	35	11	
House	66	29	(House amended)
Senate	34	12	(Senate concurred)

Effective: July 22, 2011

SB 5011

C 87 L11

Concerning the victimization of homeless persons.

By Senators White, Kohl-Welles, Murray, Chase, Nelson and McAuliffe.

Senate Committee on Judiciary
House Committee on Public Safety & Emergency Preparedness

Background: Under the Sentencing Reform Act, a standard sentence range is established by comparing the seriousness level of an offense to an offender score derived from the offender's criminal history and convictions for other current offenses. A sentence which is outside the standard sentence range is referred to as an exceptional sentence. A court may impose an exceptional sentence above the standard sentence range if:

- the state gives notice of its intention to rely on one or more of 28 statutory aggravating factors;
- a jury determines that the existence of one or more aggravating factors have been proven beyond a reasonable doubt; and,
- the court finds that substantial and compelling reasons justify an exceptional sentence.

Summary: A new statutory aggravating circumstance is created which would permit the court to impose an exceptional sentence above the standard sentence range if the offense was intentionally committed because the defendant perceived the victim to be homeless. This aggravating circumstance must be submitted to a jury and proven beyond a reasonable doubt.

"Homeless" is defined as a condition where an individual lacks a fixed, regular, and adequate nighttime residence and who has a primary nighttime residence that is a supervised, publicly or privately operated shelter designed to provide temporary living accommodations; a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings; or, a private residence where the individual stays as a transient invitee.

Votes on Final Passage:

Senate	49	0	
House	92	1	

Effective: July 22, 2011

SSB 5018

C 88 L 11

Including wound care management in occupational therapy.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Keiser, Conway, Shin, Schoesler, Hobbs, Kline and McAuliffe).

Senate Committee on Health & Long-Term Care

House Committee on Health Care & Wellness

House Committee on Health & Human Services
Appropriations & Oversight

Background: Occupational therapy uses activity-based treatment to maximize the independence and functioning of persons with physical injury or illness, psychosocial dysfunction, disability, or limitations due to aging. Some examples of occupational therapy include exercises, teaching skills and adapting environments to enhance cognitive, perceptual, motor, sensory integrative and psychomotor functioning.

An occupational therapist is a person licensed by the Board of Occupational Therapy Practice (Board) to practice occupational therapy. An occupational therapy assistant is a person licensed by the Board to assist in the practice of occupational therapy under the supervision of a licensed occupational therapist.

Statutory provisions do not list wound care as within the scope of practice of occupational therapist or occupational therapy assistants. The Board issued an informal opinion stating occupational therapy includes wound care management, and has considered adopting an official interpretative statement that occupational therapy includes wound management and sharp debridement (the removal of dead or contaminated tissue from a wound).

Summary: Wound care is explicitly made part of the scope of practice of an occupational therapist. An occupational therapist may provide wound care management under the direction of a physician or other authorized health care provider. The referring provider must examine the patient prior to the referral.

Wound care management is defined as the part of occupational therapy treatment that facilitates healing; prevents edema, infection, and excessive scar formation; and minimizes wound complications. Wound care includes assessment, application of dressings and topical medications, cleansing, and sharp debridement. An occupational therapist may not delegate wound care management.

In order to be authorized to perform wound care, except sharp debridement, an occupational therapist must submit an affidavit to the Department of Health attesting to his or her education and training, which includes a minimum of 15 hours of mentored training in a clinical setting.

The education and training requirement may also be satisfied if the occupational therapist is certified as a hand therapist by the Hand Therapy Certification Commission

or as a wound care specialist by the National Alliance of Wound Care or its equivalent.

Votes on Final Passage:

Senate	48	0
House	97	0

Effective: July 22, 2011

ESSB 5020

C 89 L 11

Protecting consumers by assuring persons using the title of social worker have graduated with a degree in social work from an educational program accredited by the council on social work education.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Murray, Regala, Kohl-Welles, Prentice and Chase).

Senate Committee on Human Services & Corrections

House Committee on Health Care & Wellness

Background: Classifications of Social Workers Licensed by the Department of Health (DOH). Licensed advanced social workers and licensed independent clinical social workers are licensed by DOH to provide mental health-related counseling, often in an independent practice setting. Persons who are licensed through DOH as licensed advanced social workers and licensed independent clinical social workers must meet certain requirements, including graduation from an approved master's or doctoral level social work program.

Classifications of Social Workers Through the State's Department of Personnel (DOP). State agencies in Washington employ persons who are classified by DOP as social workers. Rather than provide only direct mental health-related counseling services to clients, social workers in state agencies may also refer clients to professionals in various fields, including counseling, who provide the service directly. Minimum qualifications of an entry level social worker under DOP's classification system are: (1) a master's degree in social services, human services, behavioral sciences, or an allied field; or (2) a bachelor's degree in social services, human services, behavioral sciences, or an allied field and one year of social service experience.

Summary: A person may only use the designation of social worker if the person is licensed by DOH as a social worker, or has graduated with at least a bachelor's degree from a social work educational program accredited by the Council on Social Work Education.

The provisions of this act do not apply to:

- persons employed in Washington on the effective date of the act with the job title of social worker, so long as the person remains employed with the same agency;

ESSB 5021

C 145 L 11

- persons employed by the state of Washington with the job title of social worker, so long as the person remains employed with the state;
- individuals employed by the government of the United States while engaged in the performance of duties prescribed by the laws of the United States; or
- persons providing services as an educational staff associate who are certified by the Washington Professional Educator Standards Board.

References to the term social worker throughout the RCW are modified to reference the educational requirements for a qualified social worker depending on the setting or persons being served as follows:

- a person must have a master's or other advanced degree in social work to use the designation of social worker when: providing services to those with mental illness, and supervising court-ordered contact between a child who has been sexually abused by a parent and the offending parent;
- a person must have a bachelor's degree in social work to use the designation of social worker when providing rehabilitative services in nursing homes;
- a person must have a bachelor's degree in social work or meet the federal qualifications for a social worker in order to use the designation of social worker when providing services to those in home health or hospice care; and
- job titles previously designated as social worker but for which there is no educational requirement in social work have been removed and are replaced with the term department employee.

For purposes of mandatory reporting of abuse, the term social worker includes anyone who has a bachelor's degree in social work or who is engaged in a professional capacity working with vulnerable adults during the regular course of his or her employment.

Engaging in the improper practice of social work is an unfair trade practice and unfair method of competition under the Consumer Protection Act.

Votes on Final Passage:

Senate	44	5
House	76	20

Effective: January 1, 2012

Enhancing election campaign disclosure requirements to promote greater transparency for the public.

By Senate Committee on Government Operations, Tribal Relations & Elections (originally sponsored by Senators Pridemore, Kline, Kohl-Welles, Keiser, Prentice, Tom, Chase, White, Nelson, Haugen and McAuliffe).

Senate Committee on Government Operations, Tribal Relations & Elections

Senate Committee on Ways & Means

House Committee on State Government & Tribal Affairs

House Committee on General Government Appropriations & Oversight

Background: Initiative 276, passed by the voters in 1972, established disclosure of campaign finances, lobbyist activities, financial affairs of elective offices and candidates, and access to public records. It also created the Public Disclosure Commission (PDC), a five-member, bi-partisan citizen commission, to enforce the provisions of the campaign finance disclosure law.

In 1992 the Fair Campaign Practices Act was enacted following passage of Initiative 134. Initiative 134 imposed campaign contribution limits on elections for statewide and legislative office, further regulated independent expenditures, restricted the use of public funds for political purposes, and required public officials to report gifts received in excess of \$50.

Provisions for reporting political advertising and electioneering communications were enacted by the Legislature in 2005 and amended in 2010.

Summary: Reporting Requirements. The definition of "electioneering communication" is amended to reflect a lower reporting threshold of the fair market value of \$1,000.

The threshold amount triggering mandatory electronic filing for candidates and political committees is lowered to \$5,000.

Political Committees. Naming Requirements.

- A political committee name must include the name of the person or entity that is a sponsor of the committee.
- No two political committees may have the same name.

Criminal and Civil Penalties.

- A person who with actual malice violates a provision of RCW 42.17 is guilty of a misdemeanor.
- A person who, within a five-year period, with actual malice violates three or more provisions of RCW 42.17 is guilty of a gross misdemeanor.
- A person who with actual malice procures or offers any false or forged document to be filed, registered, or recorded with the PDC is guilty of a class C felony.

Political committees may make a contribution to another political committee only when the contributing political committee has received contributions of \$10 or more from at least ten persons registered to vote in Washington State.

The name of the sponsor of a political committee must be in the name of the political committee. If more than one person is the sponsor, the name of the committee must include the name of at least one sponsor but may include the name of additional sponsors.

A person may only sponsor one political committee for the same elected office or same ballot measure per election cycle.

Votes on Final Passage:

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

Effective: January 1, 2012

SSB 5023

C 244 L 11

Addressing nonlegal immigration-related services.

By Senate Committee on Judiciary (originally sponsored by Senators Prentice, McAuliffe, Litzow, Shin, Kline, Pflug, Fraser, Chase and Rockefeller; by request of Attorney General).

Senate Committee on Judiciary
House Committee on Judiciary

Background: The Immigration Assistant Practices Act (IAPA) requires that those who charge money to assist individuals with immigration matters must register as immigration assistants with the Secretary of State unless that person is a licensed attorney. Immigration assistants may complete forms on behalf of another, but are prohibited from selecting the forms or selecting responses on the individual's behalf. Further, immigration assistants are not required to have specific training.

In many Spanish speaking countries the term notario publico means attorney, but translates into English as notary public. The same translation problem occurs with other languages too. Persons seeking immigration help often seek assistance from persons advertised as notario publicos because they believe these people are attorneys when in reality they are not. Often these notario publicos are improperly providing legal advice that delays or ruins the individual's chances of obtaining legal status.

Summary: The term immigration assistant is removed. A definition for the practice of law is provided which does not include translation services.

It is clarified that persons, other than those licensed to practice law in this state or otherwise permitted to practice law or represent others under federal law in an immigration matter, are prohibited from engaging in the practice of

law in an immigration matter for compensation. They are also prohibited from engaging in the following acts or practices for compensation: (1) advising or assisting another person in determining the person's legal or illegal status for the purpose of an immigration matter; (2) selecting, assisting another in selecting, or advising another how to answer questions on a government agency form related to immigration matters; (3) selecting, assisting another in selecting, or advising another in selecting a benefit, visa, or program to apply for in immigration matters; (4) soliciting to prepare documents for another in a judicial or administrative proceeding in an immigration matter; (5) explaining, advising, or otherwise interpreting the meaning or intent of a question on a government form in an immigration matter; (6) charging a fee for referring someone to a licensed attorney; and (7) selecting, drafting, or completing documents to support or establish a benefit for another in an immigration matter.

Persons, other than those licensed to practice law in this state or otherwise permitted to practice law or represent others under federal law in an immigration matter, are also prohibited from engaging in the following acts regardless of whether compensation is sought: (1) representing that he or she is a lawyer, notario publico, notario, immigration assistant, immigration consultant, immigration specialist, or using any other designation or title that implies that the person is a professional with legal skills in the area of immigration law; and (2) representing, in any language, in any manner, that he or she can provide services in an immigration matter, if such services would constitute the practice of law.

Persons who are not attorneys or otherwise permitted under federal law to represent immigrants may, for compensation (1) translate words on government forms that the immigrant presents to the person providing translation; (2) secure existing documents, such as birth and marriage certificates; and (3) offer other immigration related services that are not prohibited by the act or other law or that do not constitute the practice of law.

Notary publics licensed in Washington who are not licensed attorneys may not use the term notario publico, notario, immigration assistant, immigration consultant, immigration specialist, or other designation conveying or implying that he or she possesses professional legal skills in the areas of immigration law, when advertising notary public services.

The state Supreme Court's Practice of Law Board (Board) is requested to evaluate (1) the specific services non-attorneys may provide to immigrants that do not rise to the level of the practice of law; (2) the level of access to those services and quality of those services; and (3) the level of need for non-legal services compared to legal services in immigration matters. A report of the Board's findings and recommendations must be submitted to the Legislature by December 1, 2011.

SSB 5025

A person (other than an attorney or person recognized by the federal government to represent persons in immigration matters) is prohibited from advising or assisting another for compensation in determining the person's legal or illegal status for the purposes of an immigration matter.

A violation of any of these prohibitions is considered unprofessional conduct.

Persons injured by a violation of the IAPA may bring a civil action to recover either \$1,000 or actual damages caused by a violation, whichever is greater.

The act is renamed the Immigration Services Fraud Prevention Act.

The act takes effect 180 days after final adjournment of the legislative session in which it is enacted.

Votes on Final Passage:

Senate	44	5	
House	92	0	(House amended)
Senate	42	4	(Senate concurred)

Effective: October 20, 2011

SSB 5025

C 300 L 11

Concerning making requests by or on behalf of an inmate under the public records act ineligible for penalties.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Hargrove, Becker, Sheldon, Litzow, Haugen, Carrell, White, King, Honeyford, Shin, Kilmer, Regala, Parlette, Conway, Tom, Rockefeller, Roach and Holmquist Newbry; by request of Attorney General).

Senate Committee on Human Services & Corrections
House Committee on State Government & Tribal Affairs

Background: Upon request, an agency must make its public records available for public inspection and copying unless the records fall within a specific statutory exemption. Within five business days of receiving a request, the agency must either provide the record, acknowledge receipt of the request and provide a reasonable time estimate of the time required to respond, or deny the request. A person whose request has been denied, may petition the court to determine whether the agency was correct in its denial. If the court determines that the agency was not correct, the person requesting the record must be awarded all costs, including reasonable attorney fees, incurred in bringing the court action. The court may also award the petitioner a penalty award of not less than \$5 and not more than \$100 for each day the petitioner was denied the right to inspect or copy the public records requested.

The court may prohibit the examination of a specific public record if, upon motion by the agency or agency representative, the court finds that such examination would clearly not be in the public interest and would substantially and irreparably damage any person or a vital government

function. The court may also prohibit all or part of a public records request, as well as future requests, by a person serving a criminal sentence if the court finds:

- the request was made to harass or intimidate an agency or its employees;
- fulfilling the request would likely threaten the security of correctional facilities;
- fulfilling the request would likely threaten the safety or security of staff, inmates, family members of staff, family members of other inmates, or any other person; or
- fulfilling the request may assist criminal activity.

Summary: Unless the court finds that an agency acted in bad faith in denying a public records request, a court may not award penalties to a person who was serving a criminal sentence in a state, local, or privately operated correctional facility on the date the public records request was made.

Votes on Final Passage:

Senate	45	4	
House	94	0	(House amended)
Senate	47	0	(Senate concurred)

Effective: July 22, 2011

SB 5033

C 90 L 11

Concerning the sale of water-sewer district real property.

By Senators Pridemore, Swecker, Chase and Nelson.

Senate Committee on Government Operations, Tribal Relations & Elections

House Committee on Local Government

Background: Water-sewer districts provide water and sewer services to incorporated and unincorporated areas. Districts are established through a petition, public hearing, and voter approval process and are each managed by a board of three or five elected commissioners who serve staggered six-year terms.

District powers include the authority to purchase, construct, maintain, and supply waterworks to furnish water to inhabitants within and outside of the district, and to develop and operate systems of sewers and drainage. In addition, a district has broad authority to create facilities, systems, and programs for the collection, interception, treatment, and disposal of wastewater, and for the control of pollution from such wastewater. A district is prohibited from engaging in the private sale of real property if the appraised value exceeds \$2,500.

The sale of real property by a district is subject to the following requirements:

- subject to specified exceptions, the sale price must be at least 90 percent of the property's appraised value;
- the district must obtain a written appraisal not more than six months prior to the date of sale;

- the appraisal must be made by three disinterested, licensed real estate brokers or professionally designated real estate appraisers;
- the appraisal must be signed, filed, and made available to the public in accordance with specified requirements; and
- notice of a district's intention to sell the property must state the appraised value.

Summary: A district may engage in the private sale of real property provided the estimated value is \$5,000 or less. In conducting such a sale, a district's board of commissioners is authorized to determine the estimated value based upon the advice of brokers and appraisers, as the board deems appropriate. Formal written appraisals are not required.

The sale price must be determined through a formal property valuation process if the estimated value of the sale property exceeds \$5,000. This process must include either a written broker price opinion from three real estate brokers or an appraisal by one professionally designated real estate appraiser.

Votes on Final Passage:

Senate	46	0
House	94	1

Effective: July 22, 2011

2SSB 5034

C 214 L 11

Concerning private infrastructure development.

By Senate Committee on Environment, Water & Energy (originally sponsored by Senators Kilmer, Kastama, Shin, Hatfield, Zarelli, Conway and Hewitt).

Senate Committee on Economic Development, Trade & Innovation

Senate Committee on Environment, Water & Energy

House Committee on Local Government

House Committee on Environment

House Committee on General Government Appropriations & Oversight

Background: Wastewater systems collect, treat and dispose of sewage or surface water run-off. They range in size from on-site sewage systems (OSS) serving single homes to large urban systems serving thousands of customers. OSS, which are regulated by the Department of Health, are generally installed and operated by private individuals and organizations. Large wastewater systems, which are regulated by the Department of Ecology, are installed and operated by local government entities, including cities, counties, and special purpose districts.

The state Growth Management Act requires certain counties to designate urban growth areas (UGAs) and plan

for provision of urban services, including wastewater services.

The Utilities and Transportation Commission (UTC) regulates utilities and transportation services to ensure fair pricing, availability, reliability, and safety. The UTC has jurisdiction over companies providing electricity and natural gas, certain telecommunications service, water, solid waste collection, commercial ferry service, transportation of household goods, certain auto transportation service, and transportation of petroleum via pipeline.

Some UTC-regulated entities, including natural gas companies, certain auto transportation companies, solid waste collection companies, household goods carriers, and commercial ferries must obtain certificates of public convenience and necessity (certificates) from the UTC to lawfully operate in the state. Factors that the UTC may review in issuing certificates vary. With respect to some services, the UTC may consider an applicant's financial resources and prior experience in the field. Certificates issued by the UTC may include conditions, including operating parameters and service rates, set by the agency.

The UTC does not regulate companies operating wastewater systems.

Summary: Certain wastewater companies may not provide sewerage services for compensation without first obtaining certificates from the UTC. Wastewater companies subject to UTC jurisdiction are entities owning or proposing to develop and own sewerage systems (facilities and services to collect, treat, and dispose of sewage or storm or surface run-off) that are designed:

- for a peak daily flow of 27,000 to 100,000 gallons if treatment is by large OSS; or
- to serve 100 or more customers.

Excluded from UTC jurisdiction are publicly-owned wastewater systems and wastewater company service to customers outside of a UGA.

The UTC must consider specified factors when determining whether to issue certificates, including business plans, sufficiency of financial resources, need to develop systems instead of connecting to existing systems, prior experience, unwillingness of municipalities to provide sewerage services, and consistency with local sewer plans. Companies must file and maintain bonds or equivalent sureties with the UTC to ensure sufficient funding.

The UTC may set fees to cover program costs.

The UTC may determine that a wastewater company is unfit to provide service and order transfer of its systems to a capable and willing company. The UTC may petition the Thurston County Superior Court to place a failed wastewater company into receivership. A system owned by a failed company may be taken over by another company or a municipality in eminent domain proceedings.

General laws applicable to several UTC-regulated utilities are applied to wastewater companies.

SB 5035

Municipal corporations or private utilities, including wastewater companies, may petition for amendments to county sewerage and/or water general plans.

The UTC may adopt rules to implement the act, and collect payments from wastewater companies and other private entities that have notified the UTC of their willingness to cover rulemaking costs. The UTC is not required to engage in rulemaking until it has collected sufficient payments to cover rulemaking costs.

Votes on Final Passage:

Senate	46	1	
House	95	0	(House amended)
Senate	45	2	(Senate concurred)

Effective: July 1, 2012
July 22, 2011 (Section 29)

SB 5035

C 168 L 11

Concerning the provision of written receipts to tenants by landlords under the manufactured/mobile home landlord-tenant act.

By Senators Shin, Honeyford and Kohl-Welles.

Senate Committee on Financial Institutions, Housing & Insurance

House Committee on Judiciary

Background: The Manufactured/Mobile Landlord-Tenant Act (MHLTA) provides for the responsibilities and duties of tenants and owners in manufactured/mobile home communities.

The MHLTA does not require landlords to provide tenants with written receipts for any payments made by the tenant.

Summary: Landlords are to provide tenants written receipts for cash payments. For all other forms of payment, a tenant may request a written receipt.

Votes on Final Passage:

Senate	48	1	
House	97	0	(House amended)
Senate	44	1	(Senate concurred)

Effective: July 22, 2011

SSB 5036

C 169 L 11

Regarding the derelict vessel and invasive species removal fee.

By Senate Committee on Natural Resources & Marine Waters (originally sponsored by Senators Regala, Swecker and Fraser; by request of Department of Fish and Wildlife and Department of Ecology).

Senate Committee on Natural Resources & Marine Waters
House Committee on General Government
Appropriations & Oversight

Background: Vessel Registration. Generally, a person must annually register a vessel in order to own or operate that vessel in state waters. The registration fee is \$10.50 which is deposited in the State General Fund.

Additional Fee for Invasive Species Programs. In addition to the registration fee, a vessel owner must pay an additional fee for purposes of funding both derelict vessel removal and invasive species programs. The portion of the additional fee that funds invasive species programs is \$3.00 and is distributed as follows:

- \$1.50 for aquatic invasive species prevention work by the Department of Fish and Wildlife (DFW), which may be used for purposes including to inspect watercraft, educate law enforcement on enforcing aquatic invasive species laws, evaluate specific risks, and implement an early detection and rapid response plan;
- \$1.00 for freshwater aquatic algae control work by the Department of Ecology, which may be distributed as grants for management of excessive freshwater algae and to provide technical assistance about freshwater algae control; and
- \$.50 for aquatic invasive species enforcement, which may be used by the DFW and Washington State Patrol to facilitate the inspection of watercraft for the presence of aquatic invasive species.

The authority to collect the \$3.00 portion of the additional fee that funds these invasive species programs expires on June 30, 2012.

Summary: Additional Fee for Invasive Species Programs. The \$3.00 portion of the additional fee on vessel registrations that funds specified invasive species programs is made permanent.

Department of Ecology's Freshwater Algae Control Program. The scope of the Department of Ecology's aquatic algae control account and program is broadened from addressing excessive freshwater algae to addressing both excessive freshwater and saltwater nuisance algae. Funds in the account may be used to establish contingency funds for emergent aquatic algae issues.

Votes on Final Passage:

Senate	36	10	
House	92	0	(House amended)
Senate	37	8	(Senate concurred)

Effective: July 22, 2011

SSB 5042

C 170 L 11

Concerning the protection of vulnerable adults.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Keiser, Pflug, Chase, Kohl-Welles, Conway, Roach, Shin and McAuliffe; by request of Department of Social and Health Services).

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

Background: Under current state law, the Department of Social and Health Services (department) has a duty to investigate allegations of abuse, abandonment, neglect, self-neglect, and financial exploitation of vulnerable adults. Within the department, Adult Protective Services (APS) handles cases where victims reside in their own home, and in facilities where there is an allegation of mistreatment by someone outside the facility. APS staff in six regions statewide, receive and investigate allegations of abuse and neglect, prioritizing action based on potential immediate harm to the alleged victim. The Residential Care Services (RCS) division handles cases when the victim resides in a long-term care facility licensed by the department.

In recent years, allegations of financial exploitation against vulnerable adults have increased substantially, according to the department. These allegations could include a wide variety of activities such as cashing an elderly person's checks without permission or forging signatures, stealing money or belongings, coercing a senior into signing an unfavorable will, or misusing legally obtained guardianships or powers of attorney.

There is concern that state law does not adequately clarify what constitutes financial exploitation and this results in difficulty prosecuting the offense. According to the National Center on Elder Abuse, this is the fastest growing area of abuse, and only a fraction of these cases are prosecuted.

Currently, APS and RCS initiate investigations on tribal lands when asked by tribes to do so. Once the investigations have been conducted, the cases are turned over to the tribal enforcement community to complete.

Summary: Financial exploitation is expanded to include the use of deception, intimidation, or undue influence by a person or entity who is trusted by the vulnerable adult, and using the property, income, resources, or trust funds to benefit someone other than the vulnerable adult. Financial exploitation is the breach of fiduciary duty that results in unauthorized appropriation, sale, or transfer of property, income, resources or trust funds to benefit some person other than the vulnerable adult. It is also obtaining or using the vulnerable adult's property, income, resources, or trust funds without lawful authority by someone who knows or should know that the vulnerable adult lacks the capacity to consent.

Property is further defined as interest in real or personal property income, credit, identity, or resources that are held for the benefit of a vulnerable adult by a fiduciary or representative of the vulnerable adult, including trust accounts, conservatorships, guardianships or other accounts.

Language is added requiring that the department provide an alleged victim of abuse or the victim's guardian with a written statement of the victim's rights afforded under RCW 74.34 at the time when an investigation begins.

The department's adult protective services division may enter into agreements with federally recognized tribes to investigate reports of abandonment, abuse, financial exploitation, neglect or self-neglect of vulnerable adults on property over which a federally recognized tribe has exclusive jurisdiction. After the tribe assumes jurisdiction, the department is not liable for any action or inaction of the tribe, for any harm to the alleged victim, to the person to whom the allegations were made, or to other parties.

Votes on Final Passage:

Senate	49	0	
House	95	0	(House amended)
Senate	45	0	(Senate concurred)

Effective: July 22, 2011

SB 5044

C 335 L 11

Concerning the tax preference review process.

By Senators Rockefeller, Zarelli and Regala.

Senate Committee on Ways & Means
House Committee on Ways & Means

Background: State law requires a periodic review of most excise and property tax preferences to determine if their continued existence or modification serves the public interest. A tax preference is a tax exemption, deduction, credit, or preferential tax rate. The enabling legislation assigns specific roles in the review process to two different entities. The job of scheduling tax preferences, holding public hearings, and commenting on the reviews is assigned to the Citizen Commission for Performance Measurement of Tax Preferences (Commission). The responsibility for conducting the reviews is assigned to the staff of the Joint Legislative Audit and Review Committee (JLARC).

The Commission develops a schedule to accomplish a review of tax preferences at least once every ten years. The Commission is authorized to omit certain tax preferences from the schedule such as those required by constitutional law, the sales and use tax exemptions for machinery and equipment and food, the small business business and occupation tax credit, the property tax relief program for retired persons, and tax preferences that the Commission determines are a critical part of the tax structure. The Commission considers two additional factors in

developing its schedule. First, as a general matter, the Commission must schedule tax preferences for review in the order in which the preferences were enacted into law. Second, the Commission must schedule tax preferences that have a statutory expiration date before the preference expires. Through 2010, JLARC has reviewed 95 tax preferences.

When reviewing tax preferences, JLARC is required to consider the following factors:

- the classes of individuals, types of organizations, or types of industries whose state tax liabilities are directly affected by the tax preference;
- the public policy objectives that might provide a justification for the tax preference including, but not limited to, legislative history, legislative intent, or the extent to which the tax preference encourages business growth or relocation into this state, promotes growth or retention of high wage jobs, or helps stabilize communities;
- the evidence that the existence of the tax preference has contributed to the achievement of any of its public policy objectives;
- the extent to which continuation of the tax preference might contribute to any of the public policy objectives;
- the extent to which the tax preference may provide unintended benefits to an individual, organization, or industry other than those the Legislature intended;
- the extent to which terminating the tax preference may have negative effects on the category of taxpayers that currently benefit from the tax preference, and the extent to which resulting higher taxes may have negative effects on employment and the economy;
- the feasibility of modifying the tax preference to provide for adjustment or recapture of the tax benefits of the tax preference if the objectives are not fulfilled; and
- the fiscal impacts of the tax preference, including past impacts and expected future impacts if it is continued.

After evaluating these factors, the JLARC provides a recommendation as to whether the tax preference should be continued without modification, modified, scheduled for sunset review at a future date, or terminated immediately.

As an alternative to the process described above, the Commission is authorized to recommend an expedited review process for any tax preference that has an estimated biennial fiscal impact of \$10 million or less. Generally, an expedited review process is limited to the identification of public policy objectives of the tax preference and its primary beneficiaries as well as revenue impacts.

Summary: The mandatory requirement that the Commission schedule tax preference reviews in the order tax preferences are enacted into law is replaced with a more

flexible approach. The modified approach allows the JLARC to consider the date of enactment as one factor. However, the JLARC is allowed to consider other factors including, but not limited to, grouping preferences for review by type of industry, economic sector, or policy area in determining the schedule.

The requirement that an expedited review can only be applied to preferences with a biennial fiscal impact of \$10 million or less is eliminated. The Commission is authorized to recommend an expedited review for any tax preference.

In evaluating tax preferences, the JLARC may determine which factors should be included in the review of a particular preference based on the factor's relevance to that preference.

Legislative findings are added that provide that tax preferences which are enacted for economic development purposes must demonstrate growth in full-time family wage jobs with health and retirement benefits.

An economic impact analysis is added to the list of factors to be considered by JLARC when reviewing tax preferences. For purposes of the analysis the state input-output model is to be used.

Votes on Final Passage:

Senate	45	0	
House	95	2	(House amended)
House	56	41	(House reconsidered)
Senate	31	17	(Senate concurred)

Effective: July 22, 2011

SB 5045
PARTIAL VETO
 C 336 L 11

Making technical corrections to gender-based terms.

By Senators Kohl-Welles, Conway, Holmquist Newbry, Keiser, Kline, King and Chase; by request of Statute Law Committee.

Senate Committee on Labor, Commerce & Consumer Protection
House Committee on Judiciary

Background: Since 1983 state law requires that all statutes be written in gender-neutral terms, unless a specification of gender is intended. In 2007 the Legislature passed ESB 5063, an act relating to removing gender references. The act changed gender-specific terms to gender-neutral terms in several chapters of the Revised Code of Washington (RCW), including those chapters dealing with firefighters, police officers, bondspersons, and material suppliers. The Legislature directed the Code Reviser, in consultation with the Statute Law Committee, to develop and implement a plan to correct gender-specific references in the entire RCW. The Code Reviser must make annual

legislative recommendations to make the RCW completely gender-neutral by June 30, 2015.

Summary: Gender-specific terms and references are made gender-neutral in several Titles of the RCW. For example, references to man or men are changed to person or persons, councilman is changed to councilmember, and chairman is changed to chair. Titles relating to local and state government and insurance are included and are made gender-neutral throughout. Other code sections are included, such as sections that contain business regulations, to modify specific references to man or men.

Votes on Final Passage:

Senate	45	0
House	76	21

Effective: July 22, 2011

Partial Veto Summary: Vetoes language in the bill that incorrectly amends the phrase "his widow" to "his or her widow." Vetoes section due to conflicting amendments in another bill already signed into law in the 2011 session.

VETO MESSAGE ON SB 5045

May 12, 2011

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I have approved, except for Sections 34, 508, 520 and 590, Senate Bill 5045 entitled:

"AN ACT Relating to making technical corrections to gender-based terms."

I am vetoing Section 34 because it incorrectly amends the phrase "his widow" to "his or her widow" in RCW 2.12.037. I am vetoing the following sections due to conflicting amendments in other bills already signed into law in the 2011 session: Sections 508, 520 and 590.

With the exception of Sections 34, 508, 520 and 590, Senate Bill 5045 is approved.

Respectfully submitted,



Christine O. Gregoire
Governor

SB 5057

C 33 L 11

Concerning the income tax required to be paid by a trustee.

By Senators Pflug, Kline and Harper; by request of Washington State Bar Association.

Senate Committee on Judiciary
House Committee on Judiciary

Background: The Washington Principal and Income Act (WPIA) governs the allocation of receipts and disbursements of a trust. A trust may have different classes of beneficiaries: those that have an interest in the income (income beneficiary) and those that have an interest in the principal (remainder beneficiary). A trustee has a

fiduciary duty to both kinds of beneficiaries. If a trust has two or more beneficiaries, the trustee is to act impartially among them and is to take into account the differing interests of the beneficiaries. The WPIA gives a trustee the power to reallocate or adjust receipts of the trust between or among beneficiaries.

When a trust owns an interest in what is known as a pass-through entity for income tax purposes, such as an Limited Liability Corporation (LLC), it must report its share of the entity's taxable income regardless of whether the trust actually receives all of the income. The trustee must allocate the taxes between income and principal. Because the trust's taxes and amounts distributed to a beneficiary are interrelated, the trustee may be required to apply a formula to determine the correct amount to pay to a beneficiary.

Summary: A tax required to be paid by a trustee on the trust's share of an entity's taxable income must be charged:

- to income to the extent that the receipts from the entity are allocated only to income;
- to principal when the receipts from the entity are allocated only to principal;
- proportionately to income and principal when the receipts are allocated to both income and principal; or
- in all other cases, to principal.

Prior to determining whether to charge a tax to the principal or income, a trustee must adjust income or principal receipts by the distributions to a beneficiary for which the trust receives an income tax deduction.

Votes on Final Passage:

Senate	43	2
House	95	0

Effective: July 22, 2011

ESB 5058

C 34 L 11

Addressing receiverships.

By Senators Pflug, Kline and Harper; by request of Washington State Bar Association.

Senate Committee on Judiciary
House Committee on Judiciary

Background: A receiver is a person appointed by a court to take charge, as the court's own agent, over property of a party. A receivership is the means by which a court appoints a custodian over property pending litigation. In appropriate circumstances a receiver may be appointed over all of an entity's assets, and given the power to liquidate those assets for the general benefit of creditors. In other circumstances, a receiver may serve simply a caretaking role pending a creditor's action, such as a foreclosure.

In 2004 the Legislature enacted new receivership statutes. The rules generally governing receivership

proceedings were consolidated into a single chapter, RCW 7.08, to clarify the powers, duties, and procedures applicable to receivers and receiverships. The frequency of receiverships has steadily increased since the financial crisis began in 2007. Receiverships, as a remedy, are more streamlined than federal bankruptcy proceedings and are less costly, yet proved a streamlined process for monetizing property for creditors. Practitioners in this area have proposed the following changes primarily to clarify ambiguities and address procedural issues that have been experienced since the 2004 statutes were enacted.

Summary: The time at which an action or proceeding for foreclosure or forfeiture is commenced for purposes of a provisional appointment of a receiver is clarified.

Courts are provided flexibility to lengthen or shorten time frames addressed in administering receiverships for good cause.

The amount of time a receiver is given to file a schedule A: a list of all known creditors and applicable regulatory and taxing agencies; their mailing addresses; the amount and nature of their claims, and whether their claims are disputed; and a schedule B: a list of all property of the estate, including liquidation value, and location of the real property; and a legal description of any real property, is increased from 20 to 35 days.

An additional automatic stay exception is created to permit a petitioning creditor who has commenced foreclosure proceedings to obtain appointment of a receiver without staying its own pending foreclosure.

The term "perishable property" is substituted with the term "property subject to eroding value" to expand the types of property covered.

The period in which to provide notice to creditors and other interested parties is increased from 20 to 30 days.

The number of days over which wages, salaries, or commissions including vacation, severance, and sick leave pay, or contributions to an employee benefit plan is increased from 90 days to 180 days. The dollar amount for allowed unsecured claims arising from consumer deposits for household purchases is increased \$900 to \$2425 to bring the amount in line with federal bankruptcy law.

A general receiver may sell real property free and clear of liens and all rights of redemption if the real property is of the type that the debtor would have sold in the ordinary course of business, whether or not the sale of the real property will generate proceeds sufficient to fully satisfy all claims secured by the property.

Votes on Final Passage:

Senate	48	0
House	93	0

Effective: July 22, 2011

Reconciling changes made to vehicle and vessel registration and title provisions during the 2010 legislative sessions.

By Senators Swecker, Haugen, King and Shin.

Senate Committee on Transportation
House Committee on Transportation

Background: The 2007-2009 biennial transportation budget directed the Department of Licensing (DOL) to submit to the Legislature draft legislation that streamlines vehicle and vessel title and registration statutes to specifically address apparent conflicts, fee distribution, and other relevant issues that are revenue neutral, and which do not change legislative policy. SB 6379 was submitted by DOL in 2009, reviewed by legislative staff and various stakeholders, and enacted during the 2010 regular legislative session. The enacted 2010 legislation had a delayed effective date of July 1, 2011, in order for the Legislature to consider a reconciliation bill during the 2011 session correcting any technical drafting problems identified over the 2010 legislative interim.

The Joint Transportation Committee (JTC) was directed in the 2010 supplemental transportation budget to work with DOL, the Code Reviser's Office, legislative staff, and stakeholders to evaluate the implementation of SB 6379 and provide corrective legislation if needed. SB 5061 is the recommended draft legislation accompanying the JTC evaluation.

Summary: Various technical corrections to certain vehicle and vessel registration statutes are made as a result of: (1) oversight or error in drafting SB 6379 from 2010, (2) double amendments made during the 2010 legislative sessions, or (3) the recodification from SB 6379.

Votes on Final Passage:

Senate	45	0	
House	96	0	(House amended)
Senate	46	0	(Senate concurred)

Effective: July 1, 2011
June 30, 2012 (Section 129)

SSB 5065

C 172 L 11

Preventing animal cruelty.

By Senate Committee on Judiciary (originally sponsored by Senators Carrell, Kline, Kohl-Welles, Nelson, Delvin, Tom, Shin, McAuliffe and Kilmer).

Senate Committee on Judiciary
House Committee on Judiciary

Background: Under current law, a person convicted of animal cruelty in the second degree is guilty of a misdemeanor if the person either knowingly, recklessly, or with criminal negligence inflicts unnecessary suffering or pain upon an animal; fails to provide the animal with necessary shelter, rest, sanitation, space, or medical attention, and the animal suffers unnecessary or unjustifiable physical pain as a result of the failure; or abandons the animal. A person is guilty of a gross misdemeanor if the person abandons the animal and the animal suffers bodily harm or there is a substantial risk the animal will suffer great bodily harm due to the abandonment. If a person is convicted of animal cruelty in the second degree, the court may enter an order requiring the owner to forfeit the animal if the court finds that the animal's treatment was severe or likely to reoccur. If forfeiture is ordered, the owner will be prohibited from owning or caring for any similar animals for a set period of time.

A "similar animal" is defined as an animal classified in the same genus. Genus is a biological classification that groups organisms with similar characteristics.

Summary: Animal cruelty in the second degree is a gross misdemeanor. If a person is convicted of animal cruelty in the second degree and the court orders forfeiture of the person's animal, then the person is prohibited from owning, caring for, or residing with any similar animals for a set period of time.

If a person has no more than two convictions for animal cruelty in the second degree, the person may petition the sentencing court for a restoration of his or her right after five years, and the court may consider, among other things, whether the person complied with the prohibition on owning, caring for, or residing with similar animals. If a person violates the prohibition, that person must pay a \$1,000 civil penalty for the first violation and a \$2,500 penalty for the second violation. The third and any subsequent violations will result in gross misdemeanors.

Similar animal means (1) for a mammal, another animal that is in the same taxonomic order; or (2) for an animal that is not a mammal, another animal that is in the same taxonomic class.

Food means food or feed appropriate to the species for which it is intended.

Necessary food means the provision at suitable intervals of wholesome foodstuff suitable for the animal's age and species and that is sufficient to provide a reasonable

level of nutrition for the animal and is easily accessible to the animal.

Necessary water means water that is in sufficient quantity and of appropriate quality for the species for which it is intended and that is accessible to the animal.

Animal control officers are given the power to issue citations to offenders for civil infractions based on probable cause.

Votes on Final Passage:

Senate	47	0	
House	93	2	(House amended)
Senate	46	0	(Senate concurred)

Effective: July 22, 2011

SSB 5067

C 301 L 11

Changing the certified and registered mail requirements of the department of labor and industries and employment security department.

By Senate Committee on Labor, Commerce & Consumer Protection (originally sponsored by Senators Keiser, Kohl-Welles, Conway and Chase; by request of Department of Labor & Industries).

Senate Committee on Labor, Commerce & Consumer Protection

House Committee on Labor & Workforce Development

Background: The Department of Labor and Industries is required by statute to send out a variety of certificates, notices, and correspondences using the United States Postal Service Certified or Registered Mail. Certified mail allows the sender to receive a receipt stamped with the date of mailing. A unique article number permits delivery verification on the Internet. The recipient's signature is obtained at the time of delivery and a record is maintained by the post office. Registered mail is typically utilized for irreplaceable items and this mail is placed under security from the point of mailing to the point of delivery. Registered mail can be insured for up to \$25,000 and the date and time of delivery can be verified.

Summary: For the purpose of sending a variety of notices the Department of Labor and Industries and the Employment Security Department are permitted to utilize methods which allow for tracking mail or delivery confirmation including, but not limited to, Registered Mail, Certified Mail, and Return Receipt Requested.

Votes on Final Passage:

Senate	45	0	
House	92	0	(House amended)
Senate	48	0	(Senate concurred)

Effective: July 22, 2011

ESSB 5068

C 91 L 11

Addressing the abatement of violations of the Washington industrial safety and health act during an appeal.

By Senate Committee on Labor, Commerce & Consumer Protection (originally sponsored by Senators Conway, Prentice and Kohl-Welles; by request of Department of Labor & Industries).

Senate Committee on Labor, Commerce & Consumer Protection

House Committee on Labor & Workforce Development

Background: Under the Washington Industrial Safety and Health Act, the Department of Labor and Industries (L&I) has authority to adopt safety and health standards governing the conditions of employment in all work places. L&I sets occupational health and safety standards that are at least as effective as those standards adopted by the federal Occupational Safety and Health Act of 1970. The agency encourages employers and employees to provide safe and healthful working conditions. It also provides for appropriate reporting of working conditions, inspections, training, education, compliance, and input on rules. L&I has authority to inspect and investigate workplaces and can issue a citation if an employer has violated safety or health standards. Citations are in writing, specify the violation, and fix a reasonable time to correct the violation. If a citation has been issued, L&I notifies the employer within a reasonable amount of time of the penalty to be assessed. An employer has 15-working days within which to notify L&I that the employer intends to appeal the citation or penalty. If no notification is made to L&I within the 15-day period, the citation and penalty are considered final and cannot be appealed.

If L&I determines that an employer has failed to correct a cited violation within the time permitted for correction, L&I notifies the employer of the failure to correct the violation and notifies the employer that it has 15 days to notify L&I of an intention to appeal the penalty. If no such notification is received by L&I the penalty is considered final and cannot be appealed. However, the period permitted in the citation for its correction does not begin to run until a final order is issued in the case of an appeal.

Summary: In an application for a stay of abatement, the Department of Labor and Industries (L&I) will not grant a stay when it can determine that the preliminary evidence shows a substantial probability of death or serious physical harm to workers. The Board of Industrial Insurance Appeals will not grant a stay when, based on the preliminary evidence, it is more likely than not that a stay would result in death or serious physical harm to a worker. L&I will initiate rulemaking to implement this law in 2011.

Votes on Final Passage:

Senate 47 2
House 55 41

Effective: July 22, 2011

SSB 5070

C 92 L 11

Regarding records requests relating to prevailing wage investigations.

By Senate Committee on Labor, Commerce & Consumer Protection (originally sponsored by Senators Conway, Kohl-Welles, Kline and Chase; by request of Department of Labor & Industries).

Senate Committee on Labor, Commerce & Consumer Protection

House Committee on Labor & Workforce Development

Background: Prevailing wages must be paid to laborers, workers, and mechanics on public works projects. The prevailing wage is the rate of hourly wage, usual benefits, and overtime paid to the majority of workers in the same trade or occupation in the largest city in the county where the work is performed. The Department of Labor and Industries (L&I) administers and enforces state prevailing wage laws, and investigates complaints of violations of prevailing wage laws or rules.

Summary: An employer, contractor, or subcontractor that fails to provide or allow inspection of records requested by L&I within 60 days of the request may not use the records in any proceeding to challenge the correctness of any determination made by L&I that wages are owed; that a record or statement is false; or that the employer, contractor, or subcontractor has failed to file a record or statement.

Votes on Final Passage:

Senate 42 3
House 96 1

Effective: July 22, 2011

SSB 5071

C 35 L 11

Providing licensed midwives and marriage and family therapists online access to the University of Washington health sciences library.

By Senate Committee on Higher Education & Workforce Development (originally sponsored by Senators Murray, Pflug, Keiser, Conway, Kline, Parlette and Roach).

Senate Committee on Higher Education & Workforce Development

House Committee on Health Care & Wellness

Background: The license fees for physicians, physician assistants, osteopathic physicians, osteopathic physician assistants, naturopaths, podiatrists, chiropractors, psychologists, registered nurses, optometrists, mental health counselors, massage therapists, clinical social workers, and East Asian medicine practitioners include up to a \$25 fee that is transferred to the University of Washington. The fee is used to fund online access to selected vital clinical resources, medical journals, decision support tools, and evidence-based reviews to these health care professionals. There are currently 109 licensed midwives who pay an annual licensing fee of \$500.

Summary: As part of their licensing fees, midwives and marriage and family therapists must pay an additional annual fee of up to \$25 to fund online access to the University of Washington Health Services Library.

Votes on Final Passage:

Senate	46	2
House	92	0

Effective: July 22, 2011

SSB 5072

C 245 L 11

Authorizing the department of agriculture to accept and expend gifts.

By Senate Committee on Agriculture & Rural Economic Development (originally sponsored by Senators Hatfield, Shin and Haugen; by request of Department of Agriculture).

Senate Committee on Agriculture & Rural Economic Development

House Committee on Agriculture & Natural Resources

Background: The authority to accept and expend gifts, grants, and other contributions from public and private sources has been provided to some state agencies, but has not been granted to the Department of Agriculture.

Summary: The Director of the Department of Agriculture may accept, expend, and retain gifts, grants, bequests, or other contributions from public or private sources to carry out the purposes and programs of the department.

Votes on Final Passage:

Senate	48	0	
House	96	0	(House amended)
Senate	48	0	(Senate concurred)

Effective: July 22, 2011

E2SSB 5073**PARTIAL VETO**

C 181 L 11

Concerning the medical use of cannabis.

By Senate Committee on Ways & Means (originally sponsored by Senators Kohl-Welles, Delvin, Keiser, Regala, Pflug, Murray, Tom, Kline, McAuliffe and Chase).

Senate Committee on Health & Long-Term Care

Senate Committee on Ways & Means

House Committee on Health Care & Wellness

House Committee on Ways & Means

Background: In 1998 voters approved I-692 which permitted the use of marijuana for medical purposes by qualifying patients. The Legislature subsequently amended the chapter on medical use of marijuana in 2007 and in 2010. In order to qualify for the use of medical marijuana, patients must have a terminal or debilitating medical condition (cancer, HIV, multiple sclerosis, intractable pain, glaucoma, Crohn's disease, hepatitis C, nausea/seizure diseases, or a disease approved by the Medical Quality Assurance Commission) and the diagnosis of this condition must have been made by a health care professional. Patients are not provided arrest protection. Instead, patients are permitted to assert an affirmative defense at trial with proof of compliance with the medical marijuana law.

Patients may grow medical marijuana for themselves or designate a provider to grow on their behalf. Designated providers may only provide medical marijuana to one patient at a time. Patients and their designated providers are limited to possession of an amount of marijuana that is necessary for the patient's personal medical use, and not exceeding 15 plants and 24 ounces of useable marijuana.

Summary: Health Care Professionals. In order to provide valid documentation, demonstrating that the patient is a qualifying patient, a health care professional must examine the patient, document the terminal or debilitating medical condition of the patient, inform the patient of other options for treating the terminal or debilitating medical condition, and document other measures attempted to treat the terminal or debilitating medical condition. The health care professional may not have a business which consists solely of authorizing the medical use of cannabis and may not advertise the medical use of cannabis.

Patient Protections. Qualifying patients may assert an affirmative defense, whether or not the patient possesses valid documentation, if the patient possess no more than the permissible levels of cannabis; the patient exceeds the

permissible levels of cannabis but is able to establish a medical need for the additional amounts; and an investigating peace officer does not possess evidence of an unlicensed cannabis operation, theft of electrical power, illegal drugs, frequent visits consistent with commercial activity, violent crime, or that the subject of the investigation has an outstanding arrest warrant.

Parental rights may not be restricted solely due to the medical use of cannabis unless this results in long-term impairment that interferes with the performance of parenting functions. Qualifying patients may not be denied an organ transplant solely because of the use of medical cannabis.

Collective Gardens. Qualifying patients and their designated providers may form collective gardens to produce cannabis for the medical use of members of the collective gardens. Collective gardens are limited to ten qualifying patients and a total of 45 plants and 72 ounces of useable cannabis.

Designated Providers. Qualifying patients may revoke a designation of a designated provider at any time. A person may stop serving as a designated provider at any time but may not serve another patient until 15 days have elapsed.

Limitations. Health insurers are not required to provide cannabis as a covered benefit. The National Guard is not required to permit the medical use of cannabis of its employees. Drug-free workplaces are permitted and medical use of cannabis workplace accommodations are not required.

Evaluation and Study. The Washington State Institute for Public Policy must conduct a cost-benefit evaluation of the act and report its results to the Legislature by July 1, 2014. The University of Washington and the Washington State University may conduct scientific research on the efficacy and safety of administering cannabis as part of medical treatment.

Local Governments. Cities, towns, and counties may adopt zoning requirements, business licensing requirements, health and safety requirements, and business taxes pertaining to the production, processing, or dispensing of cannabis or cannabis productions within their jurisdictions.

Votes on Final Passage:

Senate	29	20	
House	54	43	(House amended)
Senate	27	21	(Senate concurred)

Effective: July 22, 2011

Partial Veto Summary: The Governor vetoed provisions that would establish a patient registry within the Department of Health (DOH) and provide arrest protection for those patients who register. Licensing provisions for producers, processors, and dispensaries were vetoed as well as the section providing current producers and dispensaries with an affirmative defense if they register with the Secretary of State and file a letter of intent with DOH or

the Department of Agriculture (DOA). Also vetoed, are the sections prohibiting the advertising of medical cannabis and the requirement that the Joint Legislative Audit and Review Committee review the licensing programs if the federal government authorizes the medical use of cannabis and the requirement that if expenditures from the Health Professions Account exceed receipts, the amount will be made up by the General Fund. Housing protections for medical cannabis patients are also vetoed.

VETO MESSAGE ON E2SSB 5073

April 29, 2011

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to Sections 101, 201, 407, 410, 411, 412, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 701, 702, 703, 704, 705, 801, 802, 803, 804, 805, 806, 807, 901, 902, 1104, 1201, 1202, 1203 and 1206, Engrossed Second Substitute Senate Bill 5073 entitled:

"AN ACT Relating to medical use of cannabis."

In 1998, Washington voters made the compassionate choice to remove the fear of state criminal prosecution for patients who use medical marijuana for debilitating or terminal conditions. The voters also provided patients' physicians and caregivers with defenses to state law prosecutions.

I fully support the purpose of Initiative 692, and in 2007, I signed legislation that expanded the ability of a patient to receive assistance from a designated provider in the medical use of marijuana, and added conditions and diseases for which medical marijuana could be used.

Today, I have signed sections of Engrossed Second Substitute Senate Bill 5073 that retain the provisions of Initiative 692 and provide additional state law protections. Qualifying patients or their designated providers may grow cannabis for the patient's use or participate in a collective garden without fear of state law criminal prosecutions. Qualifying patients or their designated providers are also protected from certain state civil law consequences.

Our state legislature may remove state criminal and civil penalties for activities that assist persons suffering from debilitating or terminal conditions. While such activities may violate the federal Controlled Substances Act, states are not required to enforce federal law or prosecute people for engaging in activities prohibited by federal law. However, absent congressional action, state laws will not protect an individual from legal action by the federal government.

Qualifying patients and designated providers can evaluate the risk of federal prosecution and make choices for themselves on whether to use or assist another in using medical marijuana. The United States Department of Justice has made the wise decision not to use federal resources to prosecute seriously ill patients who use medical marijuana.

However, the sections in Part VI, Part VII, and Part VIII of Engrossed Second Substitute Senate Bill 5073 would direct employees of the state departments of Health and Agriculture to authorize and license commercial businesses that produce, process or dispense cannabis. These sections would open public employees to federal prosecution, and the United States Attorneys have made it clear that state law would not provide these individuals safe harbor from federal prosecution. No state employee should be required to violate federal criminal law in order to fulfill duties under state law. For these reasons, I have vetoed Sections 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 701, 702, 703, 704, 705, 801, 802, 803, 804, 805, 806 and 807 of Engrossed Second Substitute Senate Bill 5073.

In addition, there are a number of sections of Engrossed Second Substitute Senate Bill 5073 that are associated with or dependent upon these licensing sections. Section 201 sets forth definitions of terms. Section 412 adds protections for licensed producers,

processors and dispensers. Section 901 requires the Department of Health to develop a secure registration system for licensed producers, processors and dispensers. Section 1104 would require a review of the necessity of the cannabis production and dispensing system if the federal government were to authorize the use of cannabis for medical purposes. Section 1201 applies to dispensaries in current operation in the interim before licensure, and Section 1202 exempts documents filed under Section 1201 from disclosure. Section 1203 requires the department of health to report certain information related to implementation of the vetoed sections. Because I have vetoed the licensing provisions, I have also vetoed Sections 201, 412, 901, 1104, 1201, 1202 and 1203 of Engrossed Second Substitute Senate Bill 5073.

Section 410 would require owners of housing to allow the use of medical cannabis on their property, putting them in potential conflict with federal law. For this reason, I have vetoed Section 410 of Engrossed Second Substitute Senate Bill 5073.

Section 407 would permit a nonresident to engage in the medical use of cannabis using documentation or authorization issued under other state or territorial laws. This section would not require these other state or territorial laws to meet the same standards for health care professional authorization as required by Washington law. For this reason, I have vetoed Section 407 of Engrossed Second Substitute Senate Bill 5073.

Section 411 would provide that a court may permit the medical use of cannabis by an offender, and exclude it as a ground for finding that the offender has violated the conditions or requirements of the sentence, deferred prosecution, stipulated order of continuance, deferred disposition or dispositional order. The correction agency or department responsible for the person's supervision is in the best position to evaluate an individual's circumstances and medical use of cannabis. For this reason, I have vetoed Section 411 of Engrossed Second Substitute Senate Bill 5073.

I am approving Section 1002, which authorizes studies and medical guidelines on the appropriate administration and use of cannabis. Section 1206 would make Section 1002 effective January 1, 2013. I have vetoed Section 1206 to provide the discretion to begin efforts at an earlier date.

Section 1102 sets forth local governments' authority pertaining to the production, processing or dispensing of cannabis or cannabis products within their jurisdictions. The provisions in Section 1102 that local governments' zoning requirements cannot "preclude the possibility of siting licensed dispensers within the jurisdiction" are without meaning in light of the vetoes of sections providing for such licensed dispensers. It is with this understanding that I approve Section 1102.

I have been open, and remain open, to legislation to exempt qualifying patients and their designated providers from state criminal penalties when they join in nonprofit cooperative organizations to share responsibility for producing, processing and dispensing cannabis for medical use. Such exemption from state criminal penalties should be conditioned on compliance with local government location and health and safety specifications.

I am also open to legislation that establishes a secure and confidential registration system to provide arrest and seizure protections under state law to qualifying patients and those who assist them. Unfortunately, the provisions of Section 901 that would provide a registry for qualifying patients and designated providers beginning in January 2013 are intertwined with requirements for registration of licensed commercial producers, processors and dispensers of cannabis. Consequently, I have vetoed section 901 as noted above. Section 101 sets forth the purpose of the registry, and Section 902 is contingent on the registry. Without a registry, these sections are not meaningful. For this reason, I have vetoed Sections 101 and 902 of Engrossed Second Substitute Senate Bill 5073. I am not vetoing Sections 402 or 406, which establish affirmative defenses for a qualifying patient or designated provider who is not registered with the registry established in section 901. Because these sections govern those who have not registered, this section is meaningful even though section 901 has been vetoed.

With the exception of Sections 101, 201, 407, 410, 411, 412, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 701, 702,

703, 704, 705, 801, 802, 803, 804, 805, 806, 807, 901, 902, 1104, 1201, 1202, 1203 and 1206, Engrossed Second Substitute Senate Bill 5073 is approved.

Respectfully submitted,



Christine O. Gregoire
Governor

SB 5076

C 93 L 11

Addressing the subpoena authority of the department of financial institutions.

By Senators Hobbs, Benton, Prentice, Keiser, Haugen, Tom, Shin, Kline and Roach; by request of Department of Financial Institutions.

Senate Committee on Financial Institutions, Housing & Insurance

House Committee on Business & Financial Services

Background: In 2007 the Washington State Supreme Court (Court) held that a search of personal banking records by the Department of Financial Institutions (Department) without a judicially issued warrant or subpoena violated Article I, section 7 of the Washington Constitution (*State v. Miles*, 160 Wn. 2d 236). Article I, section 7 states that "[n]o person shall be disturbed in his private affairs . . . without authority of law." The Court invalidated the Department's statute to the extent it authorized the Department to issue subpoenas to third parties for otherwise private information not related to the regulated business activities.

In 2010 legislation was enacted (SHB 2789) establishing a process for the Department of Labor & Industries, the Employment Security Department, and the Department of Revenue to seek judicial approval of a subpoena in advance of its issuance.

Summary: The Legislature intends to provide a process for the Department to apply for court approval of an agency investigative subpoena where the agency seeks approval, or where court approval is required by law or Article I, section 7 of the state Constitution.

The Director, or authorized assistants, of the Department may apply for and obtain a superior court order authorizing a subpoena in advance of its issuance. The application must state that an order is sought pursuant to the authority granted; specify documents, records, evidence, or testimony; and include a declaration under oath that an investigation is being conducted for a lawfully authorized purpose and that the documents, records, evidence, or testimony are reasonably related to an investigation within the Department's authority. Where the application is made to the satisfaction of the court, the court must issue an order approving the subpoena. No prior notice to any person is required.

This authority is granted under the following regulatory programs of the Department: franchise investment protection, business opportunities, mortgage brokers, securities, money transmitters, commodity transactions, consumer loan companies, and check cashers and sellers.

Votes on Final Passage:

Senate 47 0
House 97 0

Effective: July 22, 2011

SB 5083

PARTIAL VETO

C 322 L 11

Clarifying that the basis for business and occupation tax for real estate firms is the commission amount received by each real estate firm involved in a transaction.

By Senators Ranker, Kilmer, Swecker, Hobbs, Holmquist Newbry, Zarelli, Hargrove, Eide, Harper, Tom, Honeyford, White, Parlette, Ericksen, Shin, Hewitt, Sheldon, Roach and Benton.

Senate Committee on Ways & Means

House 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 from all business activities conducted within the state without any deduction for the costs of doing business. Thus, the nature of the B&O tax is that of a pyramiding tax as each successive sale is subject to the tax on the gross proceeds of the sale. A business may have more than one B&O tax rate, depending on the types of activities conducted. The tax rate for most types of businesses that provide services is 1.8 percent.

Currently, provisions in law allow originating brokers and cooperating brokers to pay the B&O tax only on their share of a commission when they both participate in a transaction. However, other real estate offices are also subject to the B&O tax on their share of a commission paid from either the originating real estate office's commission or the cooperating real estate office's commission. Thus, when referral fees are paid to a third-party broker or when multiple cooperating brokers are involved in a transaction, the paying broker does not get to deduct the fee and the recipient must also pay the B&O tax on the fee.

Additionally, real estate agents or associate brokers are not subject to the B&O tax where the brokerage office has paid the tax on the gross commission.

Summary: Any real estate firm who receives a commission at the time of closing on a real estate transaction must pay the B&O tax only upon their respective shares of the commission.

Terms and definitions are updated to be consistent with real estate licensing laws.

Votes on Final Passage:

Senate 48 0
House 95 0

Effective: July 22, 2011

Partial Veto Summary: The Governor vetoed section 3 which would have made the act apply both prospectively and retroactively.

VETO MESSAGE ON SB 5083

May 12, 2011

*To the Honorable President and Members,
The Senate of the State of Washington*

Ladies and Gentlemen:

I am returning herewith, without my approval as to Section 3, Senate Bill 5083 entitled:

"AN ACT Relating to clarifying that the basis for business and occupation tax for real estate firms is the commission amount received by each real estate firm involved in a transaction."

Senate Bill 5083 provides that when a real estate commission on a particular transaction is divided among real estate firms at the closing of the transaction, each firm must pay the tax only upon its respective share.

Section 3 would apply this act both prospectively and retroactively. The retroactive application of the bill would reward delinquent taxpayers while those who paid on time would not receive a refund under the prohibition on the gift of state funds in Article VIII, Section 5 of the Washington Constitution, as interpreted by the Washington Supreme Court.

For this reason, I have vetoed Section 3 of Senate Bill 5083. With the exception of Section 3, Senate Bill 5083 is approved.

Respectfully submitted,



*Christine O. Gregoire
Governor*

ESSB 5091

C 25 L 11 E 1

Delaying the implementation of the family leave insurance program.

By Senate Committee on Labor, Commerce & Consumer Protection (originally sponsored by Senators Keiser and Shin; by request of Office of Financial Management).

Senate Committee on Labor, Commerce & Consumer Protection

Background: In 2007 the Legislature enacted Engrossed Second Substitute Senate Bill 5659, and established a framework for a family leave insurance program. The framework specified that benefit payments and reporting requirements be implemented beginning on certain dates.

Beginning on October 1, 2012, benefits of \$250 per week for up to five weeks are payable to individuals who are unable to perform their regular or customary work because they are on family leave.

Beginning on September 1, 2013, and annually thereafter, reports on program participation, premium rates,

fund balances, and outreach efforts must be submitted to the Legislature.

Summary: Implementation of the family leave insurance program is delayed for three years. Benefits are payable beginning October 1, 2015 (instead of October 1, 2012). Annual reports must be submitted to the Legislature beginning September 1, 2016 (instead of September 1, 2013).

Votes on Final Passage:

First Special Session

Senate	44	0
House	91	5

Effective: August 24, 2011

SSB 5097
FULL VETO

Concerning juveniles with developmental disabilities who are in correctional detention centers, juvenile correction institutions or facilities, and jails.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Delvin, Kohl-Welles, McAuliffe and Chase).

Senate Committee on Human Services & Corrections
House Committee on Early Learning & Human Services
House Committee on Health & Human Services
Appropriations & Oversight

Background: When any youth enters the Juvenile Rehabilitation Administration (JRA) system, JRA evaluates the youth for various vulnerabilities and places the youth in accordance with those vulnerabilities. JRA does not use a specific screening tool with youth who are, or are suspected of being, developmentally disabled. JRA does notify the Division of Developmental Disabilities (DDD) when a youth with developmental disabilities is to be released in order to determine whether that youth is eligible to receive any services provided by DDD.

Summary: Within available resources, a workgroup is established to address issues relating to juveniles with developmental disabilities who are confined in juvenile detention or correctional facilities. The workgroup is to be chaired by representatives of the Developmental Disabilities Council (DDC) and the Washington Association of Juvenile Court Administrators (WAJCA) and a representative of JRA. The following are members of the workgroup:

- a representative of the Washington Association of Sheriffs and Police Chiefs;
- a representative of the Division of Developmental Disabilities within DSHS;
- a representative of Disability Rights Washington;
- a representative of the Office of Superintendent of Public Instruction;

- consumer advocates;
- a representative of the Washington State Defenders Association; and
- representatives of other interested organizations as identified by the DDC, WAJCA, and JRA, including parents of developmentally disabled youth.

By December 1, 2011, the workgroup is to develop recommendations and report to the appropriate committees of the Legislature relating to the following:

- How to expeditiously review and determine eligibility for developmental disability services provided by DSHS before a juvenile is released from detention or a correctional facility.
- The appropriate role for DSHS in providing potential confinement alternatives for persons with developmental disabilities, and consultation and technical assistance to juvenile facilities in their efforts to provide reasonable accommodations for persons with developmental disabilities confined in their facilities or institutions. The fiscal impact to DSHS of providing consultation and technical assistance must be included with this recommendation.
- How to increase the appropriate use of the court's authority under RCW 13.40 to order secure confinement alternatives.
- The establishment of new options under Title 13 RCW to divert juveniles with developmental disabilities from the justice system while maintaining public safety.
- The feasibility of developing and adopting law enforcement training for responding to juveniles with developmental disabilities similar to the crisis intervention training currently provided to law enforcement officer responding to alleged criminal behavior by persons with mental illness.
- The feasibility of adopting standardized statewide screening and application practices and forms designed to facilitate the application by juveniles who are likely to qualify for medical assistance services by the DDD within DSHS.
- The feasibility and need for developing a screening tool and training for juvenile justice staff to be used to identify persons with developmental disabilities.

By September 1, 2012, if recommended, the workgroup is to develop the following:

- a simple screening tool that can be used by juvenile detention and correctional facilities as part of their intake and classification system to help identify juveniles with the most common types of developmental disability;
- a model policy for the use of the screening tool;

- a cost-effective means to provide concise training to juvenile detention, corrections and probation, and parole staff on the use of the tool;
- information on best practices and training regarding appropriate accommodations for developmentally disabled persons during their confinement; and
- a practical guide for families and juvenile justice staff that has comprehensive information about programs and services available to developmentally disabled youth who are referred to the juvenile justice system.

The workgroup expires on January 1, 2013.

Votes on Final Passage:

Senate	49	0	
House	92	0	(House amended)
Senate	48	0	(Senate concurred)

VETO MESSAGE ON SSB 5097

May 10, 2011

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Substitute Senate Bill 5097 entitled:

"AN ACT Relating to juveniles with developmental disabilities who are in correctional detention centers, juvenile correction institutions or facilities, and jails."

This bill would establish a work group to address issues relating to juveniles with developmental disabilities who are confined in juvenile detention or correctional facilities. The work group would be required to report to the Legislature by December 1, 2011, with recommendations concerning specific topics related to juveniles with developmental disabilities and the juvenile justice system. If recommended by the work group, a screening tool and related materials would be developed by September 1, 2012, to assist juvenile detention and correction institutions and facilities in identification of offenders with the most common types of developmental disabilities. The work group would expire on January 1, 2013.

I support the intent behind this bill, but not the process established. As I have stated many times, I believe that, in most cases, work groups that are charged with making recommendations on policy objectives should not be created in statute. However, development of the information and recommendations outlined in the bill would be useful to executive agencies and the Legislature. The Washington Developmental Disabilities Council has indicated it would participate in the work group and underwrite related costs with monies allocated from federal funds. I am confident the Washington Developmental Disabilities Council will be able to coordinate with the parties listed in the bill and accomplish the tasks outlined without a statute. Representatives of the Juvenile Rehabilitation Administration have indicated a willingness to participate in a work group established by the Washington Developmental Disabilities Council.

For this reason, I have vetoed Substitute Senate Bill 5097 in its entirety.

Respectfully submitted,

Christine O. Gregoire
Governor

ESSB 5098

C 173 L 11

Exempting personal information from public inspection and copying.

By Senate Committee on Government Operations, Tribal Relations & Elections (originally sponsored by Senators Carrell and Chase).

Senate Committee on Government Operations, Tribal Relations & Elections

House Committee on State Government & Tribal Affairs

Background: The Public Records Act (PRA) 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 while the exemptions are interpreted narrowly to effectuate the general policy favoring disclosure.

Summary: The personal information for a participant in a public or non-profit program serving or pertaining to children, adolescents, or students, including but not limited to early learning or child care services, parks and recreation programs, youth development programs, and after-school programs is exempt from public inspection and copying under the Public Records Act. Personal information includes, but is not limited to, addresses, telephone numbers, personal e-mail addresses, social security numbers, emergency contact and date of birth information

Emergency contact information may be provided to appropriate authorities and medical personnel for the purpose of treating the individual during an emergency situation.

Votes on Final Passage:

Senate	47	1	
House	92	0	(House amended)
Senate	45	1	(Senate concurred)

Effective: July 22, 2011

ESSB 5105

C 94 L 11

Addressing the conditional release of persons committed as criminally insane to their county of origin.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Carrell, Conway, Stevens, Schoesler, Becker and Shin).

Senate Committee on Human Services & Corrections
House Committee on Public Safety & Emergency Preparedness

Background: A defendant who pleads not guilty by reason of insanity may be found criminally insane by a court or jury. The court or jury must find that, due to a mental

disease or defect, the defendant was unable at the time of the offense to perceive the nature and quality of his or her actions or was unable to perceive that those actions were wrong. A defendant who has been found criminally insane may be committed to a state hospital if the court or jury finds that the defendant is a danger to public safety or presents a substantial likelihood of committing further criminal acts. The length of treatment is up to the maximum term for which the defendant could have been sentenced if convicted of the underlying crime.

A patient who is committed to the state hospital as criminally insane may petition at least once every six months for conditional release. The state hospital must review this petition and forward it to the superior court in the county where the patient was committed with a recommendation as to whether or not the petition should be granted. If the hospital supports the petition, it must describe the conditions under which it believes release may be appropriate.

Summary: The state hospital may not support a petition for conditional release for a patient committed as criminally insane except under the condition that the patient must reside in the patient's county of origin, which means the county which ordered the commitment. An exception is available if the state hospital determines that the county of origin would be inappropriate considering any court-issued protection orders, victim safety concerns, the availability of appropriate treatment, negative influences on the person, or the location of family or other persons or organizations offering support to the patient. When a state hospital assists in developing a placement which is outside of the county of origin, and there are two or more options for placement, it must endeavor to develop the placement in a manner that does not have a disproportionate effect on a single county.

Votes on Final Passage:

Senate	49	0
House	90	6

Effective: July 22, 2011

SSB 5115

C 36 L 11

Concerning private transfer fee obligations.

By Senate Committee on Judiciary (originally sponsored by Senators Harper, Pflug, Kline, Roach, Carrell and Kilmer).

Senate Committee on Judiciary
House Committee on Judiciary

Background: Covenants are formal agreements or promises between individuals. Covenants may be used to ensure the execution or prevention of an action. A covenant for a title is a covenant that binds the person conveying the

property to ensure the completeness, security, and continuance of the title transferred.

A private transfer fee is a form of covenant that is attached to real property by the owner and requires payment of a fee upon each resale of the property. The fee typically is paid to an identified third party, such as the property developer or its trustee, is often calculated as a percentage of the property's sales price, and can survive for a specified period of years.

It is reported that up to 19 other states have a full or partial ban on private transfer fees.

Summary: A private transfer fee is defined. Certain fees and taxes are expressly excluded from the definition of a private transfer fee and include: real estate broker commissions, rent, taxes and fees imposed by a governmental entity, and home owner association fees.

Future Transfer Fee Obligations. A private transfer fee recorded or entered into in this state on or after the effective date of this act does not run with the title to real property and is not binding or enforceable at law or in equity. A private transfer fee that is recorded on or after the effective date of this act is void and unenforceable.

Any person who records, or enters into, an agreement imposing a private transfer fee in the person's favor after the effective date of this section is liable for any damages resulting from the imposition of the fee.

Existing Transfer Fee Obligations. A private transfer fee obligation recorded before the effective date of this section is not presumed valid and enforceable. Any private transfer fee must be interpreted and enforced according to specified principles of applicable real estate law, contract law, and common law principles.

For private transfer fees imposed prior to the effective date of this bill, the person or entity who claims the right to collect a private transfer fee must record a separate document with the county before December 31, 2011. The document must include specified information about the private transfer fee. If the notice is not filed as required, then the private transfer fee obligation is null and void and the real property must be conveyed free and clear from the fee.

Votes on Final Passage:

Senate	48	0
House	93	0

Effective: April 13, 2011

SB 5116
C 37 L 11

Concerning public health district authority as it relates to gifts, grants, conveyances, bequests, and devises of real or personal property.

By Senators Swecker, Hatfield and Parlette.

Senate Committee on Government Operations, Tribal Relations & Elections
House Committee on Local Government

Background: The enabling legislation for public hospital districts (PHD) was enacted in 1945. PHDs are special purpose districts. They are created by a process that begins either by petition of 10 percent of the voters in the proposed district, or by resolution of the county legislative authority. In either case, creation of the district requires a hearing and a simple majority vote of the voters of the proposed district with the total votes cast being more than 40 percent of the total number of votes cast in the proposed district at the preceding state general election.

A PHD may be county-wide, less than county-wide, or encompass an area lying in more than one county. In no event may the boundaries divide any existing precinct boundaries or voting precincts.

Governance is by a board of three, five, or seven commissioners who must be registered voters residing in the commissioner district from which they are elected. Voters of the entire PHD may vote at a primary or general election to elect the commissioners of their respective commissioner districts.

PHDs are junior taxing districts. Besides regular property taxes of up to \$0.75 per \$1,000 of assessed valuation, excess property taxes may be levied by a vote of the voters of the PHD.

PHDs also have the authority to contract or join with any other PHD, corporations, individuals, or others to provide health care services. This may be accomplished by establishing a nonprofit corporation or other legal entity of the PHD's choosing.

Summary: PHDs may solicit and accept gifts of personal or real property; sell, invest or spend the proceeds from the gifts; and enter into contracts with for-profit or nonprofit organizations for these purposes, including, but not limited to, contracts for the use of the PHD's facilities, property, personnel, or services.

Votes on Final Passage:

Senate 49 0
House 93 0

Effective: July 22, 2011

SB 5117
C 95 L 11

Concerning the population restrictions for a geographic area to qualify as a rural public hospital district.

By Senators Haugen, Ranker, Stevens and Shin.

Senate Committee on Government Operations, Tribal Relations & Elections
House Committee on Local Government

Background: The enabling legislation for public hospital districts (PHD) was enacted in 1945. PHDs are special purpose districts. They are created by a process that begins either by petition of 10 percent of the voters in the proposed district, or by resolution of the county legislative authority. In either case, creation of the district requires a hearing and a simple majority vote of the voters of the proposed district with the total votes cast being more than 40 percent of the total number of votes cast in the proposed district at the preceding state general election.

A PHD may be county-wide, less than county-wide, or encompass area lying in more than one county. In no event may the boundaries divide any existing precinct boundaries or voting precincts.

Governance is by a board of three, five, or seven commissioners who must be registered voters residing in the commissioner district from which they are elected. Voters of the entire PHD may vote at a primary or general election to elect the commissioners of their respective commissioner districts.

PHDs are junior taxing districts. Besides regular property taxes of up to 75 cents per \$1000 of assessed valuation, excess property taxes may be levied by a vote of the voters of the PHD.

PHDs also have the authority to contract with or join any other PHD, corporations, individuals, or others to provide health care services. This may be accomplished by establishing a nonprofit corporation or other legal entity of the PHD's choosing.

Rural PHDs have all the powers and duties of other PHDs. In addition, they have the authority to enter into agreements and contracts with other rural PHDs to facilitate cost-effective measures to provide for the health care needs of the people served by the PHDs .

Rural PHDs are those that do not include a city with a population greater than 30,000. Of the 281 cities and towns in Washington, 247 have populations under 30,000 as of 2009. There are 16 cities having from 30,000 to 50,000 population in nine counties.

Summary: Rural PHDs are those that do not include a city with a population greater than 50,000.

Votes on Final Passage:

Senate 46 1
House 96 0

Effective: July 22, 2011

SB 5119

C 319 L 11

Canceling the 2012 presidential primary.

By Senators Pridemore and Kline; by request of Secretary of State and Governor Gregoire.

Senate Committee on Government Operations, Tribal Relations & Elections

Senate Committee on Ways & Means

House Committee on Ways & Means

Background: Following the 1988 presidential election, an issue with the process for selecting delegates to the national political party conventions at which presidential candidates are nominated, prompted an initiative which was adopted by the Legislature establishing a presidential preference primary.

Presidential preference primaries were held in 1992, 1996, 2000, and 2008. The 2004 presidential preference primary was cancelled.

Unless the date is changed by statutory process, the presidential preference primary for the 2012 presidential election will be held on the fourth Tuesday in May, 2012.

Summary: The 2012 presidential primary is canceled.

Votes on Final Passage:

Senate	34	15
House	69	28

Effective: July 22, 2011

ESSB 5122

C 314 L 11

Making the necessary changes for implementation of the affordable care act in Washington state.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Keiser and Kline; by request of Insurance Commissioner).

Senate Committee on Health & Long-Term Care

House Committee on Health Care & Wellness

Background: The federal Patient Protection and Affordability Care Act (PPACA), passed in March 2010, includes a number of provisions that impact medical insurance plans or insurance carriers. A number of provisions have early implementation dates, some are effective for policies issued on or after September 23, 2010.

The state insurance statutes codified in Title 48 RCW, which apply to regulated insurance carriers, need modification to reflect the federal requirements that are in place now. The early implementation insurance changes include extending coverage to dependents to age 26 for all plans that offer dependent coverage; elimination of lifetime benefit maximums; prohibition of rescission of coverage; elimination of pre-existing condition waiting period for persons under 19; coverage changes for emergency

services; enhanced consumer information including appeals requirements; and reporting of medical loss ratios (the percent of premium spent on medical expenses) with a requirement for rebates to enrollees triggered by certain medical loss ratios.

Summary: The state insurance statutes are modified to reflect the PPACA insurance provisions with early implementation. Coverage for dependents is extended to age 26. Lifetime benefit maximums are removed. Policies for persons under 19 may not include pre-existing condition exclusions.

Federal definitions are inserted for adverse benefit determination, final external review decision, and final internal adverse benefit determination and grandfathered health plan.

The grievance process required for each plan may reflect differences for grandfathered health plans and approval of HHS.

Independent reviews of appeals must be completed by an organization that does not have a conflict of interest. Enrollees must have at least five business days to submit additional information to the independent review organization. The independent review organization must forward any additional information within one business day. A benefit decision must be provided within 45 days of the request for external review. Expedited review must be completed within 72 hours.

The rate information for individual health benefit plans is modified to remove the calculation of the remittance to the high risk pool that is based on the declination rate (rate of declining applicants due to health screening), to ensure health insurance carriers do not pay the current remittance and the new federal rebate to enrollees that is triggered if the individual plan's medical loss ratio is less than 80 percent. The remittance calculation is removed effective January 1, 2012.

Changes are made for the Washington State Health Insurance Pool, removing the lifetime maximum on benefits of \$2 million, extending dependents eligibility to age 26, and allowing the pool to waive the recertification of the standard health questionnaire and the rebidding of the pool if the program is discontinued during the 36-month review cycle.

Health care sharing ministries are not health carriers or insurers under our state insurance laws, and must follow the definition of health care sharing ministries provided in federal law in the Internal Revenue Code (26 USC Sec 5000A).

Votes on Final Passage:

Senate	45	4	
House	63	32	(House amended)
Senate	44	2	(Senate concurred)

Effective: July 22, 2011

ESSB 5124

C 10 L 11

Modifying elections by mail provisions.

By Senate Committee on Government Operations, Tribal Relations & Elections (originally sponsored by Senators White, Pridemore, Fraser and Shin; by request of Secretary of State).

Senate Committee on Government Operations, Tribal Relations & Elections
House Committee on State Government & Tribal Affairs

Background: As early as 1915, a voter was allowed to cast an absentee ballot if the voter was not able to be present to vote at the polls on election day. In 1933 voters with disabilities and voters over the age of 65 were authorized to vote via absentee ballot. In 1967 a county auditor could designate a mail ballot precinct if the precinct had less than 100 registered voters. By 1974 the Legislature expanded absentee voting to all voters who made a request, and by 1993 those voters could requested to vote absentee on an ongoing basis. In 2005 county auditors were allowed to conduct all elections entirely by mail ballot with the approval of the county legislative authority.

Presently, all counties, except Pierce County, conduct elections entirely by mail.

Summary: All counties must conduct all elections entirely by mail ballot. Any county auditor that maintained poll site voting must notify each registered poll voter that all future primary, general, and special elections will be conducted by mail.

County auditors are required to open a voting center in the county auditor's office that must be open during business hours during the voting period. The voting period begins 18 days before and ends at 8 p.m. on the day of an election. The voting center must provide voter registration materials, replacement ballots, provisional ballots, disability access voting devices, sample ballots, instructions on how to vote the ballot, a ballot drop box, and voters' pamphlets, if published.

The voting center must be accessible to persons with disabilities and must provide at least one voting unit that provides access to individuals who are blind or visually impaired.

Persons wishing to vote at a voting center must either sign a ballot declaration or provide identification. A voter who has already returned a ballot but requests to vote at a voting center must be issued a provisional ballot. The provisional ballot will not be counted if the canvassing board finds that the voter's regular ballot has been returned and the voter has already been credited with voting.

Determinations of precinct size are changed from not more than 900 active registered poll voters to a maximum of 1500 active registered voters.

Reference to polls, poll site voting, poll books, poll lists, precinct polling places, poll site ballot counting

devices, absentee voting, precinct election officers, and inspectors and judges of elections are removed.

Statutes relating to precinct and polling place determination and accessibility, absentee voting, polling place elections and poll workers, disability access voting, voting by mail, canvassing, casting a vote at a polling site, duties of election officers in securing unused ballots at polling sites, and crimes and penalties are repealed.

Votes on Final Passage:

Senate	26	23
House	52	43

Effective: July 22, 2011
July 1, 2013 (Sections 53 and 58)

SB 5135

C 3 L 11

Responding to the current economic conditions by temporarily modifying the unemployment insurance program.

By Senators Kohl-Welles, Holmquist Newbry, King, Honeyford, Schoesler, Becker, Hobbs, Rockefeller, Baumgartner, Hill, Litzow and Benton; by request of Governor Gregoire.

Senate Committee on Labor, Commerce & Consumer Protection

Background: Unemployment Insurance Taxes. The total amount of unemployment insurance (UI) contributions or taxes paid by an employer includes an experience rated tax and a social tax. The experience rated tax is determined based on an employer's layoff experience and falls into one of 40 rate classes. The social tax component covers social costs, or costs resulting from the payment of benefits to an individual that are not charged to a specific employer. The social tax is calculated using the flat social cost factor, which is graduated for each employer based on the employer's rate class. Employers in rate class 1 have no layoff experience and only pay a social tax, which was 0.95 percent in 2010 and was initially calculated to be 1.33 percent in 2011. The total tax rate is capped at 6 percent, and in 2010 employers in rate classes 35 through 40 capped out.

Extended Benefits Program. An individual who has exhausted his or her regular unemployment benefits and emergency unemployment compensation benefits can receive up to 20 additional weeks of benefits under the extended benefits program. The extended benefits program triggers on during periods of high unemployment when unemployment rates hit certain levels as compared to rates in a two-year look back period. The first 13 weeks of extended benefits trigger on when the unemployment rate averages at least 6.5 percent over the last three months and is at least 10 percent higher than the same three month average in either of the previous two years. The remaining seven weeks of extended benefits trigger on when the

unemployment rate averages at least 8 percent and is 10 percent higher than in either of the previous two years. Washington triggered on the first 13 weeks in February 2009 and the remaining seven weeks in May 2009. Extended benefits are expected to trigger off in the spring of 2011, as the two-year look back will include unemployment rates from 2009 and 2010.

Extended benefit costs are generally shared equally by the state and federal government; however, the federal government has paid the full cost of extended benefits since Washington triggered on in 2009. The federal Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 authorized the federal government to continue to pay the full cost of extended benefits through 2011, provided the extended benefits program doesn't trigger off. The federal legislation authorized states to use a three-year look back in 2011 rather than a two-year look back to prevent the extended benefits program from triggering off.

Eligibility Periods. For an individual who is in the training benefits program, training benefits are payable for up to two years beyond the end of the benefit year of the regular claim.

For an individual who is eligible for emergency unemployment compensation, the eligibility period for extended benefits is defined as the period consisting of the week ending February 28, 2009, through the week ending May 29, 2010.

Summary: Unemployment Insurance Taxes. For rate year 2011, the flat social cost factor is capped at 1.22 percent, and the graduated rate is lowered for employers in rate classes 1 through 20 (from 78 percent through 120 percent to 40 percent through 116 percent). Consequently, the total 2011 UI tax rate for employers in rate classes 1 through 34 will be lowered, and employers in rate classes 35 through 40 will cap out at 6 percent.

Extended Benefits Program. For 2011 the two-year look-back period used to determine whether extended benefits are paid is changed to a three-year look-back period.

Eligibility Periods. The period during which training benefits are payable is extended. For individuals who are eligible for extended benefits because of the three-year look-back period, training benefits are payable for up to three years beyond the end of the benefit year of the regular claim.

The eligibility period for extended benefits is also extended through 2011. The eligibility period consists of the week ending February 28, 2009, and applies as provided under the federal Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, as it existed on December 17, 2010, or a subsequent date provided by the Employment Security Department by rule.

Votes on Final Passage:

Senate	46	1
House	98	0

Effective: February 11, 2011

SB 5141

C 246 L 11

Limiting the issuance of motorcycle instruction permits.

By Senators Rockefeller, Haugen, Delvin, Benton, Kilmer, Swecker, Hatfield, Sheldon, Shin and Roach.

Senate Committee on Transportation

House Committee on Transportation

Background: A person holding a valid driver's license who wishes to learn to ride a motorcycle may apply for a motorcycle instruction permit. The Department of Licensing (DOL) may issue an instruction permit after the applicant has successfully passed all parts of the motorcycle examination other than the driving test. A person holding an instruction permit may drive a motorcycle upon the public highways but may not carry passengers on his or her motorcycle and may not operate his or her motorcycle during the hours of darkness. An instruction permit is valid for 90 days from the date of issue.

Currently, the DOL may issue more than two instruction permits if it finds after an investigation that the permittee is diligently seeking to improve his or her driving proficiency.

Summary: DOL may issue a third motorcycle instruction permit only upon presentation of documented evidence that the permittee is enrolled in an authorized motorcycle skills education program with a class start date prior to the expiration of the third instruction permit. DOL may not issue more than three motorcycle instruction permits to an applicant within a five-year period.

Votes on Final Passage:

Senate	44	2	
House	95	0	(House amended)
Senate	44	4	(Senate concurred)

Effective: July 22, 2011

SB 5149
C 38 L 11

Requiring the department of health to collect current and past employment information in the cancer registry program.

By Senators Keiser, Becker, Kohl-Welles, Parlette, Conway and Kline.

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

Background: The Department of Health (DOH) maintains a statewide cancer database to monitor the incidence of cancer in the state. Health care facilities, independent clinical laboratories, and other principal health care providers must identify and report cases of cancer. Information collected through the cancer registry system is used by medical, research and public health professionals to understand, control, and reduce occurrences of cancer in Washington residents. If the information is available in the patient record, patient demographic information as described in DOH rule must be reported to the database; this includes information on the usual occupation of the patient.

Summary: A cancer patient's usual occupation must be reported to the cancer registry. If the patient is retired, the primary occupation of the patient before retirement must be reported.

Votes on Final Passage:

Senate 48 0
House 93 0

Effective: July 22, 2011

SSB 5152
C 40 L 11

Regarding naturopathic physicians.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Pflug, Keiser and Kohl-Welles).

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

Background: Naturopathic medicine practice involves diagnosing, treating, and preventing physical disorders by stimulating or supporting the natural processes of the human body. This practice can include manual manipulation, the use of nutrition and food science, physical modalities, homeopathy, naturopathic medicines, nondrug contraceptive devices, and common diagnostic procedures.

A naturopath using physical modalities uses physical, chemical, electrical, and other noninvasive modalities, including heat, cold, air, light, water, sound, massage, and therapeutic exercises.

Summary: The definition of physical modalities is modified by removing the limitation to noninvasive modalities. The practice of naturopathic medicine is expanded by removing the limitation to nondrug contraceptive devices.

Votes on Final Passage:

Senate 47 2
House 91 4

Effective: July 22, 2011

SSB 5156
C 325 L 11

Concerning airport lounges under the alcohol beverage control act.

By Senate Committee on Labor, Commerce & Consumer Protection (originally sponsored by Senators Kohl-Welles, King, Keiser, Delvin and Conway).

Senate Committee on Labor, Commerce & Consumer Protection
House Committee on State Government & Tribal Affairs

Background: Current law permits retail licensed premises which sell liquor by the drink (licensed spirits, beer and wine restaurants, private clubs, hotels, nightclubs and sport entertainment facilities) to purchase liquor from the Liquor Control Board at a discount from the set retail price. They are required to have servers with a valid class 12 or class 13 permit. License fees and penalties from retail licensed premises are disbursed according to state law by the Liquor Control Board.

Summary: A new retail license is created to allow VIP airport lounge operators to sell or provide spirits, wine, and beer for on-premises consumption. A VIP airport lounge is an establishment in an international airport located beyond security checkpoints. An operator can be an airline, port district or other entity that is accountable for legal compliance with state laws relating to alcohol, holds the applicable license, and is the contact for licensing and enforcement. Access to a VIP airport lounge is controlled by the operator and generally limited to: ticketed airline passengers of any age; qualified members or guests of loyalty incentive programs; members or guests of enhanced amenities programs; passengers or airline employees issued a pass by the airline for access; and airport or airline employees, government officials, and attendees of airport authority or airline business promotions.

The license allows the operator to purchase spirits from the board, and beer and wine at retail outlets or from the manufacturer or distributor. The VIP airport lounge operator may only serve liquor from a service bar. A service bar is a work station primarily used to prepare and sell alcoholic beverages that are picked up by customers. Customers are not permitted to sit and consume food or alcohol at a service bar. Servers must have a valid permit. The annual licensing fee for a VIP Airport Lounge is \$2,000.

The VIP airport lounge operator license is added to the list of retailer licenses in which an industry member – manufacturer, distributor, and importer – may own an interest under a tied house law.

Votes on Final Passage:

Senate	41	4	
House	91	5	(House amended)
Senate	42	6	(Senate concurred)

Effective: July 22, 2011

SSB 5157

C 11 L 11

Concerning the operation of foreign trade zones on property adjacent to but outside a port district.

By Senate Committee on Economic Development, Trade & Innovation (originally sponsored by Senators Murray, Prentice, White, Swecker, Delvin, Kohl-Welles and Shin).

Senate Committee on Economic Development, Trade & Innovation

House Committee on Community Development & Housing

Background: Foreign Trade Zones (FTZ) were created in the United States (U.S.) to provide special customs procedures to U.S. manufacturers engaged in international trade-related activities. Duty-free treatment is accorded to items that are processed in FTZs and then re-exported; duty payment is deferred on items until they exit the FTZ for sale in the U.S. market. There is no time limit on goods stored inside an FTZ and certain foreign and domestic merchandise held in FTZs may be exempt from state and local inventory taxes.

FTZs are divided into general-purpose zones (GPZ) and subzones. The FTZ Board accepts and reviews applications for both. State or local governments, port authorities, nonprofit organizations, or economic development agencies typically sponsor GPZs. GPZs involve public facilities that can be used by more than one firm, and are most commonly ports or industrial parks used by small to medium-sized businesses for warehousing/distribution and some processing/assembly. Subzones are sponsored by GPZs but usually involve a single firm site used for more extensive manufacturing/processing or warehousing/distribution, which cannot easily be accomplished in a GPZ.

FTZs were first authorized under Washington law in 1977. Currently, there are 13 GPZs and five sub-zones operational across the state from Seattle to Spokane, involved in the manufacturing of products from boats to consumer electronics.

Summary: New authority is granted to port districts concerning FTZs subject to the approval of the U.S. A port district is authorized to establish, operate, and maintain an FTZ within its district and on property adjacent to but

outside its district, if the property is beyond the boundaries of any other FTZ grantee and it is not currently designated as a FTZ.

Votes on Final Passage:

Senate	49	0
House	91	4

Effective: July 22, 2011

SSB 5167

C 174 L 11

Concerning tax statute clarifications and technical corrections, including for the purposes of local rental car taxes.

By Senate Committee on Ways & Means (originally sponsored by Senators Schoesler, Murray, Honeyford, Pridemore, Kilmer and Tom).

Senate Committee on Ways & Means
House Committee on Ways & Means

Background: Technical errors may develop in the tax code in the course of on-going statutory enactment and amendment. For example, legislation frequently includes statutory references to link new laws or amendments to existing definitions or related statutory provisions. If changes are subsequently made to these statutes, the references may become incorrect. Also, when statutes include provisions tied to expiration dates, they may later become obsolete for purposes of any statutory references. Further, instances may arise when statutory sections have been amended more than once during a legislative session, each without reference to the other; when these amendments cannot be merged, double amendments result.

Summary: A subsection reference is added to the service and other activities business and occupation (B&O) tax rate to clarify that the tax rate does not apply to any activity taxed under the international services B&O rate.

The word "common" is deleted from the definition of "affiliated" in the B&O tax provision that provides an exemption of amounts received by a financial institution from an affiliated person. This change makes the definitions related to affiliated entities consistent throughout the excise-tax code.

References and definitions in the Food Stamp Program are updated in the sales and use tax chapters to reflect current law.

In the Property Tax Relief Program for Low-Income Seniors and Disabled Persons, two changes are made: (1) eligibility requirements for disabled veterans are modified to reflect federal definitions of service-connected disability; and (2) a section requiring notice to taxpayers is changed to reflect less frequent program participant renewal filing, which was changed in 2010 from every six to every four years.

SSB 5168

Part II of the bill updates statutory references due to legislative activity from the 2010 regular legislative session.

Part III codifies a single version of statutes relating to aluminum smelters with multiple amendments that could not be merged as a result of legislation enacted in the 2010 regular legislative session and the 2010 first special session. It also combines multiple amendments to the annual survey provisions.

Part IV combines two statutory provisions relating to the subpoena of tax records, documents, or testimony.

The act removes the requirement that 75 percent of the receipts from the local 1 percent tax on car rentals must be used for three of the four statutory purposes permitted: to acquire, construct, maintain, or operate a public sports stadium; to pay for services incidental to a public sports stadium facility; and to pay debt service for the construction of a public sports stadium facility. The fourth statutory purpose for which tax receipts may be used is for youth or amateur sport activities or facilities.

Votes on Final Passage:

Senate	46	1
House	95	1

Effective: July 22, 2011
July 1, 2012 (Section 206)

SSB 5168

C 96 L 11

Reducing maximum sentences for gross misdemeanors by one day.

By Senate Committee on Judiciary (originally sponsored by Senators Prentice, Kline, Regala, Chase and Kohl-Welles).

Senate Committee on Judiciary
House Committee on Public Safety & Emergency Preparedness

Background: Under current law, a gross misdemeanor is punishable by not more than one year in the county jail, or by a fine of not more than \$5,000 or by both imprisonment and fine.

Under federal law, state and local criminal convictions and sentences can affect a noncitizen defendant's immigration status in various ways. Federal immigration law counts the total sentence, including both days suspended and days actually served in determining whether a person may be deported. This means that a noncitizen defendant who is convicted of certain crimes and, for example, is sentenced to serve five days in jail, with 360 days suspended, would have a one-year sentence as interpreted by immigration law. Some deportation grounds are triggered not just by the type of crime, but also based on whether the sentence imposed for the crime is one year or more, including suspended time. This means that a noncitizen

defendant, who could be a refugee and a lawful permanent resident, could face automatic deportation for a gross misdemeanor offense based solely on the receipt of a 365-day suspended sentence. This remains true despite whether the person served very little or, in some cases, no jail time for the sentence.

Summary: A gross misdemeanor is punishable by up to 364 days in the county jail or by a fine of not more than \$5,000 or by both imprisonment and fine.

Votes on Final Passage:

Senate	45	3
House	93	2

Effective: July 22, 2011

SB 5170

C 43 L 11

Increasing the number of judges to be elected in Grant county.

By Senators Holmquist Newbry, Parlette, Kohl-Welles and Kline; by request of Board For Judicial Administration.

Senate Committee on Judiciary
House Committee on Judiciary

Background: Under current law, Grant County is permitted to elect two district court judges. Pursuant to RCW 3.34.020(5)(a), "[c]hanges in the number of district court judges may only be made by the Legislature in a year in which the quadrennial election for district court judges is not held." Furthermore, a request for additional district court judges must go through the Administrator for the Courts, under the supervision of the Supreme Court, which then conducts a workload analysis and makes a recommendation to the Legislature. The Administrator for the Courts has found that although Grant County has two elected judges and one full-time court commissioner, it has a need of 3.3 judges.

Summary: Three district court judges may be elected in Grant County.

Votes on Final Passage:

Senate	47	0
House	92	1

Effective: July 22, 2011

2ESSB 5171

C 349 L 11

Facilitating voting for service and overseas voters.

By Senate Committee on Government Operations, Tribal Relations & Elections (originally sponsored by Senators Hobbs, Roach, Swecker, Pridemore, Shin, King, Kilmer, Hill, Keiser and McAuliffe; by request of Secretary of State).

Senate Committee on Government Operations, Tribal Relations & Elections

House Committee on State Government & Tribal Affairs

Background: A service voter is defined as any voter of the state who is a member of the U.S. Armed Forces (USAF) in active service, a student or faculty member of a U.S. military academy, a member of the Merchant Marines, a member of a religious group or welfare agency officially serving with the USAF, or a participant in the address confidentiality program. Overseas voter is defined as any voter of the state outside the territorial limits of the United States.

For regular mail-in elections and for absentee ballots, state law requires that ballots must be mailed at least 18 days before a primary, special, or general election. This time period is 30 days for overseas and military voters.

In order for a ballot to be counted, it must be post-marked no later than election day and must reach the county auditor by the last day provided for certification of the election results. For primary and special elections, the county canvassing board must certify the results by the 15th day after election day. For general elections, the time period is 21 days.

An overseas or service voter may fax a voted ballot and the accompanying envelope if the voter agrees to waive secrecy. These voters may also obtain a ballot via electronic mail (e-mail) which may be printed, voted, and returned by postal mail. A faxed or electronically sent ballot may only be counted if it is mailed and received before certification of the election.

The federal Military and Overseas Empowerment Act (Act) requires that ballots for overseas and service voters be sent 45 days before an election for federal office. The Act also requires that those voters be provided additional options for receiving ballots and that ballot instructions include contact information for the auditor's office to confirm that the voter's ballot was received. Service and overseas voters may register to vote, request a ballot, or transmit a ballot using forms and methods provided by the U.S. Department of Defense or the U.S. Election Assistance Commission.

Summary: No distinction is made between mail ballots, absentee ballots and ballots with all being referred to as ballots.

Counting back from the date of the general election, the primary date is two weeks earlier; candidate filing for

the primary begins three weeks earlier; overseas and military ballots are mailed two weeks earlier for the general election and four weeks earlier for the primary.

The county canvassing board has one less day to certify the primary election and, to be counted, ballots must be received the day before canvassing ends, or two days early. To be counted, ballots for the general election must be received the day before canvassing ends, or one day early. Other changes in deadlines and dates in the election cycle are made.

The act provides for:

- the appeal periods for local redistricting plans based on the decennial census;
- the timing of filing periods and elections to fill unexpired terms in state and federal partisan offices;
- the rules for allowing service and overseas voters to return ballots by email or facsimile; and
- the timing of changes to precincts.

Provisions regarding vacancies and voids in candidacy are clarified.

The service and overseas voter must be provided with instructions and a secrecy coversheet for returning their voted ballot and signed declaration by fax or e-mail. Waiver of secrecy is not required. The county auditor must use established procedures to maintain the secrecy of the voted ballot.

Several conflicting and outdated sections are repealed.

The April 2012 special election is moved up one week, from the fourth Tuesday in April, to the third. The time period to certify this April 2012 special election is shortened to 10 days.

Votes on Final Passage:

Senate	47	1	
House	94	1	(House amended)
Senate	46	0	(Senate concurred)

Effective: May 16, 2011 (Sections 10-12, 27, 28, and 30)
January 1, 2012
July 1, 2013 (Section 21)

SB 5172

C 78 L 11

Authorizing the use of short-term, on-site child care for the children of facility employees.

By Senators Brown, Harper, Baumgartner, Kohl-Welles, Keiser, McAuliffe and Kline.

Senate Committee on Human Services & Corrections
House Committee on Early Learning & Human Services

Background: Any person, firm, partnership, association, corporation, or facility that provides child care outside a child's home must be licensed by the Department of Early Learning (DEL). The following are exempt from licensing requirements:

- a blood relative, step-parent or step-sibling; an adoptive parent or that parent's relatives or spouses of any of the persons listed;
- the child's legal guardian;
- persons who care for a neighbor's or friend's child, for less than 24 hours and the person does not provide the care on an on-going, regularly scheduled basis;
- parents on a mutually cooperative basis exchange care of one another's children;
- nursery schools or kindergartens engaged primarily in educational work with preschool children and in which no child is enrolled for more than four hours a day;
- schools, including boarding schools, engaged primarily in education, operate on a definite school year schedule, follow a stated academic curriculum, accept only school-age children and do not accept custody of children;
- seasonal camps of three months or less engaged primarily in recreational or educational activities;
- facilities providing child care for less than 24 hours and the child's parent remains on the premises to participate in activities other than employment;
- agencies that have been in business since 1957 and supported in part by an endowment or trust fund and which does not seek or accept assistance from any state or federal agency;
- an agency operated by local, state, or federal government or an agency located within the boundaries of a federally recognized Indian reservation;
- an agency located on a military base, unless the military authorities have requested that the agency be licensed by DEL; and
- an agency that offers early learning and support services and does not provide child care services on a regular basis.

Summary: A facility operated by a nonprofit entity which provides child care for less than 24 hours and the parent or legal guardian remains on the premises for employment of up to two hours a day is exempt from licensing requirements. To qualify for this exemption, the facility must also operate a licensed child care program in the same facility in another location or at another facility.

Votes on Final Passage:

Senate	48	0
House	94	0

Effective: July 22, 2011

SB 5174

C 44 L 11

Encouraging instruction in the history of civil rights.

By Senators Chase, McAuliffe, Prentice, Nelson, Kohl-Welles, Shin and Kline.

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

Background: Under current law, school districts are required to participate in various programs which include, but are not limited to, (1) the Primary Prevention Program and Child Abuse and Neglect Education and Prevention Program; (2) a program to help students meet minimum entrance requirements at baccalaureate-granting institutions or to pursue career or other opportunities; (3) a temperance and good citizenship day program; (4) activities to provide instruction, awareness, and understandings of disability history and people with disabilities; and (5) activities in observance of Veteran's Day.

Summary: School districts are encouraged to conduct a program commemorating the history of civil rights at least once a year.

Votes on Final Passage:

Senate	47	0
House	72	23

Effective: July 22, 2011

SSB 5181

C 46 L 11 E 1

Concerning limitations on state debt.

By Senate Committee on Ways & Means (originally sponsored by Senators Parlette, Kilmer, Zarelli, Murray, Litzow, Rockefeller, Stevens, Becker, Baumgartner and Hill).

Senate Committee on Ways & Means

Background: The state Constitution limits the issuance of state general obligation bonds. The State Treasurer may not issue a debt-limit general obligation bond if the amount of interest and principal payments in any year, along with such payments for existing debt limit bonds, would exceed 9 percent of the average of the annual general state revenue collections for the previous three fiscal years.

Summary: A commission is established to examine the use of debt in Washington State and make recommendations on debt policy and debt limitations. Commission members include the State Treasurer; the Director of the Office of Financial Management; four legislators, one from each of the four major caucuses; and six independent experts, three appointed by the Governor and three appointed by the State Treasurer. The commission's report is due December 1, 2011.

The State Finance Committee is directed to set a working debt limit for budget development purposes. That working limit phases down to 7.75 percent by Fiscal Year 2022 starting in Fiscal Year 2016. The Committee may adjust that working debt limit due to extraordinary economic conditions. The Committee is authorized to delay or reduce bond issuance in order to not exceed the recommended working debt limit.

The amount of \$150,000 from the State Treasurer's Service Fund is appropriated for the support of the commission's work.

Votes on Final Passage:

First Special Session

Senate	40	1
House	79	14

Effective: August 24, 2011

E2SSB 5182
PARTIAL VETO
C 11 L 11 E 1

Establishing the office of student financial assistance and the council for higher education by eliminating the higher education coordinating board and transferring its functions to various entities.

By Senate Committee on Ways & Means (originally sponsored by Senators White, Tom, Hill, Zarelli, Murray, Ericksen, Prentice, Hobbs and Nelson).

Senate Committee on Higher Education & Workforce Development

Senate Committee on Ways & Means

House Committee on Ways & Means

Background: In 1969 the Legislature established the Council on Higher Education (CHE). During the six years of CHE's existence it took most of its cues from the Legislature. Though the Legislature only gave the board limited statutory authority, the board was widely viewed as one of the strongest in the country given its legislative backing.

The CHE became the Council for Postsecondary Education (CPE) in 1975 when federal legislation required states to establish or designate a single state postsecondary education planning agency to qualify for federal planning and other funds. There were several changes: (1) the membership of the CPE was reorganized; (2) its administrative responsibilities with respect to such programs as financial aid increased; and (3) the board's capacity to consider and debate higher education matters was enhanced.

The Higher Education Coordinating Board (HECB) was established in 1985 and replaced the CPE. The stated purpose of the HECB is to provide planning, coordination, monitoring, and policy analysis for higher education in the state in cooperation and consultation with the institutions,

autonomous governing boards and with all other segments of postsecondary education, including but not limited to the State Board for Community and Technical Colleges (SBCTC). It is a ten member board that is charged with representing the broad public interest above the interests of the individual colleges and universities.

Major functions of the HECB include: (1) developing a statewide strategic master plan for higher education; (2) recommending policies to enhance the availability, quality, efficiency, and accountability of public higher education in Washington; (3) administering student financial assistance programs; (4) serving as an advocate on behalf of students and the overall system of higher education; (5) coordinating with other governing boards and institutions to create a seamless system of public education for the citizens of Washington; and (6) helping families save for college.

Mandated HECB responsibilities include reviewing, evaluating, and making recommendations on operating and capital budget requests; recommending legislation affecting higher education; recommending tuition and fee levels, and policies; making recommendations on merging or closing institutions and developing criteria identifying the need for new baccalaureate institutions; and approving new degree programs. The HECB has a number of administrative functions and duties, most of which pertain to student financial assistance programs and various federal programs.

Summary: On July 1, 2012, all of the current student financial aid functions performed by the HECB are transferred to a newly created Office of Student Financial Assistance (Office) that administers all state and federal financial aid and the advanced college tuition payment program. The Office is created as a separate agency of the state.

The HECB is eliminated on July 1, 2012. The Council for Higher Education (Council) is created, subject to recommendations of a Steering Committee on Higher Education and legislation enacted in 2012. The Steering Committee on Higher Education is created to establish the purpose and functions of the Council. The Steering Committee is chaired by the Governor or the Governor's designee and includes four legislators and equal representation from higher education sectors in the state. The membership and specific functions of the new Council will be determined by the Steering Committee.

HECB functions regarding reporting on state support received by students, the costs of higher education, gender equity, technology degree production, costs and benefits of tuition and fee reciprocity with Oregon, Idaho, and British Columbia, and transmitting undergraduate and graduate educational costs to boards of regents are eliminated. Until July 1, 2012, the HECB continues to prioritize capital projects for the higher education system, and the HECB is provided with additional guidance on how to accomplish that task.

Votes on Final Passage:

First Special Session

Senate	34	9	
House	59	28	(House amended)
Senate	47	0	(Senate concurred)

Effective: July 1, 2011 (Section 302)
 August 24, 2011
 July 1, 2012 (Sections 101–103, 106–202,
 204–244, and 301)

Partial Veto Summary: The Governor vetoed section 246 which would have immediately transferred all powers, duties and functions of the higher education coordinating board pertaining to student financial aid to the new Office of Student Financial Assistance. Student financial aid administration will be transferred to the Office of Student Financial Assistance on July 1, 2012 when the office is created.

VETO MESSAGE ON E2SSB 5182

June 6, 2011

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to Section 246, Engrossed Second Substitute Senate Bill 5182 entitled:

"AN ACT Relating to establishing the office of student financial assistance by eliminating the higher education coordinating board and transferring its functions to various entities."

Section 246 transfers powers, duties and functions of the higher education coordinating board pertaining to student financial assistance to the new office of student financial assistance. Due to a technical bill drafting error, the effective date of the transfer of powers would occur prior to the creation of the new office of student financial assistance on July 1, 2012.

For this reason, I am vetoing Section 246. The new higher education steering committee will make recommendations concerning higher education governance prior to the 2012 legislative session. I expect the committee to consider the transfers of authority set forth in Section 246 and recommend any statutory changes necessary in the 2012 session to successfully achieve the appropriate transfers.

For these reasons, I have vetoed Section 246 of Engrossed Second Substitute Senate Bill 5182.

With the exception of Section 246, Engrossed Second Substitute Senate Bill 5182 is approved.

Respectfully submitted,

Christine O. Gregoire
Governor

SSB 5184

C 45 L 11

Regarding compliance reports for second-class school districts.

By Senate Committee on Early Learning & K-12 Education (originally sponsored by Senators Schoesler, King, Carrell, Delvin and Holmquist Newbry).

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

Background: School districts are required to report a myriad of information to the Superintendent of Public Instruction (SPI). The requirements appear in several chapters of Title 28A of the RCW, which encompasses the laws related to the common schools. Common schools are public schools operating a program for kindergarten through 12th grade or any part thereof.

A second-class school district has less than 2,000 students. Currently, 188 of Washington's 295 school districts are second-class.

Summary: Beginning September 1, 2011, second-class school districts may annually submit a condensed compliance report to the SPI. The districts that choose to submit these reports must:

- dedicate a public meeting for reviewing the report and receiving public testimony;
- adopt the report at a public meeting; and
- require the report to be signed by the school district superintendent and the school board chair and be notarized.

School districts may voluntarily submit compliance information to the SPI concerning programs not funded. Compliance requests do not include data required to be submitted by federal or state law or for the purposes of program evaluation or accountability, including data for a comprehensive K-12 education data improvement system.

The SPI must develop a condensed compliance report form for second-class school districts by August 1, 2011. The form will allow the districts to choose one of the following for each funded program: (1) it has complied or received a State Board of Education waiver; (2) it has not complied and includes an explanation or steps taken to comply; or (3) it has received a grant for less than half a full-time equivalent instructional staff. In order to determine whether districts have documentation to support the condensed compliance report, SPI may conduct random audits.

The majority of chapters in Title 28A RCW include a provision that allows second-class school districts to meet their compliance requirements with a condensed compliance report.

The act includes a federal severability clause.

Votes on Final Passage:

Senate	49	0
House	94	0

Effective: July 22, 2011

ESSB 5186

C 276 L 11

Concerning skiing in an area or ski trail closed to the public.

By Senate Committee on Natural Resources & Marine Waters (originally sponsored by Senators Kastama, Delvin and Eide).

Senate Committee on Natural Resources & Marine Waters
House Committee on Environment

Background: Currently, a ski area operator must maintain a sign system based on international or national standards as may be required by the State Parks and Recreation Commission. The signs must advise of certain hazards. Signs must be posted on trails or runs that have been closed by an operator and a person cannot ski on a trail or run which has been designated as "Closed."

Skiers are required to conduct themselves within the limits of their individual ability and are not to act in a manner that will contribute to the injury of themselves or others.

Summary: A person is guilty of a misdemeanor if the person knowingly skis in an area or on a ski trail, owned or controlled by a ski area operator, that is closed to the public and has signs posted indicating the closure.

Votes on Final Passage:

Senate	43	5	
House	71	26	(House amended)
Senate	46	2	(Senate concurred)

Effective: July 22, 2011

SSB 5187

C 302 L 11

Concerning the accountability of mental health professionals employed by an evaluation and treatment facility for communicating with a parent or guardian about the option of parent-initiated mental health treatment.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Becker, Keiser, Hargrove, Stevens and Carrell).

Senate Committee on Human Services & Corrections
House Committee on Early Learning & Human Services
House Committee on Health & Human Services
Appropriations & Oversight

Background: A parent in Washington may consent to mental health treatment on behalf of a minor child provided that a professional person determines that there is a medical necessity for treatment. An evaluation and treatment facility (E&T) is not obligated to provide treatment to the minor but may not refuse solely on the basis of the lack of consent of the minor. A minor who does not consent to treatment may petition a superior court for review

as to whether such treatment is based upon medical necessity.

In 2003 and 2005, the Legislature passed bills obligating an E&T to promptly provide notice of all available treatment options to a parent or guardian of a minor who seeks treatment for that minor, including the option for parent-initiated treatment.

Summary: A hospital emergency room or inpatient psychiatric facility which provides services to minors must inform a parent or guardian of a minor who is seeking treatment for that minor of all statutorily available treatment options, including the option for parent-initiated treatment. This notice must be provided verbally and in writing, and the notice must be documented by the facility and accompanied by a signed receipt from the parent or guardian. A facility who fails to provide notice is subject to a civil penalty of \$1,000 unless the facility is licensed by the Department of Health (DOH), in which case DOH is authorized to enforce this provision through its authority to deny, suspend, revoke, or modify the facility's license.

Facilities subject to this legislation must develop policies and protocols respecting notification by December 1, 2011. The Department of Social and Health Services and DOH must provide a detailed report to the Legislature regarding the facilities' compliance by December 1, 2012.

Votes on Final Passage:

Senate	48	0	
House	95	0	(House amended)
Senate	47	0	(Senate concurred)

Effective: July 22, 2011

SSB 5192

C 277 L 11

Concerning provisions for notifications and appeals timelines under the shoreline management act.

By Senate Committee on Government Operations, Tribal Relations & Elections (originally sponsored by Senators Nelson, Swecker and Chase; by request of Department of Ecology).

Senate Committee on Government Operations, Tribal Relations & Elections
House Committee on Local Government

Background: The Shoreline Management Act (SMA), enacted in 1971:

- governs uses of state shorelines;
- includes specific legislative findings that pressures on shoreline uses and the impacts of unrestricted development on public and private shoreline property create the need to coordinate planning for shoreline development activities; and
- finds these pressures create the need to protect private property rights consistent with the public interest.

SMA involves a cooperative regulatory approach between local governments and the state. At the local level, SMA regulations are developed in local shoreline master programs (master programs). All counties and cities with shorelines of the state are required to adopt master programs which regulate land use activities in shoreline areas of the state. Counties and cities are also required to enforce master programs within their jurisdictions.

The Shorelines Hearings Board (SHB) hears appeals from shoreline substantial development, conditional use, and variance permit decisions, and from those shoreline penalties jointly issued by local government and the Department of Ecology (Ecology), or issued by Ecology alone.

Summary: A master program takes effect 14 days from the date of Ecology's written notice of final action to the local government. Ecology must publish notice that a master program has been approved or disapproved. On the day a master program of a local government that does not fully plan under the GMA is approved or disapproved, Ecology must notify the legislative authority of the applicable local government by telephone or electronic means, followed by written communication as necessary to ensure that the local government has received the full written approval or disapproval decision. For jurisdictions that fully plan under the GMA, master program adoptions and amendment appeals must be made to the Growth Management Hearing Boards within 60 days from the date Ecology, rather than the local government, publishes notice that the master program or amendment has been approved or disapproved. For other jurisdictions, appeals pertaining to master program adoptions and amendments must be made within 30 days of the date Ecology publishes notice that the master program has been approved or disapproved.

Permit decisions may be appealed within 21 days of the date of filing (the date of actual receipt by Ecology of the local government's decision). All shoreline permit decisions must, concurrently with the transmittal of the ruling to the applicant, be filed with, rather than transmitted to, Ecology and the Attorney General. This filing must be accomplished by return receipt requested mail. Substantial development, conditional use, and variance permit decisions may be appealed within 21 days of the date of filing (the date Ecology's decision is transmitted to the local government). Ecology must notify in writing the local government and the applicant of the date of filing by telephone or electronic means, followed by written communication as necessary, to ensure that the applicant has received the full written decision.

Votes on Final Passage:

Senate	46	2	
House	97	0	(House amended)
Senate	46	2	(Senate concurred)

Effective: July 22, 2011

Requiring information to be filed by the prosecuting attorney for certain violations under driving while license is suspended or revoked provisions.

By Senate Committee on Judiciary (originally sponsored by Senators Kline, Regala and Hargrove).

Senate Committee on Judiciary
House Committee on Judiciary

Background: Driving while license suspended or revoked (DWLS 3) is a misdemeanor and it can be committed under a variety of circumstances. A person commits DWLS 3 by driving a motor vehicle when the person's driver's license is suspended or revoked because the person has (1) failed to respond to a notice of traffic infraction; (2) failed to appear at a requested hearing; (3) violated a written promise to appear in court; or (4) failed to comply with the terms of a notice of traffic infraction or citation. There are also several other behaviors which constitute DWLS 3.

There are approximately 100,000 cases of DWLS 3 filed annually. Because DWLS 3 is a criminal offense, every driver that is either cited and released, or booked into custody is given a court date. In prosecuting the case, the prosecutor must provide discovery to the defense attorney, subpoena the Department of Licensing to establish the status of the defendant's driving privilege, and subpoena the law enforcement officer who noticed the driving behavior. Many of these defendants are eligible for a public defender due to the defendant's economic status.

Summary: Violations of driving while license suspended in the third degree due to a person's failure to respond to a notice of traffic infraction, failure to appear at a requested hearing, violation of a written promise to appear in court, or failure to comply with the terms of a notice of traffic infraction or citation may be referred to the prosecutor's office so a determination can be made as to whether to file an information or divert the case for entry into a precharge diversion program.

Votes on Final Passage:

Senate	46	0
House	94	0

Effective: July 22, 2011

SSB 5203

C 337 L 11

Improving the administration and efficiency of sex and kidnapping offender registration.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Regala, Hargrove, Stevens and Shin).

Senate Committee on Human Services & Corrections
House Committee on Public Safety & Emergency Preparedness

Background: In 2008 the Legislature created the Sex Offender Policy Board (Board) to promote a coordinated and integrated response to sex offender management. One of the first tasks assigned to the Board, through 2SHB 2714 (2008), was to review Washington's sex offender registration and notification laws. The Board came to several consensus recommendations and submitted a report to the Legislature in November 2009. After the 2009 report, the Board continued to work toward consensus on other items of discussion surrounding registration and notification.

In 2010 the Legislature passed SB 6414 adopting many of the Board's recommendations. Notably, the Legislature revamped the definition of an out-of-state offender who is required to register in Washington, standardized the timeframes for when a sex offender is required to register, specified criteria for the court to consider when reviewing a petition to relieve a sex offender from registration, and adopted a tiered approach in responding to an offender's failure to register. Separately, the Legislature addressed law enforcement verification of registered sex offenders. Sex offenders are no longer required to check-in with law enforcement at the law enforcement office. Rather, funding is provided for law enforcement to conduct periodic in-person address verifications to ensure the offender is residing at the reported address.

Special rules apply to offenders who lack a fixed residence. The person must provide notice to the sheriff of the county where he or she is registered within three days after ceasing to have a fixed residence and is thereafter required to report weekly, in person, to the sheriff. The person must keep an accurate accounting of where that person stays during the week and provide it to the county sheriff upon request. Fixed residence or lacking a fixed residence is not currently defined in statute.

A person who is required to register must give notice to the county sheriff within three days prior to arriving at a school or institution of higher education to attend classes, prior to starting work at an institution of higher education, and after any termination of enrollment or employment at a school or institution. The sheriff is in turn required to notify the school's principal or institution's department of public safety. If the student is a risk level II or III, the principal must provide information about the student to every teacher of the student and any other personnel who, in the judgment of the principal, supervises

the student or for security purposes, and should be aware of the student's record. If the student is a risk level I, information may only be released to personnel who, in the judgment of the principal, should be aware of the student's record.

In May of 2010, a student in a Seattle school was sexually assaulted by another student who was a registered juvenile sex offender. In response to that incident, legislators asked the Board to study existing laws regarding juvenile sex offenders and school notification. The Board came to several consensus recommendations, including requiring law enforcement to give notice regarding the student to both the principal and the school district, making clarifications to the information that must be provided to the school and the timing of those notifications, and reinforcing local policy and planning to address juvenile sex offenders in the school.

The Washington Association of Sheriffs and Police Chiefs (WASPC) operates an electronic statewide unified sex offender notification and registration program (SONAR) which contains a database of all registered sex offenders in the state of Washington. As required by law, WASPC creates and maintains a public website which posts all level II and level III sex offenders.

Summary: Terminology currently used throughout the registration and notification provisions are defined. "Fixed residence" is defined generally as a building that a person lawfully and habitually uses as living quarters a majority of the week. "Lacks a fixed residence" means the person does not have a residence that falls into the fixed residence definition and specifically includes a shelter program, an outdoor sleeping location, or locations where the person does not have permission to stay.

For the purposes of registration in this state, a sex offense includes:

- any federal conviction classified as a sex offense under the federal Sex Offender Registration and Notification Act;
- any military conviction for a sex offense; and
- any conviction in a foreign country for a sex offense obtained with sufficient safeguards for due process.

A person with a federal or out-of-state conviction for a sex offense may request to be removed from the registry if the person was relieved of the duty to register in the person's state of conviction. The person must provide proof of relief from registration to the county sheriff. If the county sheriff determines the person should be removed from the registry, the sheriff will request the Washington State Patrol to remove the person.

The information a person must provide when registering is clarified. A person may be required to update any of his or her registration information in conjunction with any address verification conducted by the sheriff or as part of any notice the person is required to provide.

Two or more prior felony convictions for failure to register will classify a new conviction for failure to register as a class B felony regardless if those convictions were in Washington or in another state. A person who is required to register in Washington for a crime committed in another state may petition for relief from registration in the county of the person's residence rather than being required to file in Thurston county.

The responsibility of law enforcement and a school in response to notification that a sex offender will attend the school is set out in a separate statute. Law enforcement must provide notice to the school principal and the school district. Information about the student that must be provided is specified to include the risk level classification.

Provisions are updated to reflect the current practices of WASPC utilizing the SONAR system.

Votes on Final Passage:

Senate	49	0	
House	92	0	(House amended)
Senate	48	0	(Senate concurred)

Effective: July 22, 2011

SSB 5204
C 338 L 11

Concerning juveniles who have been adjudicated of a sex offense.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Regala, Hargrove and Stevens).

Senate Committee on Human Services & Corrections
House Committee on Early Learning & Human Services
House Committee on Ways & Means

Background: Juvenile Duty to Register & Relief from Registration. In Washington State, a juvenile who is adjudicated of a sex or kidnapping offense has the same duty to register as an adult offender, regardless of the person's age at the time of offense. If the juvenile is under the custody of the Juvenile Rehabilitation Administration, the End of Sentence Review Committee with the Department of Corrections will review the person's file and assign an initial risk classification. If the juvenile is on probation at the county level or serving a sentence under a Special Sex Offender Disposition Alternative (SSODA), the juvenile's initial risk classification will be assigned by the county sheriff.

A person who has a duty to register for a sex or kidnapping offense committed when the person was a juvenile may be relieved of the duty to register if:

- at least 24 months have passed since the adjudication with no new sex or kidnapping offenses;
- the person has not been adjudicated or convicted of a failure to register during the 24 months prior to filing the petition;

- if the person was 15 years of age or older at the time of the offense, the person shows by clear and convincing evidence that he or she is sufficiently rehabilitated to warrant removal from the registration system, or if the person was under the age of 15 at the time of the offense, the person shows by a preponderance of the evidence that he or she is sufficiently rehabilitated.

In general legal terms, clear and convincing is a higher standard of proof than a preponderance of the evidence. Preponderance of the evidence is met if the proposition is more likely to be true than not true. Effectively, the standard is satisfied if there is a greater than 50 percent chance that the proposition is true. Clear and convincing means that it is substantially more likely than not that the thing is in fact true. Beyond a reasonable doubt would be further along the continuum, requiring that the trier of fact be close to certain of the truth of the matter asserted.

In 2008 the Legislature created the Sex Offender Policy Board (Board) to promote a coordinated and integrated response to sex offender management. One of the first tasks assigned to the Board, through 2SHB 2714 (2008), was to review Washington's sex offender registration and notification laws. Soon after its inception, the Board created a subcommittee to address issues specifically related to juveniles who have been adjudicated of a sex offense.

In response to recommendations from the Board, the Legislature modified provisions for a juvenile to petition for relief from registration. Specifically, the Legislature clarified that a juvenile would not be precluded from petitioning for relief if they juvenile had committed only one failure to register. The Legislature also adopted 12 specific factors for the court to review in determining whether to relieve the person from the duty to register. Those factors include the nature of the offense, subsequent criminal history, the person's participation in treatment and rehabilitative programs, input from the victim, and an updated polygraph examination.

Sealing of Juvenile Records. Upon motion to the court, the court may seal the records of a juvenile if:

1. there is no proceeding pending against the moving party seeking his or her conviction for a juvenile or criminal offense;
2. there is no proceeding pending seeking the formation of a diversion agreement with that person;
3. full restitution has been paid;
4. the person has not been convicted of a sex offense; and
5. the following time periods have passed since the last date of release from confinement, full-time residential treatment, or entry of disposition in the community without being convicted of any offense or crime:
 - a. class A felony – five years;
 - b. class B or C felony, gross misdemeanor and misdemeanor offenses and diversions – two years.

Any adjudication of a juvenile offense or a crime subsequent to sealing has the effect of nullifying the sealing order.

Registered Persons Who Attend School. In May of 2010, a student in a Seattle school was sexually assaulted by another student who was a registered juvenile sex offender. In response to that incident, legislators asked the Board to study existing laws regarding juvenile sex offenders and school notification. The Board came to several consensus recommendations, including requiring:

- that a court that orders 24/7 monitoring as part of SSODA must enter findings regarding that condition;
- schools to have policy and procedures in place regarding students who have been adjudicated of a registrable sex offense and the provision of a safe learning environment for all students;
- the Department of Corrections, End of Sentence Review Committee (ESRC) to assign the initial risk classification for all juveniles required to register as a sex offender who go through the Juvenile Rehabilitation Association and those who receive a SSODA sentence.

A person who is required to register must give notice to the county sheriff within three days prior to arriving at a school or institution of higher education to attend classes, prior to starting work at an institution of higher education, and after any termination of enrollment or employment at a school or institution. The sheriff is in turn required to notify the school's principal or institution's department of public safety. If the student is a risk level II or III, the principal must provide information about the student to every teacher of the student and any other personnel who, in the judgment of the principal, supervises the student or for security purposes, should be aware of the student's record. If the student is a risk level I, information may only be released to personnel who, in the judgment of the principal, should be aware of the student's record.

In 2006 the legislature required the Office of the Superintendent of Public Instruction (OSPI) to convene a workgroup to draft a model policy for school principals to follow when they receive notification from law enforcement that a registered sex/kidnapping offender is attending or is expecting to attend the school (SB 6580). The model policy was created and provides the intended direction. However, schools and school districts are not mandated to adopt the policy or implement safety plans for these students and consequently there is not consistent approach throughout the state.

Summary: A person who has a duty to register for a Class A kidnapping or sex offense committed as a juvenile, age 15 or older, must have spent at least 60 months in the community with no new sex or kidnapping offense before the person may petition to be relieved of the duty to register. Any other person who has a duty to register for a sex or kidnapping offense committed when the person was a

juvenile must have spent at least 24 months in the community with no new sex or kidnapping offense before the person may petition to be relieved of the duty to register. In order to be relieved, the person must show by a preponderance of the evidence that he or she is sufficiently rehabilitated to warrant removal from the registration system. This burden of proof applies regardless if the person was under or over the age of 15 at the time of the offense.

A person who committed a sex offense as a juvenile and who has been relieved of the duty to register or whose duty to register has ended, may have his or her records sealed in the same manner and under the same conditions as other offenses unless the person was adjudicated of rape in the first degree, rape in the second degree, or indecent liberties that was actually committed with forcible compulsion.

If the court orders 24 hour continuous monitoring of an offender who is awarded a SSODA, the court must include the basis of this condition in its findings. The ESRC must assign the initial risk classification for juveniles under the jurisdiction of the county juvenile court and juveniles supervised from out-of-state under the interstate compact for juveniles.

The Superintendent of Public Instruction must publish a revised and updated sample policy for schools to follow regarding students required to register as sex or kidnapping offenders.

Votes on Final Passage:

Senate	30	18	
House	97	0	(House amended)
Senate	25	20	(Senate concurred)

Effective: July 22, 2011

SB 5213

C 47 L 11

Addressing insurance statutes, generally.

By Senators Litzow and Hobbs; by request of Insurance Commissioner.

Senate Committee on Financial Institutions, Housing & Insurance

House Committee on Business & Financial Services

Background: The Office of Insurance Commissioner (OIC) 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.

The Revised Code of Washington is periodically updated and clarified by the various state agencies responsible for its implementation. This clean-up process eliminates obsolete language, makes minor substantive or technical changes, and repeals outdated sections. This is the OIC's clean-up bill.

Summary: Numerous provisions of the insurance code are modernized and clarified. Outdated sections are repealed, internal cross-references are corrected, and minor substantive or technical changes are made, as follows:

- completes the 2010 modernization process by requiring various insurance providers, brokers, and adjusters that are foreign, nonresident, or unauthorized to appoint the Commissioner as its attorney to receive service of legal process;
- removes requirement that OIC stock and provide insurers' annual report blanks;
- changes the due dates for regulatory surcharges paid by insurers from June 15 to July 15, and the assessment of penalties for nonpayment from June 30 to July 31;
- assigns the director of personnel as the correct authoritative body for setting examiner salaries;
- requires healthcare service providers to report premiums and prepayments, for tax purposes, on a written basis or on a paid-for basis consistent with the basis required by the annual statement; and
- removes conflicting language within the Long-Term Care Partnership Act to conform with provisions in the 2005 federal Deficit Reduction Act, thereby enabling Washington to become a Long-Term Partnership state.

Votes on Final Passage:

Senate	45	1
House	93	0

Effective: July 22, 2011

SB 5224

C 48 L 11

Increasing the charge limit for the preparation of condominium resale certificates.

By Senators Hobbs and Fraser.

Senate Committee on Financial Institutions, Housing & Insurance

House Committee on Judiciary

Background: When selling a condominium unit, the unit owner is to provide the purchaser with a resale certificate prior to entering into any contract for the sale or conveyance of the unit. A resale certificate is not required if (1) delivery of a public offering statement is required, or (2) the unit owner is otherwise exempt from providing a resale certificate, such as when the unit is sold under foreclosure.

A resale certificate is signed by an officer or authorized agent of the condominium association and the certificate is based on the books and records of the association, including:

- a statement disclosing any right of first refusal or other restraint on the free alienability of the unit contained in the declaration;
- a statement setting forth the amount of the monthly common expense assessment and any unpaid common expense or special assessment currently due and payable from the selling unit owner, and a statement of any special assessments that have been levied against the unit which have not been paid even though they are not yet due;
- a statement, which must be current to within 45 days, of any common expenses or special assessments against any unit in the condominium that are past due over 30 days;
- a statement, which must be current to within 45 days, of any obligation of the association which is past due over 30 days;
- a statement of any other fees payable by unit owners;
- a statement of any anticipated repair or replacement cost in excess of 5 percent of the annual budget of the association that has been approved by the board of directors;
- a statement of the amount of any reserves for repair or replacement, and of any portions of those reserves currently designated by the association for any specified projects;
- the annual financial statement of the association, including the audit report, if it has been prepared, for the year immediately preceding the current year;
- a balance sheet and a revenue and expense statement of the association prepared on an accrual basis, which must be current to within 120 days;
- the current operating budget of the association;
- a statement of any unsatisfied judgments against the association and the status of any pending suits or legal proceedings in which the association is a plaintiff or defendant;
- a statement describing any insurance coverage provided for the benefit of unit owners;
- a statement as to whether there are any alterations or improvements to the unit or to the limited common elements assigned thereto that violate any provision of the declaration;
- a statement of the number of units, if any, still owned by the declarant, whether the declarant has transferred control of the association to the unit owners, and the date of such transfer;
- a statement as to whether there are any violations of the health or building codes with respect to the unit, the limited common elements assigned thereto, or any other portion of the condominium;

- a statement of the remaining term of any leasehold estate affecting the condominium and the provisions governing any extension or renewal thereof;
- a copy of the declaration, the bylaws, the rules or regulations of the association, the association's current reserve study, if any, and any other information reasonably requested by mortgagees of prospective purchasers of units;
- a statement as to whether the units or common elements of the condominium are covered by a qualified warranty, and a history of claims under any such warranty; and
- if the association does not have a reserve study, then a disclosure as proscribed by law.

When a unit owner requests a resale certificate and provides any fee as may be required, the association is to provide the certificate within ten days of the request. A reasonable charge for a resale certificate may not exceed \$150.

Summary: A reasonable charge for a resale certificate may not exceed \$275.

Votes on Final Passage:

Senate	46	3
House	74	17

Effective: July 22, 2011

SSB 5232

C 303 L 11

Authorizing prize-linked savings deposits.

By Senate Committee on Labor, Commerce & Consumer Protection (originally sponsored by Senators Kilmer, Hobbs, Carrell, Keiser and Kohl-Welles).

Senate Committee on Labor, Commerce & Consumer Protection

House Committee on State Government & Tribal Affairs

Background: The percentage of workers who said they have less than \$10,000 in savings grew to 43 percent in 2010, from 39 percent in 2009, according to the Employee Benefit Research Institute's annual Retirement Confidence Survey. The U.S. Bureau of Economic Analysis reported in February 2007, that the rate of personal savings has declined steadily since the 1980s and in 2005 was negative for the first time since 1933. This has raised concerns about families ability to save enough for retirement and for protection against financial setbacks. Financial institutions play a significant role in exploring creative options to increase personal savings.

Current law permits a business to conduct a promotional contest of chance if a prize and chance are involved but the element of consideration is not. A promotional contest of chance is not gambling as it is defined in RCW 9.46.0237.

A financial institution is defined in state law 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. The Washington State Department of Financial Institutions (DFI) regulates and examines a variety of state chartered financial services. DFI also provides education to the public to protect consumers from financial fraud.

Credit unions are financial institutions formed by an organized group of people with a common bond. Members of credit unions pool their assets to provide loans and other financial services to each other. They are not-for-profit cooperatives, owned by members and operated by mostly volunteer boards. Credit unions are chartered and supervised by the National Credit Union Administration.

Mutual savings banks are financial institutions chartered through the state or federal government for the purpose of saving and investing savings in mortgages, loans, stocks and bonds, and other securities.

Banks are financial institutions which are corporations with the ability to invest in bonds, notes, and investment securities.

Summary: Financial institutions are conditionally authorized to conduct a promotional contest of chance.

A promotional contest of chance is defined in statute. Depositors in a savings account, certificate of deposit, or any other savings program of the financial institution conducting a promotional contest of chance are eligible to receive a prize in a drawing. This can be for an annual drawing if they retain funds in their account for at least one year, or it can be for other drawings for which depositors may be eligible. Those eligible to receive a prize are not required to pay for, or purchase, any services or goods other than the participation in the savings program.

In order to conduct a promotional contest of chance, a financial institution must get approval from its board of directors. A financial institution cannot conduct a promotional contest of chance if it is likely to adversely affect the institution's safety or soundness, harm the institution's reputation, or mislead the institution's members or the general public. The director of DFI is given authority to examine banks, mutual savings banks, and credit unions which are conducting a promotional contest of chance. DFI may issue a cease and desist order for violations under this act. Financial institutions must maintain sufficient audit records and make them available to DFI if requested.

Banks, trust companies, and mutual savings banks are given authority to conduct a promotional contest of chance only if the director of DFI finds that a federal regulatory agency has interpreted federal law to permit them to conduct a promotional contest of chance.

SSB 5239

Votes on Final Passage:

Senate	46	2	
House	91	2	(House amended)
Senate	48	0	(Senate concurred)

Effective: July 22, 2011

SSB 5239

C 278 L 11

Requiring a definition of "resident" for purposes of the allocation method used to distribute federal forest revenue to schools.

By Senate Committee on Early Learning & K-12 Education (originally sponsored by Senators Honeyford, Morton, Swecker and Becker; by request of Superintendent of Public Instruction).

Senate Committee on Early Learning & K-12 Education
Senate Committee on Ways & Means
House Committee on Education
House Committee on Education Appropriations & Oversight

Background: The Washington State Constitution requires the state to provide basic education for its citizens. In fulfillment of this responsibility, the Superintendent of Public Instruction (SPI) calculates for each of the school districts a basic education allocation (BEA). Under current Washington State practices, Federal Forest Funds received from the federal government pursuant to federal law for the benefit of any particular school district are deducted from its total BEA. In other words, for every dollar received by a school district under federal law, there is a corresponding dollar reduction in the BEA received by that school district from the state up to the full amount of the district's BEA.

In 1989 the courts held that Congress intended to single out Skamania County and its school districts for a special benefit. It held that the school districts in Skamania county may use the Federal Forest Funds allotted to them without being penalized by a corresponding complete reduction in their BEAs as it would violate the Supremacy Clause of the United States Constitution. Therefore, 30 percent of the federal forest revenue is deducted from Skamania County school districts' BEA, leaving 70 percent to be distributed among the districts.

Currently, the distribution of Skamania County Federal Forest Funds to districts within the county is affected by enrollments of non-resident students in alternative learning education (ALE) programs. A district with high ALE enrollments originating from other parts of the state receive a larger proportional share of county revenues than would otherwise be received.

Summary: SPI must distribute funds received from the federal government to counties for school districts in their respective counties in proportion of the number of resident

full-time equivalent students enrolled in each public school district to the number of resident full-time equivalent students enrolled in public schools in the county. SPI must adopt rules regarding the definition of resident provided that the impact of federal funds distribution be considered with regard to alternative learning experience students. This must be completed by September 1, 2011.

Votes on Final Passage:

Senate	48	0	
House	94	0	(House amended)
Senate	48	0	(Senate concurred)

Effective: July 22, 2011

September 1, 2011 (Section 1)

SB 5241

C 97 L 11

Modifying the authority of a watershed management partnership.

By Senators Roach and Tom.

Senate Committee on Environment, Water & Energy
House Committee on Judiciary

Background: The Interlocal Cooperation Act allows public agencies to enter into agreements with one another for joint or cooperative action. Any power, privilege, or authority held by a public agency may be exercised jointly with one or more other public agencies having the same power, privilege, or authority. A public agency for purposes of interlocal agreements includes any agency, political subdivision, or unit of local government.

Public agencies may enter into interlocal agreements to form a watershed management partnership (partnership) to implement all or parts of a watershed management plan including coordination and oversight of plan implementation. If two or more entities with the power of eminent domain join to form a partnership, then the partnership itself will have the power of eminent domain as well. The power of eminent domain may not extend to a separate legal entity created by a partnership.

The separate legal entity created by a partnership to conduct the operations of the partnership may exercise the power of eminent domain if:

- the partnership was formed before July 1, 2006;
- all of the public agencies that form the partnership have the power of eminent domain;
- the partnership is governed by a board of directors consisting entirely of elected officials from the cities and districts constituting the partnership; and
- eminent domain authority is exercised only for those utility purposes for which the partnership was formed and solely for providing water services to its customers.

A partnership must comply with certain requirements before exercising eminent domain powers. The partnership must comply with statutory notice requirements and must provide notice 30 days before the partnership board authorizes condemnation to the city, town, or county having jurisdiction over the subject property.

Additionally, the partnership must enter into an interlocal agreement with a city to allow eminent domain within that city if the city is not a member of the partnership and has water or sewer service areas within one-half mile of Lake Tapps or within five miles upstream from Lake Tapps along the White River. A process is created for a city located within this area to file and resolve a claim that the partnership's Lake Tapps water supply operations have a negative impact on the city's water supplies. If a court determines that there has been a negative impact to the city, the partnership must implement a remedy acceptable to the city, and if the city and partnership do not agree on a remedy, the court must establish the terms of a remedy.

Summary: The requirement that the partnership enter into an interlocal agreement with a city to allow eminent domain within that city if the city is not a member of the partnership and has water or sewer service areas within one-half mile of Lake Tapps or within five miles upstream from Lake Tapps along the White River is repealed. Additionally, the process for a city located within this area to file and resolve a claim that the partnership's Lake Tapps water supply operations have a negative impact on the city's water supplies is removed.

Votes on Final Passage:

Senate	42	6
House	62	32

Effective: July 22, 2011

ESB 5242

C 49 L 11

Addressing motorcycle profiling.

By Senators Hargrove, Pflug, Kline, Regala, Harper, Carrell, Keiser, Nelson, Sheldon, Conway and Shin.

Senate Committee on Judiciary
House Committee on Public Safety & Emergency Preparedness

Background: Profiling occurs when a law enforcement officer singles out a suspect that has certain characteristics the officer believes are consistent with a class of persons who are more likely than others to commit crimes. With respect to profiling based on race, local law enforcement agencies must (1) adopt a written policy designed to condemn and prevent racial profiling; (2) review and audit their existing procedures, practices, and training to ensure that they do not enable or foster racial profiling; (3) continue training to address the issues relating to racial

profiling; (4) ensure that they have a citizen complaint process in place; (5) work with minority groups to appropriately address racial profiling; and (6) collect demographic data on traffic stops and analyze the data to ensure that racial profiling is not occurring.

The Washington Association of Sheriffs and Police Chiefs (WASPC) and the Criminal Justice Training Commission (CJTC) must ensure that issues related to racial profiling are addressed in basic law enforcement training and offered in regional training for in-service law enforcement officers.

Summary: The CJTC must ensure that issues related to motorcycle profiling are addressed in basic law enforcement training and offered to in-service law enforcement officers.

Local law enforcement agencies must add a statement condemning motorcycle profiling to existing policies regarding profiling.

"Motorcycle profiling" is defined as the illegal use of the fact that a person rides a motorcycle or wears motorcycle-related paraphernalia as a factor in deciding to stop and question, take enforcement action, arrest, or search a person or vehicle with or without legal basis under the United States Constitution or the Washington Constitution.

Votes on Final Passage:

Senate	48	0
House	91	0

Effective: July 22, 2011

ESSB 5253

C 318 L 11

Concerning tax increment financing for landscape conservation and local infrastructure.

By Senate Committee on Government Operations, Tribal Relations & Elections (originally sponsored by Senators White, Swecker, Nelson, Litzow and Harper).

Senate Committee on Government Operations, Tribal Relations & Elections

House Committee on Local Government

House Committee on Ways & Means

Background: The Growth Management Act (GMA) is the comprehensive land use planning framework for county and city governments in Washington. Enacted in 1990 and 1991, the GMA establishes numerous planning requirements for counties and cities obligated by mandate or choice to fully plan under the GMA (planning jurisdictions), and a reduced number of directives for all other counties and cities. Twenty-nine of Washington's 39 counties, and the cities within those counties, are planning jurisdictions.

Public infrastructure funding is accomplished in a number of different ways in the state. The Legislature has, in recent years, examined a number of ways to increase

investment in public infrastructure in the state. Tax increment financing is a method of redistributing increased tax revenues within a geographic area resulting from a public investment to pay for the bonds required to construct a project.

A number of tax increment financing programs have been created in the state: in 2001 the Legislature created the Community Revitalization Financing Program; in 2006 the Local Infrastructure Financing Tool Program was created by the Legislature; and in 2009 the Legislature created the Local Revitalization Financing Program.

A transfer of development rights (TDR) occurs when a qualifying land owner, through a permanent deed restriction, severs potential development rights from a property and transfers them to a recipient for use on a different property. In TDR transactions, transferred rights are generally shifted from sending areas with lower population densities to receiving areas with higher population densities. The monetary values associated with transferred rights constitute compensation to a land owner for development that may have otherwise occurred on the transferring property.

In 2007 the Legislature directed the Department of Community, Trade, and Economic Development, now the Department of Commerce (Commerce), to fund a process to develop a regional TDR program that corresponds with the GMA. The legislation specified that the TDR program must encourage King, Kitsap, Pierce, and Snohomish counties, and the cities within, to participate in the development and implementation of regional frameworks and mechanisms for TDR programs. In 2009 the Legislature directed Commerce to establish a regional TDR program to foster voluntary local government participation that will result in the transfer of development rights between jurisdictions in central Puget Sound counties and cities.

The Puget Sound Regional Council (PSRC) is an association of cities, towns, counties, ports, and state agencies that serves as a forum for developing policies and making decisions about regional growth and transportation issues in the four county central Puget Sound region. Membership of the PSRC includes King, Kitsap, Pierce, and Snohomish counties, 72 cities and towns, four port districts, and transit agencies and tribes within the region. Two state agencies, the Department of Transportation and the Transportation Commission, are also members of the PSRC.

Summary: An eligible county, defined as a county that borders Puget Sound, has 600,000 or more residents, and that has an established TDR program, must designate all agricultural and forest land of long-term commercial significance within its jurisdiction as sending areas under its TDR program. An eligible county must calculate the number of development rights from agricultural and forest land of long-term commercial significance that are eligible for transfer to receiving cities. The number of transferable development rights does not include certain development

rights from agricultural and forest lands of long-term commercial significance that have been removed or extinguished through a conservation easement, mitigation, or a habitat restoration plan.

An eligible county may designate rural zoned lands as available for transfer to receiving cities if 50 percent or more of the agricultural and forest land of long-term commercial significance in the county has already been protected through a permanent conservation easement or is owned for conservation purposes. The portion of rural zoned lands available for transfer must not exceed 1500 development rights. Additionally, the rural zoned lands must be identified either:

- by the county as top conservation priorities because they meet certain criteria; or
- as highly important to the water quality of Puget Sound.

On or before September 1, 2011, each eligible county must report to the PSRC the total number of transferable development rights within the eligible county that may be available for allocation to receiving cities. The PSRC must allocate the total number of development rights among the receiving cities in consultation with eligible counties and based on certain factors. On or before March 1, 2012, the PSRC must report to each receiving city and to Commerce each receiving city's share of transferred development rights. A receiving city may, by interlocal agreement, transfer all or a portion of its transferred development rights to another receiving city. A receiving city is defined as any incorporated city within an eligible county that has a population plus employment of 22,500 or more.

A receiving city becomes a sponsoring city by:

- accepting all or a portion of its transferred development rights;
- adopting a development plan for infrastructure; and
- creating one or more local infrastructure project areas.

A development plan for infrastructure must:

- be developed in consultation with the Department of Transportation and the county where the local infrastructure project area to be created is located;
- be consistent with any TDR policies or development regulations adopted by the sponsoring city;
- specify the public improvements to be financed using local infrastructure project financing;
- estimate the number of transferred development rights that will be used within the local infrastructure project area; and
- estimate the cost of the public improvements.

Before creating a local infrastructure project area, a sponsoring city must (1) adopt TDR policies or implement development regulations, or (2) make a finding that it will either receive its transferred development rights in a local

infrastructure project area or purchase its transferred development rights to be held in reserve by the sponsoring city and used in future development.

To create a local infrastructure project area, a sponsoring city must adopt an ordinance or resolution that describes the proposed public improvements and the boundaries of the local infrastructure project area. Before adopting an ordinance or resolution creating a local infrastructure project area, a sponsoring city must provide notice to the county assessor, county treasurer, and the county within the proposed local infrastructure project area and hold a public hearing on the proposed formation. A sponsoring city may adopt an element to its comprehensive plan and associated development regulations to apply within a local infrastructure project area.

The designation of a local infrastructure project area is subject to limitations, including, but not limited to:

- the area be contiguous tracts of land;
- the public improvements be financed with local infrastructure project financing;
- the area not contain more than 25 percent of the total assessed value of taxable property within the sponsoring city;
- there is no overlap of the boundaries of each local infrastructure project area; and
- all local infrastructure project areas created by the sponsoring city comprise an area in which the transferred development rights will be used.

The county and the sponsoring city must receive that portion of its regular property taxes produced by the rate of tax levied by or for the county and the city on the property tax allocation revenue base value for that local infrastructure project area. The sponsoring city must receive an additional portion of the regular property taxes levied by it and by or for the county and the city upon the property tax allocation revenue value within the local infrastructure project area. The portion of the tax receipts distributed to the sponsoring city may only be used to finance public improvement costs within the local infrastructure project area. Participating taxing districts must allow the use of all of their local property tax allocation revenues for local infrastructure project financing. The property tax allocation terminates when local infrastructure project financing is no longer used for costs of public improvements or based on certain threshold levels.

The eligible counties, in collaboration with sponsoring cities, must provide a report to Commerce by March 1 of every other year that contains certain information.

Votes on Final Passage:

Senate	30	18	
House	62	35	(House amended)
Senate	29	19	(Senate concurred)

Effective: July 22, 2011

SSB 5271

C 247 L 11

Regarding abandoned or derelict vessels.

By Senate Committee on Natural Resources & Marine Waters (originally sponsored by Senators Rockefeller, Swecker, Ranker, Morton, Sheldon, Delvin, Schoesler, Regala, Nelson, Fraser, Kilmer, Shin and Kline; by request of Commissioner of Public Lands).

Senate Committee on Natural Resources & Marine Waters
House Committee on Judiciary

Background: In 2002 the Legislature established what has become known as the Derelict Vessel Removal Program (DVRP), which is administrated by the Department of Natural Resources (DNR).

Authorized Public Entities. Certain state agencies and local governments, including DNR, may take custody and dispose of abandoned or derelict vessels on or above aquatic lands within their jurisdiction. Such agencies are known as authorized public entities (APEs). A marina may contract with a local government to serve as the APE for derelict vessel removal, but current law does not specifically authorize such actions to cover abandoned vessels.

Reimbursement for Vessel Removals. An abandoned or derelict vessel owner must generally reimburse an APE for reasonable removal and disposal costs. An APE may, however, seek reimbursement of up to 90 percent of such costs from DNR if the owner is unknown or insolvent. Although ports are APEs, a separate provision of law covering ports references the reimbursement rate as 75 percent of removal and disposal costs.

DVRP reimbursement funding comes primarily from a \$2 surcharge on vessel registrations, as well as a temporary additional \$1 surcharge on vessel registrations imposed until 2014.

Criminal Liability. It is a misdemeanor to cause a vessel to become abandoned or derelict.

Summary: Criminal Liability. In addition to the current prohibition against a person causing a vessel to become abandoned or derelict, a person who intentionally and without authorization causes a vessel to sink, break up, or block a navigation channel is subject to a misdemeanor.

Marina Participation in the DVRP. Marinas may contract with a local government for the removal of an abandoned as well as a derelict vessel.

Reimbursement Rate for Ports. The reimbursement rate for abandoned and derelict vessels removals by ports is increased from 75 to 90 percent, which is consistent with the rate provided for APEs generally.

Limited Liability for APEs. An APE, or entity contracting with an APE, is not civilly liable when taking an action under DVRP authority unless that action constitutes gross negligence or willful or wanton misconduct.

Votes on Final Passage:

Senate	47	0	
House	93	0	(House amended)
Senate	45	0	(Senate concurred)

Effective: July 22, 2011**SB 5278**

C 175 L 11

Addressing information contained in rate notices under the industrial insurance laws.

By Senators Holmquist Newbry and King.

Senate Committee on Labor, Commerce & Consumer Protection

House Committee on Labor & Workforce Development

Background: Expenses relating to industrial safety and health services of the Department of Labor and Industries (L&I) that pertain to workers' compensation are paid by L&I and financed by premiums and assessments collected from the state fund and self-insured employers. In addition to paying workers' compensation benefits and administrative costs, premiums are used to fund other programs and services, including L&I's Division of Occupational Safety and Health, the Department of Environmental and Occupational Health Sciences at the University of Washington, and specialty compliance services at L&I which include the apprenticeship and employment standards programs.

Summary: Rate notices must include an accounting that clearly identifies all programs and services that are financed in whole or in part by state fund premiums or self-insurers' administrative assessments.

Votes on Final Passage:

Senate	49	0
House	97	0

Effective: July 22, 2011**SB 5289**

C 26 L 11 E 1

Concerning a business and occupation tax deduction for payments made to certain property management companies for personnel performing on-site functions.

By Senators Murray and Zarelli.

Senate Committee on Ways & Means

House Committee on Ways & Means

Background: Property owners often hire property management companies to manage their real property. Frequently, the property management companies also manage the personnel who perform the necessary services at the property location.

Under legislation adopted in 1998, property management companies are not responsible for paying business and occupation (B&O) taxes on amounts they receive for and pay to an on-site employee when (1) the employee works primarily at the owner's property; (2) the employee's duties include leasing property units, maintaining the property, collecting rents, or similar activities; and (3) under the property management agreement, the employee's compensation is the ultimate obligation of the property owner, and all actions, including hiring, firing, compensation, and conditions of employment, taken by the property manager are subject to the approval of the property owner. The money must be paid from a property management trust account.

In 2010 Second Engrossed Substitute Senate Bill 6143 narrowed the B&O tax exemption covering property management companies for amounts received from a property owner for compensation of on-site personnel to apply only to (1) nonprofit property management companies; and (2) property management companies receiving amounts from a housing authority for compensation of on-site personnel. However, because of the nature of how housing authorities and non-profit management companies are organized in the area of low-income housing, they do not always qualify for the exemption provided in 2010.

Summary: A B&O tax deduction is permitted for amounts that (1) a nonprofit property management company receives for compensating on-site employees from the owner of property; (2) a property management company receives for compensating on-site employees from a housing authority; and (3) a property management company receives for compensating on-site employees from a limited liability company or limited partnership of which the sole managing member or sole general partner is a housing authority.

The B&O tax exemption is repealed for amounts received by (1) a nonprofit property management company from a property owner for compensation of on-site personnel paid from a property management trust account; and (2) a property management company from a housing authority for compensation of on-site personnel paid from a property management trust account.

The definition for on-site personnel is changed to a definition of personnel performing on-site functions. The new definition enables personnel to work at the owner's property or centrally perform on-site functions, rather than to require that they work primarily at the owner's property.

The definition of nonprofit management company is modified to (1) require an organization to qualify for a property tax exemption for providing property management services for low-income housing in addition to the current requirement of being a 501(c) federally tax-exempt organization; and (2) include public corporations established by cities, towns, or counties for limited and specified purposes.

Votes on Final Passage:

Senate 44 0

First Special Session

Senate 42 0

House 85 3 (House amended)

House 90 0 (House receded)

Effective: August 24, 2011

SB 5295

C 50 L 11

Regarding leases of irrigation district property.

By Senators Delvin, Swecker, Schoesler, Holmquist Newbry, Honeyford and Hewitt.

Senate Committee on Agriculture & Rural Economic Development

House Committee on Local Government

Background: Irrigation districts provide construction, improvement, maintenance, and operation of irrigation systems. Irrigation districts may also provide drainage, domestic water supply, and electric power facilities. A board of three, five, or seven elected directors manages each irrigation district.

An irrigation district may sell or lease its real property if the property is not needed by the district and public notice is given by publishing in a local newspaper at least once a week for three consecutive weeks.

The district has the following options with regard to this property:

- lease the property from year to year;
- give the lessee the option to purchase the property;
- sell the property on contract for deferred payments;
- sell the property pursuant to a promissory note secured by a mortgage or deed of trust; or
- sell the property for cash and conveyance by deed.

The board must make record of the real property sale or lease price. This price must be not less than the reasonable market value of the property unless the property is donated for highway or public utility purposes that enhance the value of the district's remaining property more than the value of the donated land.

Summary: An irrigation district may lease real property it owns for a duration determined by its board. The restriction for a year-to-year lease is deleted.

Votes on Final Passage:

Senate 48 0

House 93 0

Effective: July 22, 2011

SSB 5300

C 99 L 11

Enhancing the use of Washington natural resources in public buildings.

By Senate Committee on Natural Resources & Marine Waters (originally sponsored by Senators Hargrove and Ranker).

Senate Committee on Natural Resources & Marine Waters
House Committee on Capital Budget

Background: In 2005 the Legislature enacted High-Performance Building Standards requiring all major facility projects funded in the capital budget, or projects financed through a financing contract as established by law, to be designed, constructed, and certified to at least the United States Green Building Council Leadership in Energy and Environmental Design (LEED™) Silver standard. 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.

The stated purpose of the standard is to improve the built environment and emphasize design and construction practices that reduce energy consumption and water use, improve indoor air quality, and minimize the impact on the natural environment.

LEED™ is a fee-based third-party certification. 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: LEED™ Certified, LEED™ Silver, LEED™ Gold, and LEED™ Platinum.

LEED™ and the related logo is a trademark owned by the U.S. Green Building Council and is used with permission.

Summary: When determining compliance with the requirement for a project to be designed, constructed, and certified to at least the LEED™ Silver standard, the Department of General Administration and the Superintendent of Public Instruction must credit one additional point for a project that uses wood products with a third party certification or from forests regulated under Washington's Forest Practices Act.

Votes on Final Passage:

Senate 46 2

House 95 2

Effective: July 22, 2011

SB 5304
C 304 L 11

Requiring forecasting of caseloads of the Washington college bound scholarship program.

By Senators Kilmer, Brown, Rockefeller, Tom, Murray, McAuliffe and Shin.

Senate Committee on Ways & Means
House Committee on Ways & Means

Background: College Bound Scholarship Program. The College Bound Scholarship Program provides financial assistance for up to five years to low-income students attending public two- and four-year colleges and universities and certain accredited independent colleges, universities, and career schools in Washington. To be eligible, students must qualify for free or reduced-price lunches and sign a pledge during seventh or eighth grade that includes a commitment to graduate from high school with at least a C average and with no felony convictions. If, at graduation from high school, the student's family income does not exceed 65 percent of the state median family income, the student will receive a scholarship for the amount of tuition and required fees not covered by other forms of assistance, such as the State Need Grant, plus \$500 for books and materials.

Caseload Forecast Council. The Caseload Forecast Council is responsible for developing forecasts for the changing caseloads in state entitlement programs. The caseload forecast is formally adopted by a council of six individuals, two appointed by the Governor and four appointed by the two largest political caucuses in the Senate and the House of Representatives. Caseload forecasts adopted by the council, along with any unofficial forecasts, are submitted to the Governor and the members of the legislative fiscal committees to facilitate budget development.

Summary: The Caseload Forecast Council is required to forecast the anticipated number of students eligible for the College Bound Scholarship Program who are also expected to attend an institution of higher education. The Caseload Forecast Council is required to submit this forecast to the Governor and the members of the legislative fiscal committees to facilitate budget development.

Votes on Final Passage:

Senate	34	13	
House	90	2	(House amended)
Senate	44	2	(Senate concurred)

Effective: July 22, 2011

ESSB 5307
C 32 L 11

Concerning evaluating military training and experience toward meeting licensing requirements in medical professions.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Kilmer, Hewitt, Regala, Conway, Kastama, Hobbs, King, Rockefeller, Swecker and Roach).

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

Background: The Department of Health (DOH) licenses health care professionals in accordance with statutory requirements. These requirements often include educational components, successful passage of examinations, completed apprenticeship programs, and experience components.

Summary: People with military training and experience may count that training and experience towards professional licensing requirements unless that profession's regulatory body determines that the training and experience is not substantially equivalent to the standards of this state. This applies to the following health care professions: dispensing opticians, ophthalmologists, osteopathic physician assistants, pharmacy assistants, physician assistants, emergency medical technicians, physical therapists, radiologic technologists, nursing assistants, respiratory care practitioners, health care assistants, surgical technologists, dental assistants, and denturists.

Votes on Final Passage:

Senate	46	0
House	93	0

Effective: July 22, 2011

SSB 5326
C 372 L 11

Concerning negligent driving resulting in substantial bodily harm, great bodily harm, or death of a vulnerable user of a public way.

By Senate Committee on Judiciary (originally sponsored by Senators Kline, Zarelli, Kohl-Welles, Nelson, Rockefeller and White).

Senate Committee on Judiciary
House Committee on Judiciary

Background: Under current law, a person is guilty of negligent driving in the second degree if that person operates a motor vehicle in a manner that is both negligent and endangers or is likely to endanger any person or property. Negligent driving in the second degree is an infraction and is subject to a fine of \$250.

For purposes of this infraction, negligent is defined as the failure to exercise ordinary care, and is the doing of some act that a reasonably careful person would not do under the same or similar circumstances or the failure to do something that a reasonably careful person would do under the same or similar circumstances.

Summary: Vulnerable user of the public way is defined as a pedestrian, person riding an animal; or a person operating a farm tractor, a bicycle, an electric assisted bicycle, an electric personal assistive mobility device, a moped, a motor-driven cycle; a motorcycle; or a motorized foot scooter.

A new traffic infraction is created. A person commits the traffic infraction if, while operating a vehicle under circumstances that constitute negligent driving in the second degree, the person proximately causes the death, great bodily harm, or substantial bodily harm of a vulnerable user of the public way. The law enforcement officer or prosecuting authority issuing the notice of infraction must state on the notice that the offense was a proximate cause of death, great bodily harm, or substantial bodily harm of a vulnerable user of a public way.

In addition to paying the fine levied for negligent driving in the second degree, a person who has committed this infraction must pay a fine fixed by the court in an amount of at least \$1,000 but not to exceed \$5,000 and have his or her driving privileges suspended for 90 days.

However, a person who requests and personally appears for a hearing may request to instead pay a penalty of \$250; attend traffic school for a number of days to be determined by the court; perform up to 100 hours of community service related to driver improvement and providing public education on traffic safety, as determined by the court; and submit certification to the court that the person has completed the requirements. If a person fails to complete the required traffic safety and community service requirements within one year of the date of the violation, a court must assess a fine in an amount between \$1,000 and \$5,000 and suspend the person's driving privileges for 90 days. The court has discretion to extend the period of time in which the person must complete the requirements.

A person whose license is suspended as a result of a violation of this infraction and who is found operating a motor vehicle during the suspension is guilty of driving while license suspended in the second degree.

The infraction created under this act may not be deferred.

Votes on Final Passage:

Senate	43	5	
House	61	32	(House amended)
Senate	44	2	(Senate concurred)

Effective: July 1, 2012

SSB 5337

C 51 L 11

Authorizing the provision of financial assistance to privately owned airports available for general use of the public.

By Senate Committee on Transportation (originally sponsored by Senators Stevens, Pflug, Honeyford, Swecker and Roach).

Senate Committee on Transportation
House Committee on Transportation

Background: Aircraft owners and dealers pay a variety of taxes and fees that are deposited in whole or in part to the Aeronautics Account. Sources of revenue in the Aeronautics Account also include federal airport development grants, federal airport planning grants, and other federal sources. State levied taxes and fees include:

- Aircraft Excise Tax, between \$20 and \$125 annually;
- Aircraft Fuel Tax, \$0.11 per gallon;
- Aircraft Dealers License Fee, \$75 annually; and
- Aircraft Registration Fee, \$15 annually.

The Washington State Department of Transportation, Aviation Division (WSDOT-Aviation) uses funds in the Aeronautics Account to make grants or loans to municipalities and federally recognized Indian tribes for the acquisition, construction, improvement, maintenance, or operation of an airport that is available for general use of the public.

Summary: Allows privately-owned airports that are available for general use of the public to be eligible for grants or loans from WSDOT-Aviation. Additionally, WSDOT is directed to establish, through rule, criteria for grants and loans administered by WSDOT-Aviation.

Votes on Final Passage:

Senate	46	0
House	91	3

Effective: July 22, 2011

SSB 5350

C 279 L 11

Concerning the unlawful dumping of solid waste.

By Senate Committee on Environment, Water & Energy (originally sponsored by Senators Honeyford, Morton, Swecker, Delvin and Schoesler).

Senate Committee on Environment, Water & Energy
House Committee on Environment

Background: There is a comprehensive statewide program for handling, recovering, and recycling solid waste to prevent pollution and conserve the resources of the state. Each county must prepare a coordinated, comprehensive solid waste management plan and adopt regulations or ordinances to implement the plan.

The Department of Ecology reviews and approves locally issued permits and solid waste management plans, and defines minimum functional standards for all types of solid waste facilities. The sites and facilities must meet certain criteria to protect the environment and human health.

Local governments have the primary responsibility to manage solid waste. The local jurisdictions permit solid waste disposal sites and facilities, as well as enforce environmental regulations and ordinances governing illegal dumping. It is illegal to dump or allow solid waste to be dumped anywhere except at a permitted solid waste site or facility. However, a person may dump his or her own solid waste onto his or her property so long as it is not in violation of any statutes or does not create a nuisance.

A person who illegally dumps solid waste must pay \$50 per cubic foot of litter or twice the amount of the actual cleanup, whichever is greater. One-half of the restitution payment is distributed to the property owner where the illegal dumping occurred and the other half goes to the local health department investigating the incident. The court may, with permission from the landowner, allow the person to cleanup and remove litter from the property in lieu of, or in addition to, cleanup restitution payment.

Summary: The enforcing authority must take reasonable action to determine and identify the person responsible for illegal dumping before requiring the property owner to clean up the site.

Local health jurisdictions receiving restitution payment for illegal dumping must use one-half of the amount received to assist property owners with cleanup of illegal dumping where the responsible person cannot be determined. A landowner is not entitled to any restitution if the landowner gave written permission authorizing the littering, in which case the entire restitution payment must be provided to the local health department investigating the incident. In addition to restitution payment, the court may also require a person to remove and properly dispose of litter from the property.

Votes on Final Passage:

Senate	49	0	
House	93	0	(House amended)
Senate	47	0	(Senate concurred)

Effective: July 22, 2011

SSB 5352

C 100 L 11

Regarding providing eyeglasses to medicaid enrollees.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Honeyford, Regala and Swecker).

Senate Committee on Human Services & Corrections
House Committee on Public Safety & Emergency Preparedness

Background: Current law authorizes the Department of Corrections (DOC) to operate five classes of correctional industry work programs. Those classes of jobs have different rules depending on the industry they are designed to serve to ensure that they have the limited goals of reducing costs to the taxpayer, or serving the public in some manner and do not compete with private businesses in the state. Class II, or tax reduction, industries are state-owned and operated industries designed to reduce the costs for goods and services for public agencies and nonprofit organizations. Industries in this class must be closely patterned after private sector industries, but with the objective of reducing public support costs rather than making a profit. The products and services of this industry, including purchased products and services necessary for a complete product line, may only be sold to public agencies, nonprofit organizations, and to private contractors when the goods purchased will ultimately be used by a public agency or a nonprofit organization. However, to avoid waste or spoilage, by-products and surpluses of timber, agricultural, and animal husbandry enterprises may be sold at private sale or donated to nonprofit organizations when there is no public sector market for such goods.

Inmates working in tax reduction industries do so at their own choice and are paid a gratuity which cannot exceed the wage paid for work of a similar nature in the locality in which the industry is located. Class II includes such jobs as producing aluminum signs, license plates and tabs, mattresses, asbestos abatement, meat processing, optical lab, engraving, pheasant raising, furniture manufacturing, screen printing and embroidery, industrial sewing, and laundry.

The optical lab with correctional industries makes eyeglasses for persons receiving them through the state Medicaid program. With the cost cutting measures throughout state government, eyeglasses will no longer be covered. Enrollees of the program will continue to get their eye exam paid for, but must purchase their own eyeglasses in the open market.

Summary: Eyeglasses produced through a Class II correctional industry program may be sold to a licensed health professional for the sole purpose of providing those eyeglasses to enrollees of a state medical program so long as the health professional does not charge a profit for the eyeglasses.

Votes on Final Passage:

Senate	49	0
House	93	0

Effective: April 18, 2011

SSB 5359

C 101 L 11

Concerning contiguous land under current use open space property tax programs.

By Senate Committee on Agriculture & Rural Economic Development (originally sponsored by Senators Morton, Swecker, Honeyford and Schoesler).

Senate Committee on Agriculture & Rural Economic Development

Senate Committee on Ways & Means

House Committee on Agriculture & Natural Resources

House Committee on Ways & Means

Background: In 1969 the state's voters approved a constitutional amendment that allows the valuation of agricultural lands, timber lands, and open space for property tax purposes to be based on the land's current use value rather than the land's market value. The purpose of the program is to encourage retention of the land in agricultural, forestry, or other approved open space uses by taxing the land according to its income producing capacity in those uses rather than on its value if converted to other uses.

Two chapters establish the criteria for land to qualify for the current use program. Chapter 84.33 RCW applies to timber lands and chapter 84.34 RCW applies primarily to agricultural lands and open space lands.

To enroll in these programs, different criteria applies to categories based on parcel size. The three size categories are over 20 acres; five to 20 acres; and under five acres. To determine the parcel size, multiple parcels that are contiguous and held by the same ownership are combined.

There have been questions as to what the term "same ownership" is intended to include when the multiple parcels of contiguous land is owned by different family members.

Summary: The term "same ownership" is defined to include multiple contiguous parcels that are managed as part of a single operation and (a) owned by members of the same family, (b) legal entities wholly owned by members of the same family, or (c) a combination of individuals and entities that are wholly owned by members of the family.

This definition applies to the chapters of the current use valuation law that apply to forest lands, farm and agricultural lands, and open space lands.

Votes on Final Passage:

Senate	49	0
House	91	0

Effective: July 22, 2011

SSB 5364

C 102 L 11

Concerning public water system operating permits.

By Senate Committee on Environment, Water & Energy (originally sponsored by Senators Swecker, Pridemore, Fraser, Nelson, Honeyford, Shin and Morton; by request of Department of Health).

Senate Committee on Environment, Water & Energy

Senate Committee on Ways & Means

House Committee on Environment

House Committee on Ways & Means

Background: More than 75 percent of people in Washington get their drinking water from large Group A public water systems. About 2000 small Group A water systems provide drinking water to about 8 percent of Washington households. Group A water systems have 15 or more service connections, or regularly serve 25 or more people on 60 or more days per year. Roughly 13,000 Group B water systems provide drinking water to about 2 percent of Washington households. About 14 percent of Washington households obtain their drinking water from individual wells.

Group A Public Water System Operating Permit Fees.

Group A public water systems must apply to the Department of Health (DOH) for an annual operating permit. A new application must be submitted upon any change in ownership of the system. Each application must be accompanied by an annual fee as set in statute. DOH may require that each application include information that is reasonable and necessary to determine that the system complies with application standards and requirements of the federal Safe Drinking Water Act and state laws. DOH must act on permit applications within 120 days of receipt of the application or of any supplemental information required to complete the application.

Satellite System Management Agency Fees.

The DOH must issue one operating permit to any approved satellite system management agency, as defined by the DOH. The operating permit fee for approved satellite system management agencies is \$1 per connection, per year for the total number of connections under the management of the approved satellite agency.

Summary: The DOH must adopt rules establishing categories of annual operating permit fees based on system size, complexity, and number of service connections. Fees charged must be sufficient to cover, but may not exceed, the costs to DOH of administering a program for safe and reliable drinking water.

Group A Public Water System Operating Permit Fees.

The DOH must use operating permit fees to monitor and enforce compliance of Group A water systems with state and federal laws that govern planning, water use, efficiency, design, construction, operating, maintenance, financing, management, and emergency response. DOH may

phase in the implementation of the annual fee for any group of systems provided the schedule for implementation is established by rule. Phasing in of fees is mandatory for any annual fee increase that is greater than 10 percent. An annual per connection fee of \$1.50 may not be exceeded. Under rules established by the DOH prior to 2020, \$100,000 is the highest annual operating permit fee allowed.

Satellite System Management Agency Fees. Rules established by the DOH must set a single fee based on the total number of connections for all Group A water systems owned by a Satellite System Management Agency.

Votes on Final Passage:

Senate	28	21	
House	51	40	
House	52	40	(House reconsidered)

Effective: July 22, 2011

SB 5367

C 176 L 11

Authorizing the economic development finance authority to continue issuing bonds.

By Senators Kastama, Chase, Holmquist Newbry, Shin and Kilmer.

Senate Committee on Economic Development, Trade & Innovation

House Committee on Community Development & Housing

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 \$1 billion in total outstanding debt.

Summary: The limitation on WEDFA's outstanding debt is increased to \$1.5 billion.

Votes on Final Passage:

Senate	48	0
House	95	0

Effective: July 22, 2011

ESSB 5371

C 315 L 11

Addressing the needs for health insurance coverage for persons under age nineteen.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Keiser and Conway).

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

Background: The federal Patient Protection and Affordable Care Act (PPACA), passed in March 2010, requires all health insurance carriers to provide coverage for persons under age 19 without application of pre-existing condition exclusions, for policies issued on or after September 23, 2010.

Previously, the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) limited the application of pre-existing condition waiting periods under certain conditions for all group plans. PPACA extended the provisions to individual plans and self-insured plans for all persons effective January 1, 2014, and persons under 19 beginning in 2010.

The federal Department of Health and Human Services with the Department of Labor and the Department of the Treasury, has issued regulations for the enrollment of persons under age 19. All health plans must issue the coverage as guarantee issue and may not apply health screening exams, known as the standard health questionnaire in Washington State. The Office of the Insurance Commissioner issued emergency rules to help guide insurance carriers through implementation with the establishment of open enrollment periods and special enrollment qualifying events (such as loss of eligibility for Medicaid or other public programs, loss of coverage due to a divorce, loss of coverage due to a move out of a plan service area, or birth or adoption).

The Washington State Health Insurance Pool (WSHIP), or high risk pool, is established in statute to provide coverage for those persons that are rejected for individual health insurance as a result of the standard health questionnaire screening. The pool cannot reject an individual with pre-existing conditions but it does apply a six-month waiting period for coverage of pre-existing conditions.

Summary: The state statutes governing regulated insurance carriers and health plans are modified to reflect the PPACA requirement to provide coverage for persons under age 19 without application of pre-existing condition exclusions and without a health screening exam. The requirement does not apply to a grandfathered plan, as established in PPACA.

The Office of the Insurance Commissioner (Commissioner) must establish rules defining the time frame for open enrollment, an opportunity to be held at the same time each year when applicants may enroll in individual

health plan coverage without health screening or providing other evidence of insurability. Rules must also define a special enrollment that is triggered by a specific qualifying event.

The Commissioner must monitor the sale of individual health benefit plans and if an insurance carrier refuses to sell policies to persons under age 19 during open enrollment or special enrollment, and may issue fines or suspend or revoke the carrier license as provided in RCW 48.05.

Eligibility for WSHIP, or high risk pool, is modified to include persons under 19 that do not have access to individual plan open enrollment or special enrollment, or the federal pre-existing condition insurance pool at the time of application. The pool may not impose any pre-existing condition waiting period for any person under 19.

Votes on Final Passage:

Senate	48	1	
House	90	2	(House amended)
Senate	48	0	(Senate concurred)

Effective: May 11, 2011 (Sections 5 and 6)
July 22, 2011

SSB 5374

C 103 L 11

Making technical, nonsubstantive changes to various sections of the Revised Code of Washington that impact the department of agriculture.

By Senate Committee on Agriculture & Rural Economic Development (originally sponsored by Senators Becker and Hobbs).

Senate Committee on Agriculture & Rural Economic Development

House Committee on Agriculture & Natural Resources

Background: Technical errors, including incorrect cross-references and obsolete provisions, may arise in the Revised Code of Washington (RCW) when legislation fails to make necessary conforming amendments to all affected RCW sections. The Statute Law Committee and other parties occasionally propose non-substantive corrective legislation.

Summary: Statutes administered by the state Department of Agriculture are revised to correct, change, or delete incorrect cross-references, obsolete provisions, misspelled terms, and outmoded language. An intent section provides that no substantive changes are intended or implied.

Votes on Final Passage:

Senate	49	0
House	97	0

Effective: July 22, 2011

SB 5375

C 52 L 11

Allowing trust companies to be organized as, or convert to, limited liability companies under certain conditions.

By Senators Hobbs and Benton.

Senate Committee on Financial Institutions, Housing & Insurance

House Committee on Business & Financial Services

Background: Washington State currently allows many types of businesses to form as Limited Liability Companies (LLCs), or convert to LLCs. A LLC is formed by one or more individuals or entities through a special written agreement, which provides such details as management structure and distribution of profits or loss. LLCs are popular because, similar to a corporation, owners have limited personal liability for the debts and actions of the LLC. LLCs also provide management flexibility and the benefit of pass-through taxation generally applied to partnerships.

Trust companies are corporations other than banks, savings banks, or savings associations that provide fiduciary and wealth management services. The Department of Financial Institutions (DFI) charters, examines, and regulates commercial banks, savings banks, and trust companies. In 2006 banks, bank holding companies, and savings banks were authorized to form or convert to LLCs after obtaining approval from DFI.

A qualified financial institution intending to become an LLC must satisfy various regulatory requirements. Such requirements include, but are not limited to meeting minimum safety and soundness standards; prohibiting automatic termination, dissolution, or suspension; and qualifying for insurability of deposits through the Federal Deposit Insurance Corporation.

Summary: A trust company may form or convert to a LLC after obtaining approval from DFI. Approval is based upon the same conditions set for banks, bank holding companies, and savings banks.

Votes on Final Passage:

Senate	45	0
House	92	0

Effective: July 22, 2011

SSB 5385

C 339 L 11

Increasing revenue to the state wildlife account.

By Senate Committee on Ways & Means (originally sponsored by Senators Regala, Ranker, Rockefeller and Fraser; by request of Department of Fish and Wildlife).

Senate Committee on Ways & Means

Background: The State Wildlife Account is an appropriated account under the jurisdiction of the Department of Fish and Wildlife and accounts for 25 to 30 percent of the agency's budget. Monies in the Wildlife Account come from various sources and include department-issued licenses and tags, sale of department property, administrative penalties, compensation for damage to property, and the Game and Fish Excise tax. The Wildlife Account does not receive revenue from the sale of annual saltwater, razor clam, and shellfish licenses. The Wildlife Account also does not receive any revenue from the sale of commercial fish-landing taxes. These revenues are deposited into the General Fund.

The Wildlife Account has historically been in revenue shortfall. In previous biennia, the shortfall was backfilled with General Fund monies. In 2009 the Legislature approved a 10 percent surcharge on hunting and fishing licenses to increase revenue to the Wildlife Account. That increase is set to expire on July 1, 2011. Licenses are purchased through the department's automated system, both online and at over 600 vendors throughout the state.

Funds in the Wildlife Account are used to support department activities. The interest generated by the Wildlife Account is transferred to the General Fund.

Summary: Revenue to the state Wildlife Account is increased by:

- changing fees for recreational hunting and fishing licenses;
- moving all recreational hunting and fishing license revenue from the General Fund;
- creating a new administrative surcharge for commercial hunting and fishing licenses; and
- allowing the Wildlife Account to retain interest from the account.

License Fee Changes. The 10 percent surcharge on hunting and fishing licenses expires on September 1, 2011, when the new fees take effect. The price of most hunting and fishing licenses are increased. About 40 percent of licenses either decrease in price or are discontinued.

The fee changes for individual fees vary significantly. Examples of some of the fee changes include:

1. Fishing:
 - a. Freshwater Fishing License: from \$26.00 to \$29.50;

- b. Puget Sound Crab Enhancement: from \$3.00 to \$8.75;
 - c. Freshwater, Saltwater, Shellfish with Rockfish: from \$48.20 to \$54.25;
 - d. Columbia River Salmon and Steelhead: from \$8.00 to no change.
5. Hunting:
 - a. Deer: from \$45.20 to \$44.90;
 - b. Deer, Elk, Bear, Cougar: from \$81.20 to \$95.50;
 - c. Small Game with a Big Game License: from \$21.20 to \$24.00;
 - d. Migratory Bird Permit: from \$12.50 to \$17.00.

Each license has a variable structure; a different amount is charged for residents, non-residents, youth, and disabled persons or veterans. The average change in fee, including both increases and decreases, by category of user is:

- resident: 16 percent increase;
- non-resident: 12 percent increase;
- youth: 2 percent increase; and
- disabled persons or veterans: 4 percent decrease.

The recreational fee increases net revenue to the Wildlife Account by approximately \$14.6 million per biennium. Much of this revenue is used to replace the revenue that is no longer collected from the 10 percent surcharge. The revenue generated from fees is increased by more than 20 percent.

Moving Revenue from General Fund to Wildlife Account. Revenue from hunting and fishing license fees is moved from the General Fund to the Wildlife Account. The estimated revenue is approximately \$3 million per biennium. The revenue collected from saltwater, razor clam, and shellfish licenses is expended for management, enhancement, research, and enforcement of shellfish and saltwater programs.

New Administrative Fees. Administrative fees for commercial fishing licenses are established. The administrative fees are either \$70 or \$105 per license issued. The revenue generated by the fees goes toward paying for the cost of administering the program. The variability in price depends on the complexity of issuing the license. The administrative fees increase revenue by over \$1 million per biennium. There is a discount for administrative fees that are collected online.

Interest. Interest from the fund balance in the Wildlife Account remains in the Wildlife Account and is not transferred to the General Fund.

Votes on Final Passage:

Senate	38	8
House	55	42

Effective: June 30, 2011 (Section 5)

September 1, 2011 (Sections 1-4 and 6-38)

SSB 5386

C 104 L 11

Creating an organ donation work group.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senator Pridemore).

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

Background: Washington's Uniform Anatomical Gift Act permits a person to donate all or part of his or her body to another person, hospital, procurement organization, research institution, and other entities for transplantation, research, or the advancement of science. An organ donor may indicate his or her intent to donate by signing a document of gift. This may be a driver's license or a donor card.

Approximately 90,000 people are on the national transplant waiting list; 1,200 of these are listed at the Washington State transplant centers. There is ongoing interest in improving the state's system for organ donation as the need for organs continues to grow.

Summary: A work group is created to study how other states and countries have developed sustainable programs for increasing organ donation in their communities. The work group will consider all current strategies and include representatives from designated organ procurement organizations, funeral directors, a transplant center, the Washington Medical Association, the Washington Hospital Association, a licensed eye bank, a tissue bank, and a research organization. The work group will use no state funds and report to the Legislature by December 30, 2011, with recommendations for increasing organ donations in Washington State.

Votes on Final Passage:

Senate	46	0
House	94	0

Effective: July 22, 2011

SB 5388

C 53 L 11

Limiting liability for making certain land and water areas available for recreational use under a hydroelectric license.

By Senators Parlette, Regala, Holmquist Newbry, Hatfield and Honeyford.

Senate Committee on Natural Resources & Marine Waters
House Committee on Judiciary

Background: Landowner Duty to Invitees Generally. Under Washington tort law, landowners generally owe persons invited to enter their land a duty to use ordinary care to keep that land in a reasonably safe condition. This

includes an affirmative duty to inspect the premises and discover dangerous conditions.

Protection Under the Recreational Use Immunity Statute. The Legislature modified this general rule through what is known as the Recreational Use Immunity Statute (statute). The stated purpose of the statute is to encourage landowners, or others in possession and control of land (collectively landowners), to make their land accessible to the public for recreational purposes by limiting their tort liability.

The statute generally provides protection from tort liability for landowners who allow public use of their lands and do not charge a fee. However, landowners may charge an administrative fee of up to \$25 to those cutting, gathering, and removing firewood from their land. Additionally, the following are not considered a fee for purposes of the statute: (1) a license or permit issued under the State Parks and Recreation Commission or the Fish and Wildlife statutes; and (2) a daily charge not to exceed \$20 for access to certain public off-road vehicle facilities.

Limitations on the Protection Offered by the Statute. The liability protection offered under the statute is not absolute. The statute does not protect landowners from certain dangerous conditions for which warning signs have not been conspicuously posted. Additionally, landowners who intentionally injure recreational users receive no protection.

Summary: The statute is amended to:

- specify that limited-liability protection applies to hydroelectric project owners who allow free recreation on their lands and water areas;
- specify that kayaking, canoeing, and rafting are types of outdoor recreation covered under the statute; and
- provide that releasing water and making water areas available for specified recreation and viewing opportunities pursuant to, and in substantial compliance with, a federal hydroelectric license does not create a known dangerous artificial latent condition that would remove a landowner from protection under the statute. This protection applies to unintentional injuries sustained by recreational users and observers.

Votes on Final Passage:

Senate	48	0
House	92	0

Effective: July 22, 2011

SB 5389

C 177 L 11

Regarding membership of the early learning advisory council.

By Senators McAuliffe and Shin; by request of Department of Early Learning.

Senate Committee on Early Learning & K-12 Education
House Committee on Early Learning & Human Services

Background: In 2007 the Legislature established the Early Learning Advisory Council (ELAC) to advise the Department of Early Learning (DEL) on statewide early learning needs and to develop a statewide early learning plan. Twenty-three members are specified in statute. Of the 23 members, the Governor must appoint seven leaders in early childhood education, with at least one representative with experience or expertise in the areas such as children with disabilities, the K-12 system, family day care providers, and child care centers.

Washington State has been awarded approximately \$1.7 million over a three-year period under the federal American Recovery and Reinvestment Act to support its State Advisory Council. In Washington, the State Advisory Council is ELAC. The federal Head Start Act governs the requirements for federally funded State Advisory Councils, and specifies members that the State Advisory Council must include to the maximum extent possible.

Created in 1965, Head Start is a federal program that provides comprehensive education, health, nutrition, and parent involvement services to low-income children and their families. The federal government administers the Head Start program and directly contracts with providers. Since 1990 the Office of Head Start has funded Head Start-State Collaboration Office (HSSCO) grants to support the development of multi-agency and public-private partnerships at the state and local levels. The HSSCO is housed at DEL.

Part C of the federal Individuals with Disabilities Education Act (IDEA) authorizes grants to states to assist them in planning, developing, and implementing statewide systems of early intervention services for infants and toddlers and their families.

Summary: Of the seven leaders in early childhood education whom the Governor must appoint, four of the seven appointees are as follows:

- the Head Start State Collaboration Office director or director's designee;
- a representative of a Head Start, Early Head Start, Migrant/Seasonal Head Start, or Tribal Head Start program;
- a representative of a local education agency; and
- a representative of the state agency responsible for programs under Part C of IDEA.

Votes on Final Passage:

Senate	49	0
House	87	10

Effective: July 22, 2011

SSB 5392

C 280 L 11

Including technology within basic education goal 3.

By Senate Committee on Early Learning & K-12 Education (originally sponsored by Senators McAuliffe, Litzow, Fain, Nelson, Hill, Harper, Eide, Shin, Kohl-Welles, Tom and Roach).

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

Background: The Education Reform Act of 1993 included four goals for each school district, with the involvement of parents and community members, to provide opportunities for every student to develop essential knowledge and skills. The goals remain in current law, as follows:

1. read with comprehension, write effectively, and communicate successfully in a variety of ways and settings and with a variety of audiences;
2. know and apply the core concepts and principles of mathematics; social, physical, and life sciences; civics and history, including different cultures and participation in representative government; geography; arts; and health and fitness;
3. think analytically, logically, and creatively, and to integrate different experiences and knowledge to form reasoned judgments and solve problems; and
4. understand the importance of work and finance and how performance, effort, and decisions directly affect future career and educational opportunities.

The Superintendent of Public Instruction (SPI) is required to develop state learning standards called Essential Academic Learning Requirements (EALRs) based on the four student learning goals. Under current law, the concepts articulated under Goals Three and Four are to be integrated into the EALRs and assessments for Goals One and Two. The purpose of the assessment system is to determine if students have mastered the knowledge and skills of the EALRs.

In 2007 the Legislature directed SPI to develop EALRs for educational technology literacy and technology fluency, which were finalized in December of 2008. SPI was also required to obtain or develop classroom-based or project-based educational technology assessments. School districts are not required to use the assessments, but if they do, they must notify SPI of their use. SPI has developed a series of classroom-based assessments that measure students' knowledge and skills of the

educational technology EALRs. The assessments are scheduled to be available by July 2011.

Summary: Under Goal Three of the student learning goals, school districts must provide students with the opportunity to integrate technology literacy and fluency along with other experiences and knowledge to form reasoned judgments and solve problems.

Votes on Final Passage:

Senate	49	0	
House	82	14	(House amended)
Senate	48	0	(Senate concurred)

Effective: September 1, 2011

SSB 5394

C 316 L 11

Concerning primary care health homes and chronic care management.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Keiser, Becker, Pflug, Conway, Kline and Parlette).

Senate Committee on Health & Long-Term Care
Senate Committee on Ways & Means
House Committee on Health Care & Wellness
House Committee on Ways & Means

Background: Legislation passed in 2008 directed the Department of Health (DOH) to create a medical home learning collaborative as an opportunity to support the adoption of medical homes in a variety of primary care practice settings. The same legislation directed the Health Care Authority (HCA) and the Department of Social and Health Services (DSHS) to assess opportunities for changing payment practices in ways that would better support development and maintenance of primary care medical homes. The three agencies jointly submitted a report on their efforts December 31, 2008.

Legislation passed in 2009 directed the HCA and DSHS to design and implement one or more primary care medical home reimbursement pilot projects. The agencies facilitated discussions with private payers and providers to collaborate and identify reimbursement methods that would align incentives to support primary care medical homes. The multi-payer pilot project has been designed, and the pilot project is on track to begin with the payment demonstration this spring.

Summary: State health care purchasing efforts for the Medicaid, Basic Health, and Public Employees Benefits Board (PEBB) programs must include provisions in contracts that encourage broad implementation of primary care health homes. Contracts must include provider reimbursement methods that incentivize chronic care management within health homes; provider reimbursement methods that reward health homes that reduce emergency department and inpatient use; and promote provider

participation in the training program (medical home learning collaborative) developed by the DOH. Health home services may be prioritized to enrollees with complex, high cost, or multiple chronic conditions. Contract expenses must not be more than they would otherwise be without the health home provisions. DSHS must work with the federal Center for Medicare and Medicaid Innovation and seek funding opportunities to support health homes.

A health home is defined to mean primary care provided by a primary care provider who coordinates all medical care, with a multi-disciplinary health care team. Primary care provider means a general practice physician, family practitioner, internist, pediatrician, osteopath, naturopath, physicians assistant, osteopathic physician assistant, or advanced registered nurse practitioner. A health care team includes, but is not limited to, medical specialists, nurses, pharmacists, nutritionists, dieticians, social workers, behavioral and mental health providers including substance use disorder prevention and treatment providers, chiropractors, physical therapists, alternative medicine practitioners, home care and other long-term care providers, and physicians assistants.

The HCA must coordinate a discussion with carriers to learn from successful chronic care management models and develop principles for effective reimbursement methods to align incentives in support of patient centered chronic care health homes. The HCA must report to the Legislature by December 1, 2012, describing the principles developed from the discussion and any steps taken by the PEBB or carriers to implement the principles through their payment methodology.

Votes on Final Passage:

Senate	49	0	
House	53	39	(House amended)
Senate	48	0	(Senate concurred)

Effective: July 22, 2011

SB 5395

C 105 L 11

Changing provisions involving domestic violence fatality review panels.

By Senators Hargrove and Stevens.

Senate Committee on Human Services & Corrections
House Committee on Early Learning & Human Services

Background: In 1997 Washington received grant funding from the federal Violence Against Women Act to create a model for a statewide domestic violence fatality review mechanism. Three pilot review panels covering five counties (Pierce, Spokane, Chelan, Douglas, and Okanogan) began reviewing deaths in 1998. A fourth panel was formed in Yakima/Kittitas Counties in 1999, and a fifth is being organized in King County. At least four other

communities have requested help in forming review panels.

In 2000 the Legislature enacted legislation that established the fatality review process. Subject to the availability of funds, the Department of Social and Health Services must contract with an entity with expertise in domestic violence (DV) policy and education and with a statewide perspective to coordinate review of DV fatalities. The contractor is authorized to convene regional review panels, gather information for the panels' use, provide training and technical assistance to the panels, compile information and issue reports with recommendations, and develop a protocol to be used as a guideline for how a panel should operate and choose cases. The entity may convene a regional DV fatality review panel to review any DV fatality.

Regional DV fatality panels must include the following persons:

- medical personnel with expertise in DV abuse;
- coroners or medical examiners;
- county prosecuting attorneys and municipal attorneys;
- DV shelter service staff;
- law enforcement;
- local public health staff;
- CPS workers;
- community corrections staff;
- a perpetrator treatment program provider, and
- judges and/or court commissioners.

The regional review panels may invite other relevant persons to serve on an ad hoc basis and serve as a full panel member for a particular review.

The contractor must issue a biennial statewide report in December of even-numbered years. The reports must contain recommendations on policy changes that would improve program performance, and issues identified through the work of the regional panels.

Summary: The contracting entity is authorized to convene statewide issue-specific review panels to review any DV fatality, gather information for the use of a statewide review panel, and provide training and technical assistance to a statewide panel. The requirement that the coordinating entity issue biennial reports is removed.

Regional DV review panels may, but are no longer required to, include the statutory list of persons on every DV fatality review panel. School teachers, guidance counselors, and student health services staff are added to the list of persons that may be included on the panel. Statewide specific-issue panels must include persons with particular subject matter expertise helpful to the panel. The statewide issue specific panel must make periodic reports to the contractor and must make a final report to the contractor for every fatality that is reviewed.

The contractor may issue periodic reports. The requirement that the contractor issue biennial reports is removed.

Votes on Final Passage:

Senate	49	0
House	97	0

Effective: July 22, 2011

SSB 5423

C 106 L 11

Modifying legal financial obligation provisions.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Regala, Hargrove, Chase and Kline).

Senate Committee on Human Services & Corrections
House Committee on Judiciary
House Committee on General Government
Appropriations & Oversight

Background: Legal Financial Obligations. When a defendant is convicted of a crime, the court may impose financial obligations as part of the judgment and sentence. Financial obligations include victim restitution; crime victims' compensation fees; court costs; court-appointed attorneys' fees and costs of defense; fines; and other costs associated with the offense or sentence. An offender's payments toward a legal financial obligation are applied first to restitution, and then proportionally to other monetary obligations after restitution has been satisfied. Costs of incarceration, if ordered, are paid last.

Interest on Legal Financial Obligations. Judgments for financial obligations in criminal proceedings bear interest from the date of judgment at the same rate that is applicable to civil judgments. The rate of interest generally applicable to civil judgments is the greater of 12 percent or four points above the 26-week treasury bill rate. As a result of low treasury bill rates, 12 percent has been the applicable interest rate on criminal financial obligation judgments for almost two decades. Interest that accrues on the restitution portion of the financial obligation is paid to the victim of the offense. All other interest accruing on the judgment is split between the state and the county as follows:

- 25 percent to the state for the Public Safety and Education Account;
- 25 percent to the state for the Judicial Information System Account; and
- 50 percent to the county's current expense fund, 25 percent of which must be used to fund local courts.

Waiver of Interest on Legal Financial Obligations. An offender may petition a court to reduce or waive the interest on legal financial obligations as an incentive for the offender to pay the principal. The court may grant the petition only if the offender shows:

- a good faith effort to pay;
- interest accrual is causing a significant hardship;

- an inability to pay both the principal and interest; and
- that reduction or waiver of interest will enable full payment.

"Good faith effort" means that the offender has either paid the principal amount in full or has made 24 consecutive monthly payments under a payment plan agreement with the court. Interest on the restitution portion of a legal financial obligation judgment may not be waived, but may be reduced if the offender has paid the restitution principal in full.

Summary: Upon motion by an offender, the court must waive the interest on non-restitution legal financial obligations that accrued during the term of total confinement for conviction that gave rise to the obligations, if the offender shows that the interest creates a hardship for the offender or his or her immediate family.

When showing a good faith effort to pay in order to allow the court to reduce or waive interest on non-restitution legal financial obligations that accrued other than when an offender was incarcerated, a good faith effort means the offender has made at least 15 monthly payments within an 18 month period.

The Administrative Office of the Courts must send billing statements for legal financial obligations periodically rather than monthly. A judgment lien on real property resulting from a criminal sentence does not expire and remains in effect until the judgment is fully satisfied. The county clerk has the same authority as the Department of Corrections to issue an order to withhold and deliver property for the collection of legal financial obligations.

Votes on Final Passage:

Senate	46	1
House	53	39

Effective: July 22, 2011

2SSB 5427

C 340 L 11

Regarding an assessment of students in state-funded full-day kindergarten classrooms.

By Senate Committee on Ways & Means (originally sponsored by Senator McAuliffe; by request of Superintendent of Public Instruction).

Senate Committee on Early Learning & K-12 Education
Senate Committee on Ways & Means
House Committee on Education
House Committee on Ways & Means

Background: In 2009 the Legislature provided \$100,000 over the biennium, contingent on an equal match from private sources, for the Department of Early Learning (DEL) to work with the Office of Superintendent of Public Instruction (OSPI) and others to identify and test a kindergarten assessment process and tools in geographically

diverse school districts. During the fall of 2010, OSPI piloted the Washington Kindergarten Inventory of Developing Skills (WaKIDS). The pilot reached 2600 incoming kindergarteners who were in 115 classrooms around the state. The purpose of WaKIDS is to gather information about the child in order to better inform teacher instruction. DEL submitted a report to the Legislature on January 15, 2011. A final report will be available in the summer of 2011.

In 2009 the Legislature redefined the minimum instructional program of Basic Education to include 180 days of half-day kindergarten, to be phased in to 180 days of all-day kindergarten, beginning with schools with the highest poverty levels. Schools receiving funding for all-day kindergarten have to agree to program requirements, including providing at least 1000 hours of instruction, providing a rich curriculum, and having connections with community early learning programs and parents. In 2010 the Legislature directed that, effective September 1, 2011, funding to implement all-day kindergarten must be phased in until full statewide implementation is achieved in the 2017-18 school year.

Summary: Beginning with the 2011-12 school year on a voluntary basis and to the extent funds are available, schools receiving all-day kindergarten support must identify the skills, knowledge, and characteristics of kindergarten students at the beginning of the school year in order to support social-emotional, physical, and cognitive growth and development of individual children; support early learning provider and parent involvement; and inform instruction. Kindergarten teachers must administer WaKIDS, as directed by the Superintendent of Public Instruction (SPI) in consultation with DEL, and report the results to the SPI, who will share the results with the Director of DEL.

Beginning in the 2012-13 school year, to the extent funds are available, WaKIDS must be administered to all students enrolled in state-funded all-day kindergarten programs. Parents and guardians may excuse their students from participating in WaKIDS.

Until full-implementation of state-funded full-day kindergarten, the SPI, in consultation with the Director of DEL, may grant annually renewable waivers in order to allow the administration of kindergarten assessments other than WaKIDS. An application for the waiver must include specified components.

Before implementing WaKIDS, the SPI and DEL must ensure that a fairness and bias review of the assessment process has been conducted, including an opportunity for input from the Achievement Gap Oversight and Accountability Committee and an additional diverse group of stakeholders.

Votes on Final Passage:

Senate	31	15	
House	57	39	(House amended)
Senate	36	12	(Senate concurred)

Effective: July 22, 2011
September 1, 2011 (Section 1)

SSB 5428

C 107 L 11

Requiring notification to schools regarding the release of certain offenders.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators McAuliffe, Harper, Hargrove, Stevens, Zarelli, Pridemore, Shin and Roach).

Senate Committee on Human Services & Corrections
House Committee on Early Learning & Human Services

Background: A person who is required to register as a sex or kidnapping offender must give notice to the county sheriff within three days prior to arriving at a school or institution of higher education to attend classes, prior to starting work at an institution of higher education, and after any termination of enrollment or employment at a school or institution. The sheriff is, in turn, required to notify the school's principal or institution's department of public safety. If the student is a risk level II or III, the principal must provide information about the student to every teacher of the student and any other personnel who, in the judgment of the principal, supervises the student, or for security purposes, should be aware of the student's record. If the student is a risk level I, information may only be released to personnel who, in the judgment of the principal, should be aware of the student's record.

When a juvenile who was adjudicated of a violent offense, a sex offense, or stalking will be released from the Juvenile Rehabilitation Administration (JRA), JRA must notify the chief of police, the sheriff, any private schools, and the school district board of directors in the vicinity in which the juvenile intends to reside. Notice must be provided at least 30 days prior to the juvenile's release.

Summary: No later than 30 days prior to a youth's release, the Department of Corrections (DOC) must notify the school district board of directors of the district in which the offender last attended school when the youth (1) is 21 years of age or younger; (2) has been found to have committed a violent offense, sex offense, or stalking; and (3) last attended school in this state.

Votes on Final Passage:

Senate	49	0
House	92	0

Effective: July 22, 2011

SSB 5436

C 248 L 11

Regarding the use of antifouling paints on recreational water vessels.

By Senate Committee on Natural Resources & Marine Waters (originally sponsored by Senators Ranker, Shin, Litzow, Swecker, Tom, Harper, Nelson, Hobbs, Fraser, Rockefeller, White, Kilmer, Conway and Kline).

Senate Committee on Natural Resources & Marine Waters
House Committee on Environment

Background: Aquatic antifouling paints are used on water vessel hulls to prevent the growth of aquatic organisms such as barnacles and algae. Most of these antifouling paints use copper to reduce the growth.

According to a 2007 study, the Department of Ecology (DOE) has conducted research measuring copper concentrations in marinas and found the primary source of copper to be from the antifouling paints found on boat hulls. Research has shown copper to be highly toxic to aquatic life.

Summary: Recreational water vessels are defined as a vessel that is less than 65 feet in length, and used primarily for pleasure or leased, rented, or chartered to a person for the pleasure of that person. It does not include a vessel that is subject to United States Coast Guard inspection and is engaged in commercial use or carries paying passengers.

After January 1, 2018, new recreational water vessels with antifouling paint containing copper may not be sold in the state. Beginning January 1, 2020, the sale of copper antifouling paint intended for use on recreational water vessels is prohibited.

DOE is required to be responsible for the enforcement of the chapter. The money from the civil penalties collected must be deposited into the state Toxics Control Account.

DOE may establish a state wide advisory committee after January 1, 2016, to assist DOE in the implementation of the Act. DOE is also required to study how antifouling paints affect marine organisms and water quality. The study is in addition to the requirement to survey the manufacturers of antifouling paints to determine the type of paints available and report the findings of the survey to the Legislature by January 1, 2018.

DOE may adopt rules to implement the act.

Votes on Final Passage:

Senate	46	3	
House	62	32	(House amended)
Senate	38	10	(Senate concurred)

Effective: July 22, 2011

SSB 5442

C 108 L 11

Requiring the development of three-year baccalaureate programs.

By Senate Committee on Higher Education & Workforce Development (originally sponsored by Senators Shin, Tom, Kilmer, White and Chase).

Senate Committee on Higher Education & Workforce Development

House Committee on Higher Education

Background: Some public and private colleges and universities offer students the opportunity to obtain a baccalaureate degree in three years. The requirements of these accelerated baccalaureate programs vary. Frequently, these accelerated degree programs require summer school attendance, prior college credits earned during high school through such programs as Advanced Placement and Running Start, or enrollment for the maximum credits allowed per quarter.

The University of Washington (UW) has a program, called The Husky Advantage, that makes it easier for students entering the university with a high number of Advanced Placement or Running Start credits to complete a bachelor's degree in three years. Through careful planning and advising, these students can complete general education requirements and fulfill the requirements of certain majors, mostly in the College of Arts and Sciences.

The Evergreen State College (TESC) reports that 9 percent of those entering as first year students graduate in three years.

Summary: The state and regional universities and TESC may develop accelerated baccalaureate degree programs that will allow academically qualified students to obtain a baccalaureate degree in three years without attending summer classes or enrolling in more than a full-time class load during the regular academic year. Qualified students in such programs must be allowed to begin course work within their academic field during their first term or semester of enrollment.

The universities and TESC must report on their plans for these accelerated programs to the Higher Education Coordinating Board for approval.

Votes on Final Passage:

Senate	46	3
House	91	3

Effective: July 22, 2011

SSB 5445

C 317 L 11

Establishing a health benefit exchange.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Keiser, Pflug, White, Conway and Kline; by request of Governor Gregoire).

Senate Committee on Health & Long-Term Care

House Committee on Health Care & Wellness

House Committee on Ways & Means

Background: The federal Patient Protection and Affordable Care Act (PPACA), passed in March 2010, requires states to establish health insurance exchanges (Exchange) by January 1, 2014, to facilitate the purchase of individual insurance and small employer group insurance, and provide access to premium tax credits and cost-sharing reductions for individuals with family incomes between 133 percent and 400 percent of the Federal Poverty Level (FPL). Individuals with income below 133 percent will have access to expanded Medicaid programs. The federal subsidies for individuals will only be available through the Exchange, or through a federal Basic Health option that states may choose to have available for individuals with family income between 133 percent and 200 percent of the FPL.

The Exchanges are responsible for a number of functions or services, including:

- certifying qualified health plans that may offer products;
- seamless linking with Medicaid eligibility and enrollment;
- verifying income and citizenship status;
- ensuring the benefit packages offered include the essential health benefits and are available at four benefit values – 60 percent, 70 percent, 80 percent and 90 percent;
- applying risk adjustment and reinsurance;
- operating a toll free hotline and consumer portal that allows comparison shopping and premium calculation and facilitates enrollment; and
- adjudicating appeals.

Exchanges may be administered by public agencies, private nonprofit entities, or some combination. States have a number of policy decisions about the structure and focus of the Exchange, and must demonstrate good progress toward development of an Exchange by January 1, 2013, as certified by the federal Department of Health and Human Services (HHS). HHS has made grant funding available to all states to help with the research and planning, and has recently announced the availability of additional grant opportunities to fund the development and implementation. HHS will establish an Exchange for residents and small employer groups in states that choose not to establish their own Exchange.

Summary: The state must establish an Exchange consistent with PPACA intending to:

- increase access to quality affordable health care coverage;
- provide consumer choice and portability of health insurance, regardless of employment status;
- create an organized insurance marketplace that provides access to federal subsidies;
- promote consumer literacy and empower consumers to compare plans and make informed decisions about health care;
- effectively administer subsidies and determine eligibility for all subsidized programs;
- create a health insurance market that competes on the basis of price, quality, service, and other innovative efforts;
- operate in a manner compatible with efforts to improve quality, contain costs, and promote innovation;
- recognize the need for a private health insurance market to exist outside the exchange; and
- recognize that the regulation of the insurance market, inside and outside the exchange, should continue to be performed by the Insurance Commissioner.

The Exchange is established as a public-private partnership separate and distinct from the state, exercising functions delineated by the act. By January 1, 2014, the Exchange must be operational, consistent with federal law, and subject to statutory authorization. The powers and duties of the Exchange and the Board are limited to those necessary to apply for and administer grants, establish information technology infrastructure, and other administrative functions necessary to begin operating the Exchange by January 1, 2014. The Exchange has the authority to sue and be sued; make and execute agreements and contracts; employ or contract with personnel; pay administrative costs; and accept grants, donations, and other funding. Any actions relating to substantive policy decisions must be consistent with statutory direction.

The Exchange Board must be appointed by the Governor. By October 1, 2011, each of the four caucuses of the House and Senate must submit a list of five nominees to the Governor. Persons on the list may not be legislators nor government employees. Nominations from the largest caucus in the House must include one employee benefits specialist. Nominations from the second largest caucus in the House must include one health economist or actuary. Nominations from the largest caucus in the Senate must include one representative of health consumer advocates. Nominations from the second largest caucus in the Senate must include one representative of small business. The remaining nominations from each caucus must have demonstrated and acknowledged expertise in one of the following: individual health care coverage, small

employer health care coverage, health benefits plan administration, health care finance and economics, actuarial science, or administering a public or private health care delivery system.

By December 15, 2011, the Governor must appoint two members from each list submitted by the caucuses, including at least one employee benefits specialist, one health economist or actuary, one representative of small business, and one representative of health consumer advocates. The Governor must appoint an additional member to act as chair, who will serve as a nonvoting member except to break ties. The chair may not be a government employee. The Insurance Commissioner or designee and the Administrator of the HCA or designee will serve as nonvoting members.

A board member may not be appointed if the member's participation in the decisions of the Board could benefit his or her own financial interests or the financial interests of the entity the board member represents. Board members that develop a conflict of interest must resign or be removed. The business of the Board must comply with the Public Records Act and the Open Public Meetings Act, but the Board is exempt from any other law or regulation generally applicable to state agencies. The Board must establish an advisory committee to allow for the views of the health care industry and other stakeholders, and the Board must consult with the American Indian Health Commission.

The HCA must collaborate with the Joint Select Committee on Health Reform Implementation (JSC), and submit analysis and recommendations to the Legislature by January 1, 2012, on the broad range of policy options and design features for the Exchange, including:

- the governance, operations, and administration;
- the goals and principles;
- creation of a single state-administered exchange for all geographic areas, and whether the state should consider a regionally administered multistate exchange;
- whether the exchange can serve as an aggregator of funds to gather premium contributions from multiple entities;
- coordination of the exchange with other state programs;
- the development of sustainable funding for administration by 2015;
- the structure needed for information technology to support the implementation of exchange activities;
- whether to adopt a federal Basic Health option, who should administer the option, and whether to merge the risk pool with Medicaid;
- whether to merge the individual and small group risk pools in the Exchange and in the private market;

- whether the small group size should increase to 100 prior to 2016;
- creation of requirements, standards, and criteria for the creation of qualified health plans offered through the exchange;
- certifying, selecting, and facilitating the offer of coverage for individuals and small employer groups through an exchange;
- the role of producers and navigators, including the option of using private insurance market brokers as navigators;
- effective implementation of risk management methods;
- participation in efforts to contain costs in public and private health care coverage;
- the extent under which benefits for spiritual care services that are deductible under the IRS will be made available under the exchange; and
- other business recommendations, such as staffing and resources to administer an exchange.

The HCA must apply for and implement grants, and whenever possible grant applications must allow for partial funding of the JSC. The HCA must develop information for the federal Department of Health and Human Services, including a budget for the development and operation of the Exchange; an initial plan to achieve financial sustainability; a plan to prevent fraud, waste, and abuse; and a plan describing how capacity for assisting individuals and small business will be created, continued, or expanded, including provision for a call center.

The HCA and the Board must consult with the JSC, the Office of Insurance Commissioner, and interested stakeholders including: consumers; individuals and entities with experience facilitating enrollment in health insurance coverage including health insurance carriers, producers, and navigators; representatives of small businesses, employees of small business, and self-employed individuals; advocates for enrolling hard-to-reach populations and populations enrolled in publicly subsidized health care programs; facilities and providers of health care; and actuaries.

The HCA may enter into information sharing agreements with federal and state agencies and interdepartmental agreements, and provide staff and resources to the extent funding is available. Beginning March 15, 2012, all duties and responsibilities assigned in this act are transferred to the Exchange and the Board. The Health Benefit Exchange Account is created as a non-appropriated account to receive federal grant funds, and the HCA may authorize expenditures initially and the Board may authorize expenditures beginning March 15, 2012.

Votes on Final Passage:

Senate	27	22	
House	75	22	(House amended)
Senate	32	16	(Senate concurred)

Effective: July 22, 2011

SSB 5451

C 323 L 11

Concerning shoreline structures in a master program adopted under the shoreline management act.

By Senate Committee on Natural Resources & Marine Waters (originally sponsored by Senators Ranker, Ericksen, Pridemore, Harper, Carrell, Hobbs, Rockefeller, Tom, White and Shin).

Senate Committee on Environment, Water & Energy
Senate Committee on Natural Resources & Marine Waters
House Committee on Environment
House Committee on Local Government

Background: The Shoreline Management Act (SMA) governs uses of state shorelines. The Department of Ecology (DOE) and local governments are authorized to adopt necessary and appropriate rules for implementing the provisions of SMA.

At the local level, the SMA regulations are developed in local shoreline master programs. All counties and cities with shorelines of the state are required to adopt master programs that regulate land use activities. Counties and cities are also required to enforce master programs within their jurisdiction. Local master programs have certain mandatory elements as appropriate, and local governments may include other elements necessary to implement the SMA requirements. Mandatory elements include:

- an economic development element for locating and designing water-dependent industrial projects and other commercial activities;
- a public access element to provide access to public areas;
- a recreational element to preserve and enhance shoreline recreational opportunities;
- a circulation element to locate transportation and other public facilities for shoreline use;
- a use element addressing the location and extent of shoreline use for housing, business, industry, transportation, agriculture, natural resources, recreation, education, public facilities, and other uses;
- a conservation element to preserve natural resources in shoreline areas;
- a historic, cultural, scientific, and educational element to protect buildings, sites, and areas with such values; and
- an element considering statewide interests in preventing and minimizing flood damage.

A master program becomes effective when approved by DOE.

Summary: The act allows DOE approved new or amended master programs on or after September 1, 2011, to include provisions authorizing:

- qualifying residential structures and appurtenant structures to be considered conforming structures; and
- redevelopment, expansion, change with the class of occupancy, or replacement of the residential structure if it is consistent with the master program.

Appurtenant structures are defined to mean garages, sheds, and other legally established structures.

The act does not restrict the ability of a master program to limit redevelopment, expansion, or replacement of over-water structures or structures located in hazardous areas.

Votes on Final Passage:

Senate	47	0	
House	77	19	(House amended)
Senate	48	0	(Senate concurred)

Effective: July 22, 2011

SSB 5452

C 305 L 11

Regarding communication, collaboration, and expedited medicaid attainment concerning persons with mental health or chemical dependency disorders who are confined or committed in a state institution.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Hargrove, Stevens and Haugen).

Senate Committee on Human Services & Corrections
House Committee on Public Safety & Emergency Preparedness

Background: The Post Institutional Medical Assistance system (PIMA system) is a communication tool under development at the Department of Social and Health Services (DSHS) which will facilitate suspension of medical assistance and expedited medical assistance applications for persons in the custody of a correctional facility or institution for mental disease.

Summary: DSHS may disclose the fact, place, and date of an individual's civil commitment for mental health treatment to a correctional institution for the purpose of using the PIMA system. An evaluation and treatment facility, hospital emergency department, or crisis stabilization unit which detains a person for a civil commitment evaluation must make reasonable attempts to inform a peace officer if the patient is released pursuant to a specific request if the officer has provided contact information. Notification of the release or escape of a state hospital

patient committed following a charge for a sex, violent, or felony harassment offense must be provided to the chief of police and sheriff of the city or county which had jurisdiction over the person at the time of the offense.

Votes on Final Passage:

Senate	48	0	
House	92	0	(House amended)
Senate	48	0	(Senate concurred)

Effective: July 22, 2011

ESSB 5457

C 373 L 11

Providing a congestion reduction charge to fund the operational and capital needs of transit agencies.

By Senate Committee on Transportation (originally sponsored by Senators White, Shin, Murray, Kohl-Welles, Harper, Nelson, Keiser, Prentice, Kline and McAuliffe).

Senate Committee on Transportation
House Committee on Transportation

Background: There are 31 transit systems operating in the state. Transit systems are special purpose districts authorized to provide public transportation services within their respective boundaries. These transit systems can be formed under a variety of different governance structures, including public transportation benefit areas (PTBAs), metropolitan municipal corporations, county transportation authorities, city-owned transit systems, and regional transit authorities.

To fund capital and operating expenses, transit systems are authorized to seek voter approval of up to 0.9 percent in sales and use tax. Most transit systems may also seek voter approval of a business and occupation tax and a household tax in lieu of a sales and use tax. Fares may be set and increased by the transit agency's governing body without voter approval.

Summary: A metropolitan municipal corporation may impose, upon a two-thirds majority approval of the governing body of the system or by a simple majority vote of the people, a congestion reduction charge for certain vehicles of up to \$20. This charge remains in effect until two years after it is imposed or June 30, 2014, which ever comes first.

Public transportation systems that impose a congestion reduction charge are required to complete a congestion reduction plan prior to implementation as well as reports detailing the expenditures of the congestion reduction charge.

The proceeds from the charge must be used in a manner that is consistent with recommendations of a regional transit taskforce, if one was completed in the past two years.

If a charge is imposed after June 30, 2014, it must be approved by a majority vote of the people in the jurisdiction.

Votes on Final Passage:

Senate	26	23	
House	51	46	(House amended)

Conference Committee

Senate	25	21
House	50	47

Effective: July 22, 2011

2SSB 5459
PARTIAL VETO
C 30 L 11 E 1

Regarding services for people with developmental disabilities.

By Senate Committee on Ways & Means (originally sponsored by Senators Kline, Keiser, Regala and McAuliffe).

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

Background: The state operates five residential habilitation centers (RHC) established in statute to provide services and housing for persons with developmental disabilities: Rainier School in Buckley, Lakeland Village in Medical Lake, Fircrest School in Shoreline, Frances Haddon Morgan Children's Center in Bremerton, and Yakima Valley School in Selah. Today approximately 900 individuals reside in RHCs, as permanent residents, for short term or respite stays. There are 36 individuals under age 21.

Over the years there have been repeated efforts to reduce the number of people in RHCs as trends for providing services to persons with developmental disabilities have increasingly focused on doing so in community settings. Today, the Department of Social and Health Services (department) provides community-based services through a number of programs to approximately 20,000 clients. These are designed as alternatives to institutions for eligible individuals with developmental disabilities who either live with family members, in rented housing, or in contracted or licensed residential housing in the community. Besides the individuals who receive some services either through RHC or in the community, an estimated 14,000 eligible clients do not receive any paid services due to lack of available funding.

Currently the department is implementing plans to close two of the five RHCs: Frances Haddon Morgan, by June 30, 2011, and Yakima Valley School by December 31, 2012. The closure of these facilities is included in the Governor's proposed budget for the 2011-2013 biennium. All of the 50 residents of Frances Haddon Morgan will be relocated to either a community residential placement,

such as a state operated living arrangement (SOLA) or to one of three remaining RHCs.

The department plans to set up three new SOLAs, and is currently working with Fircrest, Lakeland, and Rainier to accommodate residents leaving Frances Haddon Morgan who do not want a community placement.

It is planned that the first ten residents leaving Yakima Valley School will do so by the end of 2011. The department is planning to establish crisis stabilization programs for children and adults using, where possible, institutional staff who will no longer be employed at the closed facilities.

Summary: Persons under the age of 16 may not be admitted to a Residential Habilitation Center. Persons between ages 16 and 21 may be admitted for short-term crisis or respite care.

Frances Haddon Morgan Center must close by December 31, 2011. Admissions to Yakima Valley School are frozen except for limited, short-term admissions for crisis and respite. When the resident population at YVS reaches 16 individuals, the institution will cease to exist as an RHC.

The current operation of 12 crisis stabilization and respite beds at Yakima Valley School is maintained, and these beds will stay in operation after the institution no longer operates as an RHC.

The Department of Social and Health Services must establish State Operated Living Alternatives (SOLAs) for clients who are transitioning out of RHCs and upon federal approval, must convert two cottages at both Frances Haddon Morgan Center and Yakima Valley School into SOLAs that will operate after these institutions close.

DSHS must offer RHC employees opportunities to work in the SOLAs as they are established.

Any savings achieved by the closure of Frances Haddon Morgan Center must be used for additional community resources including state-staffed crisis and respite services.

Up to eight state-staffed crisis stabilization beds and up to eight respite beds are established throughout the state.

A legislative task force is established to make recommendations on the long term need for RHC capacity; develop a plan for efficient consolidation of institutional capacity; recommend strategies for the use of surplus property that results from the closure of RHCs; and provide strategies for reframing the mission of Yakima Valley School.

Votes on Final Passage:

First Special Session

Senate	35	11	
House	63	33	(House amended)
Senate	32	13	(Senate concurred)

Effective: June 30, 2011 (Section 7)
August 24, 2011

Partial Veto Summary: Language directing the department to institute specific client transition processes and services is vetoed. The department is not required to submit annual reports on client satisfaction, and provide turnover to the Legislature.

VETO MESSAGE ON 2SSB 5459

June 15, 2011

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 11, Second Substitute Senate Bill 5459 entitled:

"AN ACT Relating to services for people with developmental disabilities."

This bill makes a number of changes that address the increased provision of services to persons with developmental disabilities in community settings. It reduces admissions to residential habilitation centers, closes the Frances Haddon Morgan Center by December 31, 2011, provides for relocation and alternatives, and strengthens the array of support available in communities.

Section 7 of this bill mandates that the Department of Social and Health Services provide a series of processes and services that assist successful client transitions into the community. Most provisions in this section are current practices within the Department, including the following: person-centered approaches to discharge plans, family mentoring, offering residential habilitation center employees opportunities for employment in community settings, offering residents leaving a residential habilitation center the ability to return, and maximizing federal funding. Approval of Section 7 is not required to implement these approaches. However, Section 7(2)(f)(vii) could be interpreted to mandate that the Department provide new transportation services and other supports to assist family and friends in maintaining regular contact with residents who have moved out of a residential habilitation center. While I agree that clients should maintain contact with their family and friends, this subsection could create a broad, undefined requirement that is also unfunded. The type, frequency, and costs of transportation are not easily assessed. Because these unknown elements present serious concerns about unanticipated fiscal impacts, I am vetoing Section 7.

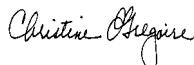
Section 11 mandates that the Department annually submit a report to the Legislature regarding persons who have transitioned from residential habilitation centers to the community. Much of the information required for this report is already gathered as a standard part of the client assessment and existing quality assurances processes. Aggregating and assembling client-specific information into a new report is a significant unfunded mandate.

Although I am vetoing this section, I am directing the Department to share the various reports related to the quality of client transitions and community-based services with the Legislature.

For these reasons, I have vetoed Sections 7 and 11 of Second Substitute Senate Bill 5459.

With the exception of Sections 7 and 11, Second Substitute Senate Bill 5459 is approved.

Respectfully submitted,



Christine O. Gregoire
Governor

SB 5463

C 109 L 11

Requiring the college board to establish minimum standards for common student identifiers.

By Senators Kilmer, Becker, Kastama, Shin, Tom and White.

Senate Committee on Higher Education & Workforce Development

House Committee on Higher Education

House Committee on Education Appropriations & Oversight

Background: The State Board for Community and Technical Colleges (SBCTC) sets policy direction for the community and technical college system in collaboration with the colleges. The SBCTC is required to provide general supervision and control over the state system of community and technical colleges and allocates state resources to the colleges.

Among its specific responsibilities the SBCTC must (1) prepare a single system operating budget request and capital budget request for consideration by the Legislature; (2) disburse capital and operating funds appropriated by the Legislature to the college districts; (3) administer criteria for establishment of new colleges and for the modification of district boundary lines; (4) establish minimum standards for the operation of community and technical colleges with respect to personnel qualifications, budgeting, accounting, auditing, curriculum content, degree requirements, admission policies, and the eligibility of courses for state support; and (5) prepare a comprehensive master plan for community and technical college education.

Summary: The SBCTC must establish minimum standards for common student identifiers that a student receives upon enrolling at any community or technical college and retains when transferring to any other college district.

Votes on Final Passage:

Senate	48	0
House	95	0

Effective: July 22, 2011

SB 5480

C 178 L 11

Concerning submission of certain information by physicians and physician assistants at the time of license renewal.

By Senators Conway and Keiser.

Senate Committee on Health & Long-Term Care

House Committee on Health Care & Wellness

House Committee on Health & Human Services
Appropriations & Oversight

Background: The Medical Quality Assurance Commission (Commission) establishes and monitors qualifications for licensure of physicians and physician assistants, and enforces practice standards and professional conduct through discipline and continuing education. Physicians and physician assistants renew their licenses on a two-year cycle, in accordance with Commission rules, and on a form approved by the Commission.

Summary: The Commission must request licensees to submit information about their current professional practice at the time of license renewal. This information may include practice setting, medical specialty, board certification, or other relevant data determined by the Commission.

Votes on Final Passage:

Senate 45 2

House 91 5

Effective: July 22, 2011

SB 5482

C 110 L 11

Authorizing existing funding to house victims of human trafficking and their families.

By Senators Kohl-Welles, Hobbs, Eide, Keiser, Fraser, Prentice and Conway.

Senate Committee on Financial Institutions, Housing & Insurance

House Committee on Community Development & Housing

House Committee on General Government
Appropriations & Oversight

Background: Affordable Housing for All Surcharge. There is a \$10 recording surcharge fee, of which the county auditor retains up to 5 percent for the collection and administration of the funds. Forty percent of the funds collected are remitted to the state Affordable Housing for All Account. The Department of Commerce (Commerce) uses these funds to provide housing and shelter for extremely low-income households. The remaining funds may be used by the counties to fund eligible housing

activities for very low-income households, with priority for extremely low-income households by funding:

- the acquisition, construction, or rehabilitation of housing projects, including units for homeownership, rental units, farm worker housing, and single-room occupancy units;
- supporting building operation and maintenance costs of housing projects;
- rental assistance vouchers; and
- operating costs for emergency shelters and overnight shelters.

Homeless Housing Recording Surcharge. The Legislature enacted the Homeless Housing and Assistance Act in 2005, the goal of which is to reduce homelessness by 50 percent statewide and in each county by July 1, 2015. This goal is to be achieved through the creation of plans to address the causes of homelessness and the implementation of solutions to homelessness through state and county homeless housing programs. The Homeless Housing and Assistance Program is funded by a \$10 surcharge for certain documents recorded by the county auditor. Of that \$10 surcharge:

- the auditor retains 2 percent;
- 60 percent of the remaining funds 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; and
- the remaining monies are remitted to Commerce and deposited into the Home Security Fund, a nonappropriated account, of which 12.5 percent is used for administering the Homeless Housing Program, and the remaining funds provide housing and shelter for the homeless.

During the 2009-2011 and 2011-2013 biennia, the \$10 surcharge is increased to \$30.

There is also an \$8 recording surcharge, of which:

- 90 percent of the funds are remitted to the county for its homeless housing plans and programs that accomplished the goals of the county's plan; and
- the remaining funds are deposited into the Home Security Fund and used by Commerce program administration, housing and shelter assistance for homeless persons, and the Homeless Housing Grant Program.

Summary: The funds received by both Commerce and counties under the Affordable Housing for All Surcharge may be used to house victims of human trafficking, and their families. Funds from the Home Security Fund may also be used to house victims of human trafficking, and their families.

ESSB 5485

Votes on Final Passage:

Senate	49	0
House	94	0

Effective: July 22, 2011

ESSB 5485

C 341 L 11

Maximizing the use of our state's natural resources.

By Senate Committee on Environment, Water & Energy (originally sponsored by Senators Hargrove and Ranker).

Senate Committee on Environment, Water & Energy
House Committee on Environment
House Committee on Capital Budget

Background: It is the policy of the state to ensure that energy conservation practices and renewable energy systems are used in the design of major publicly owned or leased facilities. Whenever a public agency determines that a major facility should be constructed or renovated, the agency must conduct a life-cycle cost analysis that includes energy costs as well as all operating costs. A life-cycle analysis must conform to guidelines established by the Department of General Administration (GA). In addition, all major public facility projects receiving capital funding must be designed, constructed, and certified to Leadership in Energy and Environmental Design (LEED) silver standard.

Life-cycle assessments review every impact associated with all stages of a process from extracting raw materials through manufacturing, distributing, using, repairing, maintaining, recycling, or disposing. Life-cycle assessment can provide a broader review on the environmental, social, and economic concerns related to a product.

Embodied energy is the amount of energy needed to extract, transport, manufacture, install, and recycle or dispose of a product or service. Methodologies to determine embodied energy vary as to the scale and scope of the use and type of embodied energy.

Summary: The University of Washington (UW) College of Built Environments and the Washington State University (WSU) College of Engineering and Architecture must complete a review of other states' existing building codes, international standards, peer-reviewed research and models of life-cycle assessment, embodied energy and embodied carbon in building materials. The review must identify:

- if standards and models are developed according to recognized consensus-based process, and could be implemented as part of building standards or building codes; and
- the scope of life-cycle impacts addressed in the standards and models.

The UW and WSU must report to the Legislature recommendations for methodologies to:

- determine if a standard, model, or tool using life-cycle assessment can be sufficiently developed to be incorporated into the state Building Code;
- develop a comprehensive guideline using common and consistent metrics for embodied energy, carbon, and life-cycle accounting of building materials; and
- incorporate ongoing monitoring, verification, and reporting of a high performance public building over its life cycle.

UW and WSU must seek input from design representatives, construction professionals, academics, building materials industries, and life-cycle assessment experts.

GA must make recommendations for streamlining statutory requirements of life-cycle cost analysis, energy conservation in design, and high performance buildings using the report from UW and WSU.

If specific funding is not included in the Omnibus Appropriations Act, this bill is null and void.

Votes on Final Passage:

Senate	44	5	
House	91	1	(House amended)
Senate	47	0	(Senate concurred)

Effective: July 22, 2011

SSB 5487

C 306 L 11

Regarding eggs and egg products in intrastate commerce.

By Senate Committee on Agriculture & Rural Economic Development (originally sponsored by Senators Schoesler, Hatfield, Hobbs, Delvin, Honeyford, Becker and Shin).

Senate Committee on Agriculture & Rural Economic Development

House Committee on Agriculture & Natural Resources

Background: The Department of Agriculture (WSDA) administers the Wholesome Eggs and Egg Products Act. The stated purpose of this act is to promote uniformity of state legislation and regulation with the federal Egg Products Inspection Act. The act contains provisions for licensing, inspection, sanitation, pasteurization, and labeling.

Persons who commit violations are subject to civil penalties of up to \$1,000 per day per violation. Also, violations may be punishable as a misdemeanor for a first violation, or as a gross misdemeanor for a second or subsequent violation.

Summary: Entities providing eggs or egg products for intrastate commerce that apply for either an egg handler or egg dealer license before January 1, 2026, must include proof that their eggs are produced by egg laying operations

that meet the 2010 version of the United Egg Producer's (UEP) animal husbandry guidelines.

Any new facilities built between January 1, 2012, and December 31, 2016, must also show it was approved under or convertible to the American Humane Association (AHA) Facility System Plan for Enriched Colony Housing in effect on January 1, 2011. Commencing on January 1, 2017, facilities built during this five-year period must then be operated in compliance with the UEP and AHA standards; provide no less than 116.3 square inches of space per hen; and provide access to areas for nesting, scratching, and perching.

As of January 1, 2026, all facilities existing on January 1, 2012, and facilities built after January 1, 2012, must show they meet the AHA standards; provide no less than 116.3 square inches of space per hen; and provide access to areas for nesting, scratching, and perching.

WSDA may adopt by rule, subsequent versions of the UEP or AHA standards, or may adopt standards that are equivalent or more stringent than the UEP or AHA standards.

These requirements apply to operations that have more than 3000 laying chickens.

A list of products containing a limited amount of eggs is excluded from the definition of egg products.

Votes on Final Passage:

Senate	34	13	
House	70	27	(House amended)
Senate	32	14	(Senate concurred)

Effective: August 1, 2012

SB 5492
C 54 L 11

Changing Washington beer commission provisions.

By Senators Schoesler, Hatfield and Hewitt.

Senate Committee on Agriculture & Rural Economic Development

House Committee on State Government & Tribal Affairs

Background: Legislation enacted in 2006 permitted state-licensed beer brewers producing less than 100,000 barrels annually per location to create a new commodity commission if they opted to do so in a referendum process. Affected brewers subsequently voted to create the Washington Beer Commission (Commission).

With oversight by the Director of the Washington Department of Agriculture, the Commission promotes Washington beer and may conduct research, promotional, and educational campaigns. The Commission may also promote Washington-grown hops, malting barley, and wheat.

To fund its activities, the Commission assesses affected brewers and sells beer at Commission-sponsored beer festivals.

Summary: The 100,000 barrel annual production limit on brewers assessed and represented by the Commission is deleted, enabling any state-licensed brewer to be assessed and represented by the Commission.

Votes on Final Passage:

Senate	46	3
House	92	0

Effective: July 22, 2011

SSB 5495
C 42 L 11

Concerning shareholder quorum and voting requirements under the Washington business corporation act.

By Senate Committee on Judiciary (originally sponsored by Senators Kohl-Welles and Pflug).

Senate Committee on Judiciary
House Committee on Judiciary

Background: The Washington Business Corporations Act (WBCA) provides default rules with respect to quorum and voting requirements for corporate actions. A corporation may alter these requirements in its articles of incorporation as long as the altered quorum and voting requirements meet certain minimum standards in the WBCA.

In some instances, a voting group representing a particular class or series of shares may be entitled to vote separately on proposed corporate actions. When separate voting by voting groups is required, quorum and voting requirements must be met for the voting group representing all shares entitled to vote on the action, as well as for each voting group entitled to vote separately on the action.

Quorum Requirements. The WBCA provides that a majority of the votes entitled to be cast on an action represents a quorum. The articles of incorporation may provide for a greater or lesser quorum requirement as long as it is not less than one-third of votes entitled to be cast on the action.

Voting Requirements. Generally the WBCA provides that if a quorum exists, corporate action is approved if the votes approving the corporate action exceed the votes opposing the corporate action, unless the articles require a greater voting requirement.

However, there are a number of corporate actions that may be taken by the board of directors only upon approval of the shareholders, and approval of these actions is subject to different voting requirements. These actions include amendments to some provisions of the articles of incorporation; mergers or share exchanges; the sale of the assets of the corporation other than in the regular course of business; and dissolution of the corporation. With respect to these actions, the WBCA generally requires the action to be approved by two-thirds of the votes entitled to be cast. The articles of incorporation may require a greater or

lesser voting requirement as long as the voting requirement is not less than a majority of all votes entitled to be cast on the action.

Summary: The WBCA is amended to establish alternative shareholder quorum and voting requirements that are applicable to corporations that have foreign shareholders and meet other specified criteria.

Alternative Quorum Requirements. The required quorum of the voting group consisting of all shares entitled to be cast, and of each voting group entitled to vote separately on the action, is the lesser of:

- a majority of the shares other than shares credited to stock depositories located in a member state of the European Union, as long as this majority equals or exceeds one-sixth of the total votes entitled to be cast by the voting group; or
- one-third of the total votes entitled to be cast by the voting group.

Alternative Voting Requirements. The vote required for approval by any voting group entitled to vote on the corporate action is a majority of the votes actually cast by the voting group, as long as the votes approving the action equal or exceed 15 percent of the votes within the voting group.

This alternative voting requirement applies to the following corporate actions: amendment of the articles of incorporation or bylaws; plan of merger or share exchange; disposition of all or substantially all of the corporation's property not in the usual and regular course of business; and dissolution.

Criteria for Alternative Quorum and Voting Requirements. A corporation must meet all of the following requirements in order to be subject to the alternative shareholder quorum and voting requirements:

- As of the record date of the annual or special meeting of shareholders, the corporation is a public company, shares of its common stock are listed on a European Union regulated market, and at least 20 percent of the corporation's shares are credited to the accounts of stock depositories located in a member state of the European Union.
- At the time such shares were initially listed on the European Union regulated market, the corporation's shares were listed on the New York Stock Exchange or the NASDAQ Stock Market.
- The listing of shares on the European Union regulated market was a condition to the acquisition of 100 percent of the equity interests of a foreign corporation and certain other conditions relating to the acquisition are met.
- At the corporation's most recent annual or special meeting less than 65 percent of the shares within the voting group comprising all the votes entitled to be cast were present in person or by proxy.

Votes on Final Passage:

Senate	49	0
House	91	1

Effective: April 13, 2011

SB 5500

C 249 L 11

Concerning the rule-making process for state economic policy.

By Senators Baumgartner, Chase, Kastama, Zarelli, Schoesler, Shin, Holmquist Newbry, Delvin, Parlette, Kilmer and Roach.

Senate Committee on Economic Development, Trade & Innovation

House Committee on State Government & Tribal Affairs

Background: Under current law, all state agencies and local governments with rule-making authority have to consider economic values in the rule-making process.

In 1994 the Legislature adopted the Regulatory Fairness Act to protect small businesses from being disproportionately impacted by state regulation. Under certain circumstances the statute requires agencies to prepare a Small Business Economic Impact Statement (SBEIS) when adopting a rule. If disproportionate impact on small business is found in the impact statement, agencies must, where legal and feasible, reduce the costs imposed on small businesses by a rule.

When an SBEIS is required on a rule, agencies must either directly notify known interested small businesses or provide information on the rule to publications likely to be obtained by affected small businesses.

Summary: A legislative finding states that government decisions can have negative consequences for businesses and employees. Those with rule-making authority have to consider economic impacts in the rule-making process.

Agencies must consider specified methods to reduce the impact of a proposed rule on small businesses, including those suggested by small businesses or small business advocates.

When an SBEIS is required on a rule, agencies must provide notice of the rule directly to known interested small businesses, through publications likely to be obtained by affected small businesses, and via posting on the agency website.

Votes on Final Passage:

Senate	47	0
House	95	0

Effective: July 22, 2011

SB 5501

C 55 L 11

Concerning the taxation of employee meals provided without specific charge.

By Senators Murray, Kilmer, Schoesler, Conway, Honeyford, Kohl-Welles, Keiser, Shin, Holmquist Newbry and White.

Senate Committee on Ways & Means

House Committee on Ways & Means

Background: Retail sales and use taxes are imposed by the state, most cities, and all counties. Retail sales taxes are imposed on retail sales of most articles of tangible personal property, digital products, and some services. A retail sale is a sale to the final consumer or end user of the property, digital product, or service. If retail sales taxes were not collected when the property, digital products, or services were acquired by the user, then use taxes apply to the value of most tangible personal property and digital products and some services when used in this state. The state sales and use tax rate is 6.5 percent. Local tax rates vary from 0.5 percent to 3.0 percent, depending on the location.

Food and food ingredients purchased for human consumption are exempt from sales and use tax. However, prepared meals are generally subject to the retail sales or use tax. Prepared meals are meals that are:

- sold in a heated state or heated by the seller;
- sold with eating utensils provided by the seller; and
- food in which two or more food ingredients are mixed or combined by the seller for sale as a single item.

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. 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. There are a number of different rates. The main rates are 0.471 percent for retailing; 0.484 percent for manufacturing, wholesaling, and extracting; and 1.8 percent for professional and personal services, and activities not classified elsewhere.

Meals provided to employees free of charge are considered to be in exchange for services received from the employee and thus are subject to the sales tax and retailing classification of the B&O tax.

Summary: A B&O tax and a sales and use tax exemption are provided to restaurants for meals provided to employees without a specific charge to the employee.

Restaurant is defined to be any establishment having special space and accommodation where food and beverages are regularly sold to the public for immediate, but not necessarily on-site, consumption. The term restaurant

excludes grocery stores, mini-markets, and convenience stores.

Votes on Final Passage:

Senate	49	0
House	91	1

Effective: July 1, 2011

SSB 5502

C 374 L 11

Concerning the regulation, operations, and safety of limousine carriers.

By Senate Committee on Transportation (originally sponsored by Senators White, Nelson, Keiser, Ranker, Kohl-Welles, Rockefeller, Murray, Litzow, Harper, Fain, Swecker, Delvin and Shin).

Senate Committee on Transportation

House Committee on Transportation

House Committee on General Government
Appropriations & Oversight

Background: Currently, all limousine carriers must operate from a main office. However, no office may be solely in a vehicle. All arrangements for the carrier's services must be made through its offices and dispatched to the carrier's vehicles.

The Department of Licensing (DOL) and/or the Washington State Patrol (WSP) must regulate limousine carriers with respect to entry, safety equipment inspections, chauffeur qualifications, and operations. Under certain circumstances, a port district, city, or county may regulate limousines.

A limousine carrier may advertise its services with a number of limitations.

A chauffeur may not operate a limousine unless he or she is at least 21 years of age, holds a valid driver's license, has successfully completed a training course approved by DOL, has successfully passed a written examination, has successfully completed a background check, and has submitted a medical certificate certifying his or her fitness as a chauffeur.

DOL may adopt and enforce fee setting rules.

Summary: Contact by a customer or customer's agent to engage the services of a carrier's limousine must be initiated by a customer or customer's agent at a time and place different from the customer's time and place of departure. Under no circumstances may customers or customers' agents make arrangements to immediately engage the services of a carrier's limousine with the chauffeur. However, a limousine carrier is no longer required to operate from a main office.

Further, chauffeurs are required to do the following:

- generally substantiate the prearrangement of business through written electronic records;

- list a physical address on their master business license where records may be reviewed; and
- list a telephone number or pager number on their master business license that is used to prearrange the carrier's services.

WSP, and in some instances a port district or city, must conduct annual limousine safety inspections, random records inspections, and other law enforcement activities relating to state laws or rules applicable to limousine carriers and chauffeurs.

No limousine carrier may operate a limousine upon the highways of this state without the following:

- registration as a business in Washington;
- a unified business identifier;
- a limousine carrier license;
- liability and property damage insurance;
- a limousine vehicle certificate for each limousine operated by a carrier.

A number of penalties may be incurred by a carrier, chauffeur, or a third party for not complying with rules regarding proper advertisement.

Among other requirements for a chauffeur to operate a limousine, the chauffeur must have passed an initial controlled substance test, participate in random controlled substance testing, and have a satisfactory driving record.

Any fee related to limousine vehicle certificates must not exceed \$75; any fee related to a limousine carrier license for a business must not exceed \$350; and any fee related to limousine vehicle inspections must not exceed \$25.

DOL must convene an internal workgroup regarding the issuance of chauffeur licenses and must provide a report on its recommendations on this issue to the Legislature.

A Limousine Carriers Account is created in the state treasury where all receipts from each civil infraction and violation regarding limousine regulations must be deposited.

A cooperative agreement is required that allows for local enforcement of limousine laws to restrict the fee revenue use by a city to the costs of enforcing state laws or rules applicable to limousine carriers and chauffeurs.

A contract for payment to a third party to solicit customers is required to be stored at the limousine carrier's business premises and requires limousines engaged in the services detailed in the contract to carry a certificate verifying the existence of a current contract.

A limousine chauffeur is required to file a physician's certification with the limousine carrier upon initial application and every two years thereafter.

Votes on Final Passage:

Senate	37	12	
House	81	15	(House amended)
Senate	35	11	(Senate concurred)

Effective: July 22, 2011
 January 1, 2012 (Sections 1-12)
 July 1, 2012 (Section 14)

SSB 5504

C 296 L 11

Addressing unlicensed child care.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Eide, Kohl-Welles and Keiser).

Senate Committee on Human Services & Corrections
 House Committee on Early Learning & Human Services

Background: Any person, firm, partnership, association, corporation, or facility that provides child care outside a child's home must be licensed by the Department of Early Learning (DEL). The following are exempt from licensing requirements:

- a blood relative, step-parent or step-sibling or spouse of any of the persons listed;
- an adoptive parent or that parent's relatives or spouses of any of the persons listed;
- the child's legal guardian;
- persons who care for a neighbor's or friend's child, for less than 24 hours so long as the person does not provide the care on an on-going, regularly scheduled basis;
- parents on a mutually cooperative basis exchange care of one another's children;
- nursery schools or kindergartens engaged primarily in educational work with preschool children and in which no child is enrolled for more than four hours a day;
- schools, including boarding schools, engaged primarily in education, operate on a definite school year schedule, follow a stated academic curriculum, accept only school-age children and do not accept custody of children;
- seasonal camps of three months or less engaged primarily in recreational or educational activities;
- facilities providing child care for less than 24 hours so long as the child's parent remains on the premises to participate in activities other than employment;
- agencies that have been in business since 1957 and supported in part by an endowment or trust fund and which does not seek or accept assistance from any state or federal agency;

- an agency operated by local, state, or federal government or an agency located within the boundaries of a federally recognized Indian reservation;
- an agency located on a military base, unless the military authorities have requested that the agency be licensed by DEL; and
- an agency that offers early learning and support services and does not provide child care services on a regular basis.

DEL may assess civil monetary penalties against an agency providing child care services without being properly licensed. Monetary penalties levied against unlicensed agencies will be forgiven if the agency submits a license application within 30 days of being notified that they need to be licensed and subsequently become licensed. Civil monetary penalties are not to exceed \$75 per violation for a family child care home.

DEL must report on its public website the following licensing actions taken against agency licensees: suspension; surrender; revocation; denial, stayed suspension, or reinstatement of a license.

When it receives a report that an agency is providing child care services without a license, DEL sends that agency a letter ordering them to stop providing child care services immediately and notifying them that they could be assessed a monetary penalty if they do not. The letter also states that the agency must be licensed in order to provide child care services.

Summary: DEL may impose civil monetary penalties of not more than \$150 per violation for a family child care home. DEL must post on its public website those agencies subject to licensure that have not initiated the licensing process within the 30-day period following notification by DEL that they need to become licensed.

When DEL suspects that an agency subject to licensure is providing child care services without a license, it must send notice to that agency within ten days. The notice must include, but is not limited to, the following information:

- that a license is required and the reason why;
- that the agency is suspected of providing child care without a license;
- that the agency must immediately stop providing child care services until the agency becomes licensed;
- that DEL can issue a penalty of \$150 per day for each day the family day care home provided child care without being licensed and \$250 for each day a child care center provided care without being licensed; and
- that if they do not initiate the licensing process within 30 days of the date they are notified, DEL will post on its website that the agency is providing child care without initiating the licensing process.

The act is to be known as the Colby Thompson act.

Votes on Final Passage:

Senate	47	1	
House	57	39	(House amended)
Senate	47	1	(Senate concurred)

Effective: July 22, 2011

ESB 5505

C 342 L 11

Allowing the use of federal census data to determine the resident population of annexed territory.

By Senators Hill, Chase, Fain, Pridemore, Stevens, Nelson, Litzow, Swecker, Honeyford and Schoesler.

Senate Committee on Government Operations, Tribal Relations & Elections

House Committee on Local Government

Background: Annexations and Population Determinations. Annexations by cities, towns, and code cities, while governed by separate statutes, share a common requirement for the annexing jurisdiction to determine the resident population of the territory to be annexed. Such population determinations must be accomplished using the practice of actual enumeration, conducted in accordance with the practices and policies, and subject to the approval of the Office of Financial Management (OFM), which uses the information supplied through the annexation process in annually calculating the population of all cities and towns in the state.

State-shared revenues from the gasoline tax, liquor board profits, and the liquor excise tax are distributed to cities on the basis of population as determined by OFM. For a city to have its population adjusted for an annexation for purposes of state-shared revenue distributions, OFM must certify the annexation, after which it notifies the appropriate state agencies of the population change.

For purposes of state-shared revenues, the revised city boundaries and the new population are not recognized until the date that OFM approves the annexation certificate submitted to it by the city.

Federal Census Blocks. The United States Census counts every resident in the United States. It is mandated by Article I, section 2 of the U.S. Constitution, takes place every ten years, and must be accomplished using actual enumeration. Among other purposes, decennial census data is used to determine the distribution of Congressional seats to states, to make decisions about what community services to provide, and to distribute federal funds to local, state, and tribal governments.

Census blocks are the smallest geographic area for which the U.S. Census Bureau (Bureau) collects and tabulates decennial census data. Generally, they are formed by streets, roads, railroads, streams and other bodies of water, other visible physical and cultural features, and the legal boundaries shown on Bureau maps.

Summary: Actual enumeration must be used to account for the population of territory to be annexed if:

- the annexing city has a population of 10,000 or fewer inhabitants;
- the territory to be annexed consists entirely of one or more partial census blocks; or
- the annexation does not occur within the 12 months immediately following release of the 2010 federal decennial census data.

An annexing city may always choose to use actual enumeration to determine the population of territory to be annexed. However, if the city or town does not use actual enumeration for determining population within the 12 months immediately following the release of the 2010 federal decennial census data, its determination of the population of the area to be annexed must consist of:

- relevant 2010 federal decennial census data, as updated by the OFM, pertaining to the population of any complete census block or blocks located within the territory to be annexed;
- an actual enumeration of any population residing within the annexed territory but outside any complete census block or blocks; and
- an actual enumeration of group quarters, mobile home parks, certain apartment buildings, missing subdivisions, and closures of any of these structures or complexes that are located within a complete census block if the OFM confirms the existence of a known census error and identifies one or more of these structures or complexes as the source of the error.

If an annexing city is using 2010 federal decennial census data, and at least two weeks prior to the date of annexation, the OFM confirms a known census error within a complete federal census block, the OFM may require the city to enumerate the population of certain group quarters, mobile home parks, apartment complexes, missing subdivisions, and closures of any of these structures or complexes within that block.

An actual enumeration must be conducted pursuant to the policies and procedures, and subject to the approval, of the OFM, and the annexing city is responsible for the full cost of determining the population of the territory to be annexed.

Votes on Final Passage:

Senate	48	0	
House	92	0	(House amended)
Senate	47	0	(Senate concurred)

Effective: May 12, 2011

SSB 5525

C 363 L 11

Concerning hospital benefit zones that have already formed.

By Senate Committee on Ways & Means (originally sponsored by Senators Kilmer and Carrell).

Senate Committee on Government Operations, Tribal Relations & Elections

Senate Committee on Ways & Means

House Committee on Ways & Means

Background: In 2006 the Legislature authorized counties, cities and towns to finance public improvements in a defined area with a new form of tax increment financing. The defined area, called a benefit zone, must include a hospital that has received a certificate of need. Local governments may establish a hospital benefit zone (HBZ) to finance public infrastructure improvements. Revenue for the projects is generated through a new local sales and use tax, up to \$2 million per project per year, credits against the state sales and use tax, and matched with an equivalent amount of local resources. Monies collected under the local tax credited against the state tax must be matched with an amount from local public sources dedicated through December 31 of the previous calendar year to finance public improvements authorized under chapter 39.100 RCW. Eligible public improvement projects include streets, water and sewer systems, parking facilities, sidewalks, street lighting, and parks.

Summary: The definition of public improvements is amended to include construction, maintenance, and improvement of state highways that are connected to the benefit zone, including interchanges connected to the benefit zone.

A local government may modify the public improvements to be financed with the use of HBZ financing by amending the enabling ordinance and holding a public hearing, provided that the total cost of the public improvements is not increased.

Local public sources may include amounts expended by a hospital in the zone since the date of formation of the zone and may be applied to the year or years designated by the local government.

The definition of items excluded from local public sources are amended to exclude local government funds derived from the state-subsidized portion of any state loan or state grant.

The requirement that monies collected under the local tax credited against the state tax be matched with local public sources are amended to the amount from local public sources dedicated since the date the HBZ was formed.

A city, town, or county is not required to expend the local tax credited against the state taxes imposed under an HBZ in the fiscal year in which the taxes are received.

Votes on Final Passage:

Senate	49	0	
House	95	0	(House amended)
Senate	47	0	(Senate concurred)

Effective: July 22, 2011**SB 5526**

C 179 L 11

Concerning incentives for stirling converters.

By Senators Regala, Delvin, Eide, Zarelli, Murray, Pridemore, Holmquist Newbry, Morton, Hewitt, Chase, Honeyford, Fraser and McAuliffe.

Senate Committee on Environment, Water & Energy

Senate Committee on Ways & Means

House Committee on Technology, Energy & Communications

House Committee on Ways & Means

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. 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. There are a number of different rates. The main rates are 0.471 percent for retailing; 0.484 percent for manufacturing, wholesaling, and extracting; and 1.8 percent for professional and personal services, and activities not classified elsewhere until June 30, 2013 (at which time the 0.3 percent rate surcharge expires and the B&O rate for service and other category is 1.5 percent thereafter).

Solar Energy Systems – B&O Preferential Rates. In 2005 the Legislature provided a reduced B&O tax rate of 0.2904 percent for manufacturers, processors for hire, or wholesalers of solar energy systems using photovoltaic modules or silicon components of these systems. In 2009 the Legislature modified this tax preference by allowing a lower B&O rate of 0.275 percent for businesses that manufacture or sell at wholesale either (1) solar energy systems using photovoltaic modules; or (2) solar grade silicon and an expanded list of materials to be used exclusively in the components solar systems or semiconductors. The lower B&O tax rate expires on June 30, 2014.

Cost-Recovery Incentive Payment Program for Renewable Energy Systems. In 2005 the Legislature created a Renewable Energy Cost-Recovery Incentive Program (Cost-Recovery Incentive Program) to promote renewable energy systems located in Washington that produce electricity from solar, wind, or anaerobic digesters. An individual, business, or local government purchasing an eligible system may apply for an incentive payment from the electric utility serving the applicant. The incentive

provides at least \$0.15 for each kilowatt-hour of energy produced, with extra incentives for solar generating systems or wind generating systems that use certain components manufactured in Washington. Payments are capped at \$5,000 annually per applicant.

A utility providing incentive payments is allowed a credit against its public utility tax (PUT) for incentives paid, limited to \$100,000 or 0.5 percent of its taxable power sales, whichever is greater. If the amount of requests for incentive payments exceeds the amount of funds available for PUT credit to the utility, the incentive payments to applicants must be reduced proportionally.

The Cost-recovery Incentive Program expires June 30, 2020.

Community Solar Projects. In 2009 and in 2010 the Legislature expanded the Cost-Recovery Incentive Program to include community solar projects. Community solar projects are defined as either (1) a solar energy system owned by local individuals, households, or non-utility businesses that is placed on the property owned by their cooperating local government entity; (2) a utility-owned solar energy system that is voluntarily funded by the utility's ratepayers where, in exchange for their financial support, the utility gives contributors a payment or credit on their utility bill for the value of the electricity produced by the project; or (3) a company-owned solar energy system that is a limited liability company, a cooperative, or a mutual corporation or association.

Community solar projects are eligible to receive incentives of \$0.30 for each kilowatt-hour of energy produced, unless the amount of requests for incentive payments exceeds the amount authorized for credit to utility, in which case the incentive payments to applicants must be reduced proportionally.

Payments to a community solar project are capped at \$5,000 annually per applicant.

Incentive payments to participants in a utility-owned community solar project may only account for up to 25 percent of the total allowable credit. Incentive payments to participants in a company-owned community solar project may only account for up to 5 percent of the total allowable credit.

Only community solar projects capable of generating up to 75 kilowatts of electricity may receive cost-recovery incentive payments.

Summary: Businesses that manufacture stirling converters are eligible to receive a business and occupation tax rate of 0.275 percent.

A stirling converter is defined as a device that produces electricity by converting heat from a solar source using a stirling engine.

Individuals, businesses, local governments, or community solar project participants that generate electricity from a stirling converter manufactured in Washington are eligible to receive an incentive payment for each

kilowatt-hour produced. The incentive payment rate may be multiplied by a factor of 2.4.

Votes on Final Passage:

Senate 47 0
House 95 2

Effective: July 22, 2011

SSB 5531

C 343 L 11

Reimbursing counties for providing judicial services involving mental health commitments.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators King, Prentice, Keiser and Shin).

Senate Committee on Human Services & Corrections

Senate Committee on Ways & Means

House Committee on Judiciary

House Committee on Ways & Means

Background: A person may be detained for involuntary commitment if a designated mental health professional finds, following investigation, that due to a mental disorder the person presents a likelihood of serious harm or is gravely disabled. Detention for longer than a 72-hour period requires court review and the detained individual is afforded an array of due process protections including the right to counsel, confrontation of witnesses, and a jury trial under certain circumstances.

Detention for civil commitment occurs at an evaluation and treatment facility (E&T). Twelve counties in Washington have E&Ts. These E&Ts are found in nine of the 13 Regional Support Networks (RSNs). Because E&T resources are not spread evenly across the state, counties which have E&Ts frequently serve patients who were detained outside of the county and RSN where the E&T is located. An estimated 38 percent of all civil commitment cases filed in 2009 were filed outside the RSN where the patient was originally detained.

An RSN currently reimburses counties for the judicial costs of civil commitment in two ways. First, the RSN pays a filing fee of \$230 of which 54 percent is retained by the county and 46 percent is transmitted to the state. Second, many RSNs pay direct reimbursement fees to the counties which host civil commitment hearings. All reimbursement funds are paid using non-Medicaid funding. In revenue and expenditure reports filed with the Department of Social and Health Services, the RSNs reported spending \$4.3 million on judicial costs in fiscal year 2009 and \$6.5 million in fiscal year 2010. A survey distributed to counties in 2010 suggests that the actual cost of providing judicial services in civil commitment cases was an estimated \$6.6 million in calendar year 2009.

Summary: A county may seek reimbursement from its RSN for its cost of providing judicial services. The RSN

in which the patient resides must reimburse the RSN which serves the county of commitment. The rate of reimbursement for each county must be based on an average of actual expenditures within the county over the past three years. The Joint Legislative Audit & Review Committee must conduct an independent assessment of the county judicial costs in all counties which had at least 20 involuntary commitment cases in the previous year. This independent assessment must include a review and analysis of the reasons for cost differences between the counties and a recommendation as to how the costs may be updated in the future. No filing fee may be assessed for any commitment case subject to reimbursement under this act. The judicial costs related to 180-day civil commitment hearings at the state hospitals are excluded from reimbursement procedures. Maintenance-of-effort funds paid by counties to support the judicial services of involuntary commitment must be expended for other purposes that further treatment for mental health and chemical dependency disorders.

Votes on Final Passage:

Senate 43 5
House 95 0 (House amended)
House 96 0 (House amended)
Senate 46 0 (Senate concurred)

Effective: July 22, 2011 (Section 3)
July 1, 2012

SSB 5538

C 56 L 11

Concerning members of certain nonprofit conservation corps programs.

By Senate Committee on Labor, Commerce & Consumer Protection (originally sponsored by Senator White).

Senate Committee on Labor, Commerce & Consumer Protection

House Committee on Labor & Workforce Development

Background: The National and Community Service Trust Act (Act) was enacted in 1993 and established the Corporation for National and Community Service. The Act launched AmeriCorps, a network of programs that promote national service in education, public safety, health, and the environment. Language in the Act specifies living allowances and other benefits provided to participants, and the United States Department of Labor has determined that AmeriCorps participants are exempt from federal Davis-Bacon Act labor standards, which establish a prevailing wage for government public projects.

The Legislature created the Washington Conservation Corps (WCC) in 1983 to provide work experience and skills to the youth of the state between the ages of 18 and 25. WCC projects support conservation, rehabilitation, and enhancement of the state's natural, historic,

environmental, and recreational resources. WCC members are paid minimum wage.

The Washington Service Corps (WSC) was created by the Washington State Legislature in 1983 to give young adults opportunities to serve their communities. When the national AmeriCorps program began in 1994, the WSC became part of the national service movement and now all WSC members are also AmeriCorps members. The WSC works with nonprofit organizations and local governments to address a variety of community needs. The WSC is administered by the Washington State Employment Security Department with federal funding provided by the Corporation for National and Community Service.

Summary: Participants in a conservation corps program offered by a nonprofit organization are exempt from provisions related to rates of compensation while performing environmental and trail maintenance work. The nonprofit must be affiliated with a national service organization established under the National and Community Service Trust Act, registered with the Secretary of State, and have its management and administrative headquarters located in state.

Participants in the program must spend at least 15 percent of their time on education and training activities and receive a stipend or living allowance as authorized by federal or state law.

Votes on Final Passage:

Senate	48	0
House	91	1

Effective: July 22, 2011

SSB 5540

C 375 L 11

Authorizing the use of automated school bus safety cameras.

By Senate Committee on Transportation (originally sponsored by Senators Hobbs, Delvin, King and Hewitt).

Senate Committee on Transportation
House Committee on Transportation

Background: Under current law, the driver of a vehicle, upon overtaking or meeting from either direction any school bus which has stopped on the roadway for the purpose of receiving or discharging any school children, must stop the vehicle before reaching the school bus when there is in operation a visual stop signal on the school bus. The driver must not proceed until the school bus resumes motion or the visual stop signals are no longer activated.

Summary: An automated school bus safety camera is a device affixed to a school bus for the purposes of recording one or more sequenced photographs of the rear of a vehicle that drives past school buses when the stop paddle and flashing lights are deployed.

School districts are authorized to install automated school bus safety cameras on school buses to detect vehicles that fail to stop for a school bus that displays a stop signal if the use of the cameras is approved by a vote of the school district board of directors.

How the photographs may be taken and used, how long the photographs may be retained, and how the infractions are issued is limited.

How school districts may enter into contracts with camera vendors and how the vendors may be compensated is limited.

Infractions issued by automated school bus safety cameras must be processed like parking infractions and any revenue collected, less the cost to operate the program, must be remitted to school districts for school zone safety projects.

The maximum monetary penalty for failure to stop for a school bus that displays a stop signal is limited, when the infraction is generated by an automated school bus safety camera, to twice the amount permitted under the penalty schedule. The maximum amount of the penalty is currently set at \$394.

Votes on Final Passage:

Senate	49	0	
House	93	3	(House amended)
Senate	45	1	(Senate concurred)

Effective: July 22, 2011

Contingent (Sections 5, 7, and 9)

SSB 5546

C 111 L 11

Concerning the crime of human trafficking.

By Senate Committee on Judiciary (originally sponsored by Senators Kohl-Welles, Delvin, Chase, Pflug, Fraser, Keiser, Rockefeller, Regala, Kline, Holmquist Newbry, King, Shin, White, Stevens, Roach and Conway).

Senate Committee on Judiciary
House Committee on Public Safety & Emergency Preparedness

Background: In 2000 the United States enacted the Trafficking Victims Protection Act; and, in 2003 Washington was the first state to pass a law criminalizing human trafficking.

According to the 10th annual trafficking in persons report produced by the United States Department of State, the United States is a source, transit, and destination country for men, women, and children subjected to trafficking in persons, specifically forced labor, debt bondage, and forced prostitution. Trafficking occurs primarily for labor and most commonly in domestic servitude, agriculture, manufacturing, janitorial services, hotel services, construction, health and elder care, hair and nail salons, and strip club dancing. Trafficking cases also involve passport

confiscation, nonpayment or limited payment of wages, restriction of movement, isolation from the community, and physical and sexual abuse as means of keeping victims in compelled service. The 2008 report produced by the Washington State Task Force Against the Trafficking of Humans indicates that several factors make Washington prone to human trafficking. The factors cited are Washington's international border with Canada, an abundance of ports, vast rural areas, and a dependency on agricultural workers.

A person commits the crime of trafficking when he or she recruits, harbors, transports, provides, or obtains another person knowing that force, fraud, or coercion will be used to cause that person to engage in forced labor or involuntary servitude. The crime is also committed when a person benefits financially or otherwise from participating in such acts. It is trafficking in the first degree if these acts include committing or attempting to commit kidnapping; involve a finding of sexual motivation; or result in a death. Trafficking in the first degree is a class A felony, ranked at seriousness level XIV for purposes of sentencing. Trafficking in the second degree is committed when a person recruits, harbors, transports, provides, or obtains another person knowing that force, fraud, or coercion will be used to cause that person to engage in forced labor or involuntary servitude. The crime is also committed when a person benefits financially or otherwise from participating in such acts. Trafficking in the second degree is a class A felony, ranked at seriousness level XII.

Summary: A person commits the crime of trafficking when he or she recruits, harbors, transports, transfers, provides, obtains, or receives another person knowing that force, fraud, or coercion is used to cause that person to engage in forced labor, involuntary servitude, or a commercial sex act. The crime is also committed when a person benefits financially or otherwise from participating in the recruitment, harboring, transporting, transferring, providing, obtaining, or receiving another person knowing that force, fraud, or coercion is used to cause that person to engage in forced labor, involuntary servitude, or a commercial sex act. It is trafficking in the first degree if these acts include committing or attempting to commit kidnapping, involve a finding of sexual motivation, result in a death, or involve illegal harvesting and sale of human organs.

Trafficking in the second degree is committed when a person recruits, harbors, transports, transfers, provides, obtains, or receives another person knowing that force, fraud, or coercion is used to cause that person to engage in forced labor, involuntary servitude, or a commercial sex act. The crime is also committed when a person benefits financially or otherwise from participation in the above described illegal acts.

Forced labor is defined as knowingly providing or obtaining labor or services of a person by (1) threats of serious harm to, or physical restraint against, that person or another person; or (2) means of any scheme, plan, or

pattern intended to cause the person to believe that, if the person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint. A definition is provided for involuntary servitude. It means a condition of servitude in which the victim was forced to work by the use or threat of physical restraint or physical injury, or by the use of threat of coercion through law or legal process. Serious harm means any harm, whether physical or nonphysical, including psychological, financial, or reputational harm, that is sufficiently serious, under all the surrounding circumstances, to compel a reasonable person of the same background and in the same circumstances to perform or to continue performing labor, services, or a commercial sex act in order to avoid incurring that harm. A commercial sex act is defined as any act of sexual contact or sexual intercourse for which something of value is given or received. The offenses of human trafficking in the first or second degree and the offense of promoting commercial sexual abuse of a minor are added to the statutory provision, RCW 9.95.062, that lists certain crimes for which a stay of judgment on appeal is not allowed. Human trafficking in the first or second degree and promoting commercial sexual abuse of a minor are added to the statutory provision, RCW 10.64.025, which lists the offenses for which a defendant is required to be automatically remanded into custody upon conviction while awaiting sentencing.

Votes on Final Passage:

Senate	48	0
House	96	0

Effective: July 22, 2011

ESSB 5555

C 112 L 11

Concerning interbasin transfers of water rights.

By Senate Committee on Environment, Water & Energy (originally sponsored by Senators Parlette, Hatfield, Morton, Honeyford and Hewitt).

Senate Committee on Environment, Water & Energy
House Committee on Agriculture & Natural Resources

Background: Washington operates under a water right permit system. The right to use water that has been put to beneficial use is, and remains, an appurtenance of the land or place where the water is used. The Department of Ecology (Ecology) may permit certain changes to a water right. Ecology may also permit a transfer of a water right from one holder to another. In processing change or transfer applications, Ecology analyzes the validity, limits, and quantity of the right. If it appears that the transfer of the water right, change of point of diversion, or purpose of use can be made without harming existing rights, Ecology must grant the transfer or change.

Summary: For counties located east of the crest of the Cascade mountains, Ecology may only approve a change or transfer application for an interbasin water rights transfer after providing notice electronically to the board of county commissioners in the county of origin upon receipt of an application.

Votes on Final Passage:

Senate	48	0
House	93	0

Effective: July 22, 2011

SSB 5574

C 57 L 11

Concerning collection agencies.

By Senate Committee on Judiciary (originally sponsored by Senators Harper and Kline).

Senate Committee on Judiciary
House Committee on Business & Financial Services

Background: Collection agencies are prohibited from engaging in certain practices when attempting to collect debts. A collection agency cannot threaten a debtor with impairment of the debtor's credit rating if a claim is not paid. Credit agencies cannot harass a debtor. Certain behaviors are presumed to be harassment, including:

- communicating with a debtor more than three times in a single week;
- communicating with a debtor at the debtor's place of employment more than one time in a single week; or
- communicating with a debtor or spouse at his or her residence between 9:00 p.m. and 7:30 a.m.

Collection agencies are required to provide a debtor with an itemization of the amounts the collection agency will seek to collect on the claim. This information must be included in the first claim notice sent to the debtor and includes the following:

- the amount owing on the original obligation at the time it was received by the collection agency;
- interest or service charge, collection costs, or late payment charges, if any, added by the original creditor before it was received by the collection agency;
- interest or service charge, if any, added by the collection agency customer or assignor after it was received by the collection agency;
- collection costs, if any, the collection agency is attempting to collect;
- attorneys' fees, if any, that the collection agency is attempting to collect on its behalf or on the behalf of the customer or assignor; and
- any other charge or fee that the collection agency is attempting to collect on its behalf or on behalf of the customer or assignor.

Collection agencies have to include this information in subsequent notices if the amount owed changes. If a debtor disputes a claim in writing, the collection agency must forward a copy of the dispute to the credit reporting bureau.

Summary: The prohibition that a collection agency cannot give or send to any debtor any notice, letter, message, or form which represents or implies that a claim exists without including certain information does not apply when it is through proper legal action, process, or proceedings. If the notice, letter, message, or form concerns a judgment against the debtor, no itemization of the amounts contained in the judgment is required, except postjudgment interest and the current account balance.

When the debtor provides the collection agency with written notice disputing the claim, the collection agency must inform the credit reporting bureau, by written or electronic means of the dispute, and create a record of the dispute and when the notification was provided to the credit reporting bureau.

Advising a debtor that the collection agency has reported or intends to report a claim to a credit reporting agency (CRA) is not considered a threat if the collection agency has reported or intends to report the claim to a CRA.

If a collection agency communicates with a debtor or spouse more than three times in a single week and it is in response to a communication from the debtor or spouse, it is not presumed to be harassment. If a collection agency communicates with a debtor at his or her place of employment more than one time in a single week and it is in response to a communication from the debtor, it is not presumed to be harassment. A call to a telephone is presumed to be received in the time zone for the area code of the number. If an area code is not assigned to any specific geographic area, the time zone is presumed to be the local time zone of the debtor's last known place of residence. The presumptions do not apply if the collection agency reasonably believes the telephone is located in a different time zone.

A collection agency may attempt to communicate with a debtor by way of a cellular telephone, provided the agency cannot cause charges to be incurred to the recipient more than three times in any calendar week when the agency knows or reasonably should know that the number belongs to a cellular telephone, unless the agency is responding to a communication from the debtor. A collection agency does not violate this restriction if, at least monthly, it updates its records with information provided by a commercial provider of cellular telephone lists and the agency calls a number that does not appear in the most recent list provided by the commercial provider. Collection agencies are prohibited from calling or sending a text message to a cellular telephone more than twice a day when it knows or reasonably should know the number belongs to a cellular telephone, unless the agency is

responding to a communication from the debtor. The agency does not violate this restriction if it updates its records with information provided by a commercial provider of cellular telephone lists and the agency calls a number that does not appear in the most recent list provided by the commercial provider. Intentional blocking of an agency's telephone number by the agency when it calls a debtor's cellular telephone is prohibited.

It is prohibited to bring an action or initiate an arbitration proceeding on a claim when the collection agency knows or reasonably should know that the suit or arbitration is barred by an applicable statute of limitation.

Votes on Final Passage:

Senate	48	0
House	92	0

Effective: July 22, 2011

SSB 5579

C 307 L 11

Modifying harassment provisions.

By Senate Committee on Judiciary (originally sponsored by Senators Kline and Pflug).

Senate Committee on Judiciary
House 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 no-contact orders.

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 areas. District courts have jurisdiction to grant anti-harassment protection orders and municipal courts may opt to exercise jurisdiction by adopting procedures through local court rules. Superior courts have concurrent jurisdiction when a case is transferred from a district court or municipal court. A transfer to superior court is required when the respondent is under 18 years of age. In addition, a district court or municipal court may transfer an action for an anti-harassment protection order to a superior court when a judge makes findings of fact and conclusions of law showing that meritorious reasons exist for the transfer.

The petitioner may request that a district court grant an anti-harassment protection order against the respondent. 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.

The filing fee and service of process costs are waived if the petitioner is seeking an anti-harassment protection order to obtain relief from (1) a person who has stalked him or her; (2) a person who has engaged in conduct that would constitute a sex offense; or (3) a family or household member who has engaged in conduct that constitutes domestic violence.

Summary: District courts have original jurisdiction to grant civil anti-harassment protection orders and municipal courts may opt to exercise jurisdiction by adopting procedures through local court rules. The district court or municipal court must transfer proceedings to the superior court if (1) the respondent to the petition is under 18 years of age; (2) the action involves title or possession of real property; (3) a superior court has exercised or is exercising jurisdiction over a proceeding involving the parties; or (4) the action would have the effect of interfering with a respondent's care, control, or custody of the respondent's minor child.

Prior to granting an ex parte temporary anti-harassment protection order or a civil anti-harassment protection order, the court may consult the judicial information system for records regarding criminal histories and other current proceedings involving the parties.

In granting an ex parte temporary anti-harassment protection order or a civil anti-harassment protection, the court cannot restrict the respondent's (1) constitutionally protected free speech; (2) use or enjoyment of his or her real property unless the order is related to dissolution proceedings or a separate action involving the title or possession of real property; and (3) right to care, control, or custody of his or her minor child, unless the order is related to dissolution proceedings, non-parental actions for child custody, or proceedings under the Uniform Parentage Act or the Family Reconciliation Act.

An intentional violation of a court order by a defendant charged with a crime involving harassment under RCW 9A.46.040, or the equivalent local ordinance, is a misdemeanor.

A willful violation of a court order by a defendant found guilty of the crime of harassment issued under RCW 9A.46.080, or the equivalent local ordinance, is a misdemeanor.

Votes on Final Passage:

Senate	48	0	
House	96	0	(House amended)
Senate	45	1	(Senate concurred)

Effective: July 22, 2011

ESSB 5581

C 7 L 11 E 1

Concerning nursing homes.

By Senate Committee on Ways & Means (originally sponsored by Senators Keiser, Parlette, Hargrove, Shin, Conway and Kline).

Senate Committee on Ways & Means
House Committee on Ways & Means

Background: The current Washington Medicaid program provides health and long-term care assistance to low-income individuals, is administered by the state in compliance with federal laws and regulations, and is jointly funded using state and federal dollars. The federal funds are matching funds, and are referred to as the Federal Financial Participation (FFP) or the Federal Medical Assistance Percentage (FMAP). The FMAP is calculated based on average per-capita income and is usually between 50 and 51 percent for Washington. Typically, the state pays the remainder using state General Fund dollars.

Medicaid law and regulations provide for a particular Medicaid funding vehicle that states can utilize to fund a portion of their state share of Medicaid program costs. This funding vehicle is often referred to as a Medicaid provider tax or, sometimes, as a provider assessment or provider fee. States can use the proceeds from the tax to make Medicaid provider payments and claim the federal matching share of those payments. Essentially, states use the proceeds from the provider tax to offset a portion of the state funds that would have been required to fund the Medicaid program. Federal regulations define the rules for Medicaid provider taxes.

Nineteen different types of providers are included in the permissible classes of health care providers and, as such, can be included in a provider tax. Some examples include inpatient hospital services, outpatient hospital services, skilled nursing facility services, and physician services.

Specifically, provider taxes must:

- be imposed on a permissible class of health-care services;
- be broad-based, or apply to all providers within a class;
- be uniform or apply the same rate to all providers within a class; and
- avoid hold-harmless arrangements in which collected taxes are returned directly or indirectly to taxpayers.

A state can request a waiver from the broad-based and uniform requirements, and the hold-harmless provision doesn't apply if the tax is at or below 5.5 percent of provider revenues. This threshold of 5.5 percent of revenues applies through federal Fiscal Year 2011; thereafter the threshold is 6.0 percent of revenues. If a waiver of the broad-based and uniform requirements is requested then the state must show that the tax is generally redistributive

and the amount of the tax is not directly correlated to Medicaid payments. Federal regulations lay out detailed statistical tests that states must use to show this; essentially the tests are designed to measure the degree to which the Medicaid program incurs a greater tax burden than if the broad-based and uniform requirements were met or not waived.

Currently 44 states, including Washington, and the District of Columbia have at least one type of Medicaid provider tax.

Skilled nursing facilities (nursing homes) are licensed by the Department of Social and Health Services (DSHS) and provide 24-hour supervised nursing care, personal care, therapy, nutrition management, organized activities, social services, laundry services, and room and board to three or more residents. Currently, there are over 200 licensed facilities throughout the state.

Medicaid rates for nursing facilities (i.e., payments for providing care and services to eligible, low-income residents) are generally based on a facility's costs, its occupancy level, and the individual care needs of its residents.

The nursing home rate methodology, including formula variables, allowable costs, and accounting/auditing procedures, is specified in statute (RCW 74.46) and is based on calculations for seven different components: direct care, therapy care, support services, operations, variable return, property, and a financing allowance. The rate calculation for the noncapital components (direct care, therapy care, support services, and operations) is based on actual facility cost reports that are typically updated biennially in a process known as rebasing. The capital components (property and financing allowance) are also based on actual facility cost reports but are rebased annually. The variable-return component is designed to reward efficiency based on the four noncapital components. The variable-return component is currently scheduled to be repealed on July 1, 2011.

Additional factors that enter into the rate calculations are resident days (the total of the days in residence for all eligible residents), certain median lids (a percent of the median costs for all facilities in a peer group), facility geographical location, and the case-mix index of the facility. The case-mix index is a weighted scoring of all facility residents, designed to quantify the relative acuity of the residents.

Finally, RCW 74.46.421 imposes a rate ceiling, commonly referred to as the budget dial. The budget dial is a single daily-rate amount calculated as the statewide weighted average maximum payment rate for a fiscal year. This amount is specified in the appropriations act, and DSHS must manage all facility-specific rates so the budget dial is not exceeded.

Summary: Nursing Home Rate Methodology Changes:

- Rebasing is postponed for one year and the cycle for rebasing moves to every odd-numbered year.
- The finance component's rate on return for all tangible assets is reduced to 4.0 percent, regardless of date

of purchase. This is changed from 8.5 percent for purchases on or after May 17, 1999, and 10 percent for purchases before May 17, 1999.

- DSHS is authorized to adjust the case-mix index for the ten lowest acuity resource utilization groups to any case-mix index that aids in achieving cost-efficient care.
- Minimum occupancy requirements are raised in the rate components of operations, property, and financing allowance by 3.0 percent for large providers and by 2.0 percent for small providers and essential community providers.
- Median cost lids are lowered by 2.0 percentage points for direct care and support services.
- DSHS is instructed to provide rate add-ons based on a comparison of the 2010 and 2011 rates and also for homes that experienced increases in client acuity as demonstrated by changes in their direct-care component.

Nursing Home Safety Net Assessment. The fee is assessed on a per-resident-day basis. It does not apply to Medicare residents and certain types of facilities are exempt from paying the fee. The exemptions are:

- continuing-care retirement communities, as defined in the act;
- nursing facilities with 35 or fewer beds;
- state, county, tribal, and public-hospital-district operated nursing facilities; and
- hospital-based nursing facilities.

In addition, DSHS must administer the fee in a tiered manner such that a lower fee is assessed for either certain high-volume Medicaid nursing facilities, as defined, or certain facilities with high-resident volumes. This act does not shield the lower fee that is to be assessed so that the statistical redistributive tests required by federal law are met.

The act establishes the Skilled Nursing Facility Safety Net Trust Fund (Trust Fund) and directs all proceeds from the fee into this fund. The Trust Fund is subject to appropriation and can be used for:

- immediate pass-through to nursing facilities or rate add-on to reimburse the Medicaid share of the fee;
- maintenance and enhancement of the Medicaid nursing-facility rates; and
- administration of the collection and disbursement of the fee (however, these administrative expenses cannot exceed one-half of 1.0 percent of the proceeds from the fee).

The act instructs DSHS to handle certain administrative and operational duties relating to the assessment of the safety-net fee and regarding the use of the proceeds. In addition, DSHS is instructed to work with the Department of Health and two professional stakeholder organizations –

the Washington State Health Care Association and Aging Services of Washington – to design a system of skilled-nursing facility quality-incentive benchmarks and related payments. The design of these incentive payments must be submitted to the Legislature by December 15, 2011. The act provides that, beginning with fiscal year 2013, the safety-net assessment fee may be increased to support an additional 1.0 percent increase in the nursing facility payment rate for facilities that meet the quality-incentive benchmarks.

Certain delinquency penalties are provided, including withholding the facility's medical assistance reimbursement payments, suspension or revocation of the nursing facility license, or imposition of a civil fine.

Finally, nursing facilities are prohibited from itemizing the safety-net assessment on invoices to residents or third-party payers.

The sections of the act creating and dealing with the implementation of the safety-net assessment and quality-incentive payments are null and void if the federal Centers for Medicare and Medicaid Services (CMS) does not approve the waiver of the broad-based and uniform requirements or does not approve the state Medicaid plan amendment incorporating the fee into the plan.

Votes on Final Passage:

First Special Session

Senate	27	17
House	54	38

Effective: July 1, 2011

SB 5584

C 308 L 11

Concerning the conforming of apprenticeship program standards to federal labor standards.

By Senators Harper, Kohl-Welles and Kline; by request of Department of Labor & Industries.

Senate Committee on Labor, Commerce & Consumer Protection

House Committee on Labor & Workforce Development

Background: The Washington State Apprenticeship and Training Council (WSATC) is a seven member board that establishes apprenticeship program standards as rules and approves apprenticeship training programs. The Department of Labor and Industries (L&I) works with the WSATC to oversee and administer the apprenticeship program.

The Secretary of the United States Department of Labor delegates to the state authority to certify apprenticeship programs for federal purposes. Apprentices that complete certified programs are recognized as qualified journey workers nationwide. The Secretary delegates authority only if state apprenticeship law conforms with federal apprenticeship regulations. Changes in federal

regulations in December of 2008 require that a state apprenticeship agency, and not a state apprenticeship council, have responsibility and accountability for apprenticeship within the state. States must be in compliance with these changes by December 29, 2010.

Summary: L&I is the agency with responsibility and accountability for apprenticeship within the state for federal purposes. L&I has rulemaking authority for apprenticeships but must consult with the WSATC prior to adopting rules. Any decision of the WSATC affecting registration and oversight of apprenticeship programs and agreements may be appealed to L&I within 30 days.

Votes on Final Passage:

Senate	49	0
House	56	39

Effective: July 22, 2011

ESSB 5585

C 114 L 11

Concerning street rod and custom vehicles.

By Senate Committee on Transportation (originally sponsored by Senator Carrell).

Senate Committee on Transportation
House Committee on Transportation

Background: Currently, a street rod vehicle is defined as a motor vehicle, other than a motorcycle, that meets the following conditions:

- the vehicle was manufactured before 1949;
- the vehicle has been assembled or reconstructed using major component parts of a motor vehicle manufactured before 1949; or
- the vehicle was assembled or manufactured after 1949, to resemble a vehicle manufactured before 1949; and
- the vehicle has been modified in its body style or design through the use of nonoriginal or reproduction components, such as frame, engine, drive train, suspension, or brakes in a manner that does not adversely affect its safe performance as a motor vehicle or render it unlawful for highway use; or
- the body has been constructed from nonoriginal materials or has been altered dimensionally or in shape and appearance from the original manufactured body.

Further, a parts car is currently defined as a motor vehicle that is owned by a collector to furnish parts for restoration or maintenance of a collector vehicle, thus enabling a collector to preserve, restore, and maintain such a vehicle.

Summary: A street rod vehicle is defined as a motor vehicle that is a 1948 or older vehicle or the vehicle was manufactured after 1948 to resemble a vehicle manufactured before 1949 and has alterations to one or more of the

major component parts that change the appearance or performance of the vehicle from the original manufacturer's design or has a body constructed from nonoriginal materials.

A custom vehicle is defined as:

- a motor vehicle that is at least 30 years old and of a model year after 1948; or
- was manufactured to resemble a vehicle at least 30 years old and of a model year after 1948; and
- has alterations to one or more of the major component parts that changes the appearance or performance of the vehicle from the original manufacturer's design or has a body constructed from nonoriginal materials.

The presence of modern equipment including, but not limited to, brakes, engines, or seat belts or the presence of optional equipment on a street rod or custom vehicle does not invalidate the year of manufacture on the certificate of title.

A procedure for submitting an application for a certificate of title for a street rod vehicle or a custom vehicle for the first time is outlined. A vehicle registration issued to a street rod or custom vehicle need not be an initial vehicle registration for the vehicle.

Current law which excludes certain vehicles from emission test requirements is amended to include street rod and custom vehicles.

Before accepting an application for a certificate of title, the Department of Licensing, county auditor, or other agent or subagent must require an applicant to provide a certificate of vehicle inspection completed by the Washington State Patrol or other authorized inspector when the application is for a vehicle being titled for the first time as a street rod or custom vehicle. The inspection must verify that the vehicle identification number is genuine and agrees with the number shown on the certificate of title and registration certificate.

A street rod or custom vehicle is allowed to use blue dot taillights for various vehicle equipment lamps. However, hoods and bumpers are optional equipment on street rod and custom vehicles; both kinds of vehicles must comply with fender and windshield requirements.

Various provisions of existing law regarding parts cars and street rod vehicles are repealed.

Both street rod and custom vehicles must be maintained for occasional transportation, exhibitions, club activities, parades, tours, and similar uses. These vehicles are not to be used for general daily transportation.

Votes on Final Passage:

Senate	48	0
House	95	1

Effective: October 1, 2011

SB 5589
C 115 L 11

Addressing heavy haul industrial corridors.

By Senator Morton.

Senate Committee on Transportation
House Committee on Transportation

Background: The Department of Transportation (DOT), with respect to state highways maintained within port district property, may, at the request of a port commission, make and enter into agreements with port districts and adjacent jurisdictions or agencies of the districts, for the purpose of managing short heavy haul industrial corridors within port district property for the movement of overweight sealed containers used in international trade.

Currently, DOT must designate the portion of State Route 97 from the Canadian border to milepost 331.22 as a heavy haul industrial corridor for the movement of overweight vehicles to and from the Oroville railhead.

Additionally, DOT may issue special permits to vehicles operating in the heavy haul industrial corridor to carry weight in excess of weight limits established in law, but not to exceed a gross vehicle weight of 137,788 pounds.

Summary: DOT must designate the portion of State Route 97 from the Canadian border to milepost 331.12 as a heavy haul industrial corridor for the movement of overweight vehicles to and from the Oroville railhead.

Further, DOT may issue special permits to vehicles operating in the heavy haul industrial corridor to carry weight in excess of weight limits established in current law, but the weight carried may not exceed a gross vehicle weight of 139,994 pounds.

Votes on Final Passage:

Senate 46 0
House 96 0

Effective: July 22, 2011

SSB 5590
C 364 L 11

Concerning lien holder requirements for certain foreclosure sales.

By Senate Committee on Financial Institutions, Housing & Insurance (originally sponsored by Senator Benton).

Senate Committee on Financial Institutions, Housing & Insurance

House Committee on Judiciary

Background: A short sale occurs when a borrower sells a home for less than is owed and the lien holder approves of selling the property at a loss. Short sales can occur for a variety of reasons, such as financial hardship of the borrower (due to job loss or disability) combined with the inability to sell the property for at least as much as is owed.

Post-Foreclosure Remedies Under the Deeds of Trust Act. For owner-occupied residential property, the failure of the borrower to bring a civil action to enjoin a foreclosure does not constitute a waiver of a claim for damages asserting common law fraud or misrepresentation, a violation of the CPA, or the failure of the trustee to materially comply with the Deeds of Trust Act. Such a claim may be brought within two years of the foreclosure, or the application statute of limitations, as long as the claim does not affect the validity of the sale or cloud the title of the property, among other things. The relief that may be granted is limited to actual damages, except for a CPA claim.

Summary: If a seller of owner-occupied residential property and a buyer agree on a purchase price that is insufficient to pay in full the obligation owed, and the seller makes a written offer to the senior beneficiary, the senior beneficiary must respond, in good faith, within 120 days with an acceptance, rejection, or counter-offer of the seller's written offer.

If the senior beneficiary acts in bad faith, the seller has a right of action for actual monetary damages. However, a senior beneficiary is not responsible for the actions or inactions of a subsequent lien holder.

If the property is foreclosed, and the seller (borrower) failed to enjoin the sale based on a lien holder acting in bad faith, the seller is not deemed to have waived his or her claim for damages under the Deeds of Trust Act.

These provisions do not apply to beneficiaries that conduct fewer than 250 trustee sales per year.

These provisions do not alter a beneficiary's right to issue a notice of default and does not lengthen or shorten any time period imposed or required under the Deeds of Trust Act.

Votes on Final Passage:

Senate 49 0
House 96 0 (House amended)
Senate 46 0 (Senate concurred)

Effective: July 22, 2011

ESSB 5594
C 39 L 11

Regulating the handling of hazardous drugs.

By Senate Committee on Labor, Commerce & Consumer Protection (originally sponsored by Senators Kohl-Welles, Keiser, Prentice, Conway, Kline and Murray).

Senate Committee on Labor, Commerce & Consumer Protection

House Committee on Labor & Workforce Development

Background: Antineoplastic drugs are chemotherapy agents that control or kill cancer cells. Drugs used in the treatment of cancer are cytotoxic (destructive to cells

within the body) but are generally more damaging to dividing cells than to resting cells.

Workers may be exposed to a hazardous drug at many points during its manufacture, transport, distribution, receipt, storage, preparation, and administration, as well as during waste handling and equipment maintenance and repair. All workers involved in these activities have the potential for contact with an uncontained hazardous drug.

Exposure to these drugs in the workplace has been associated with acute and short-term reactions, as well as long-term effects. Reports range from skin-related and ocular effects to flu-like symptoms, sore throat, chronic cough, infections, dizziness, eye irritation, and headaches among nurses, pharmacists, and pharmacy technicians routinely exposed to hazardous drugs in the workplace. Reproductive studies on health care workers have shown an increase in fetal abnormalities, fetal loss, and fertility impairment resulting from occupational exposure to these drugs.

Hazardous drugs enter the body through inhalation, accidental injection, ingestion of contaminated foodstuffs or mouth contact with contaminated hands, and dermal absorption.

Compounding of these drugs often requires sterile preparation and as such is regulated as pharmaceutical compounding by the United States Pharmacopeia (USP), chapter 797. USP 797 has provided minimal guidance for the handling of hazardous drugs.

A series of articles, published in July 2010 in the Seattle Times, highlighted health care personnel who had worked with hazardous drugs and been subsequently diagnosed with some form of cancer.

Summary: The Department of Labor and Industries (L&I) will adopt rules for the handling of hazardous drugs in health care facilities. Rule development will consider input from hospitals, organizations which represent health care personnel, and other stakeholders. It will take into account reasonable time for facilities to implement new requirements. Rules developed will be consistent with National Institute for Occupational Safety and Health (NIOSH) provisions adopted in the 2004 alert, as updated in 2010, but will not exceed them. Rules adopted can incorporate updates and changes by the Centers for Disease Control and Prevention.

Votes on Final Passage:

Senate	49	0
House	92	0

Effective: July 22, 2011

2SSB 5595

C 361 L 11

Concerning the distribution of the public utility district privilege tax.

By Senate Committee on Ways & Means (originally sponsored by Senator Parlette).

Senate Committee on Government Operations, Tribal Relations & Elections

Senate Committee on Ways & Means

House Committee on Ways & Means

Background: Public utility district (PUD) privilege tax is an in-lieu-of property tax. It applies to electricity-generating facilities for the privilege of operating in this state. The tax rate has several components including gross income derived from the sale of electricity, the number of kilowatt hours of self-generated energy which is either distributed to consumers or resold to other utilities, and the wholesale value of energy produced in thermal generating facilities.

The PUDs report the facts pertinent to calculation of the tax to the Department of Revenue (DOR) once per year. DOR calculates the tax owed and collects the taxes paid by the PUDs. These tax proceeds are deposited with the State Treasurer.

The State Treasurer deposits 4 percent of the proceeds from the basic tax rate to the state general fund. The remaining 96 percent is distributed: 37.6 percent to the state general fund for public schools; and 62.4 percent to the counties to be redistributed.

A county must distribute funds to each taxing district in the county, but not to school districts, in a manner the county deems most equitable. However, it can be no less than an amount equal to 0.0075 percent of the gross revenues obtained by a PUD from the sale of electricity to the city.

A circumstance is not addressed in the statutory distribution of this tax. This circumstance is where a PUD is located in a city but does not sell any electricity to that city.

Summary: If a county receives privilege taxes because a public utility district operated by another county owns fee title to property in a city or town in the county, but the district has no sales of electrical energy in that city or town, the county may retain 70 percent of the tax proceeds and each city or town where property is owned shall divide the remainder equally. This only applies when the city or town is adjoins a reservoir on the Columbia river wholly or partially created by such district's hydroelectric facility which began power generation in 1967.

The bill applies to PUD privilege taxes to be distributed in 2012 and thereafter.

Votes on Final Passage:

Senate	48	0	
House	96	0	(House amended)
Senate	47	0	(Senate concurred)

Effective: July 22, 2011

E2SSB 5596

C I L I E I

Requiring the department of social and health services to submit a demonstration waiver request to revise the federal medicaid program.

By Senate Committee on Ways & Means (originally sponsored by Senators Parlette, Zarelli, Becker and Hewitt).

Senate Committee on Health & Long-Term Care

Senate Committee on Ways & Means

House Committee on Health Care & Wellness

House Committee on Ways & Means

Background: Medicaid is a federal-state partnership with programs established in the federal Social Security Act, and implemented at the state level with federal matching funds. The federal law has provided a framework for coverage for children, pregnant women, some families, and elderly and disabled adults, with varying income requirements. The Patient Protection and Affordable Care Act (PPACA) creates a new mandatory eligibility category for non-elderly, non-pregnant adults with income at or below 133 percent of the federal poverty level (FPL), beginning January 1, 2014. States have the option to provide Medicaid coverage to all non-elderly individuals above 133 percent of FPL through a state plan amendment.

PPACA requires states to maintain the Medicaid eligibility income standards that were in place in March 2010 through December 31, 2013, for all adults. The maintenance of effort requirement extends through September 30, 2019, for all children covered in Medicaid or the Children's Health Insurance Programs. States may be exempt from the maintenance of effort requirement for optional, non-pregnant, non-disabled, adult populations whose income is above 133 percent of FPL if the state certifies it is currently experiencing a budget deficit or projects to have a budget deficit in the following fiscal year.

The Secretary of the Department of Health and Human Services has some authority to grant waivers from certain requirements to allow states to demonstrate innovative approaches in their Medicaid programs. Washington State recently received approval for a bridge demonstration waiver to allow early federal Medicaid match for the new eligibles (adults that will be eligible for Medicaid in 2014) that are enrolled through our state funded Basic Health and medical care services programs.

Summary: By October 1, 2011, the Department of Social and Health Services must submit a request to the federal Centers for Medicare and Medicaid Services (CMS) Innovation Center, and if necessary a request for a Section 1115 demonstration waiver from CMS. To the extent permitted under federal law, the waiver request must include:

- Establishment of base-year, eligibility group per capita payments with maximum flexibility for the state to manage within the appropriation;
- Coverage of benefits determined to be essential health benefits under federal law, with coverage of additional benefits as appropriate for distinct categories of enrollees such as children, pregnant women, individuals with disabilities, and elderly adults;
- Limited, reasonable, and enforceable cost-sharing and premiums to encourage informed consumer behavior and appropriate utilization of health services, while ensuring that access to evidence-based, preventative and primary care is not hindered;
- Streamlined eligibility determination;
- Innovative reimbursement methods such as bundled, global, and risk bearing payment arrangements, that promote effective purchasing, efficient use of health services, and support health homes, accountable care organizations, and other innovations intended to contain costs, improve health, and incent smart consumer decision making;
- The ability for Medicaid and CHIP enrollees to voluntarily enroll in the insurance Exchange, broader authority to enroll clients in employer-sponsored insurance when available and deemed cost-effective for the state, and authority to require clients to remain enrolled in their chosen plan for the calendar year;
- An expedited process for the Centers for Medicare and Medicaid to respond to any state request for changes within 45 days to ensure the state has the flexibility to manage within its appropriation; and
- The development of an alternative payment methodology for federally qualified health centers and rural health clinics that enables capitated or global payment of enhanced payments.

The department must provide status reports to the Joint Select Committee on Health Reform Implementation as requested by the committee, as well as multiple opportunities for stakeholders and the general public to review and comment on the request as it is developed. In addition, the department must identify statutory changes that may be necessary for successful and timely implementation.

Votes on Final Passage:

Senate 49 0

First Special Session

Senate 41 0

House 96 0 (House amended)

Senate 45 0 (Senate concurred)

Effective: August 24, 2011**SSB 5614**

C 344 L 11

Establishing procedures for requesting the funds necessary to implement the compensation and fringe benefit provisions of bargaining agreements with the University of Washington under chapter 41.80 RCW.

By Senate Committee on Labor, Commerce & Consumer Protection (originally sponsored by Senators White, Kilmer, Tom, Kohl-Welles, Keiser, Kline and Conway).

Senate Committee on Labor, Commerce & Consumer Protection

House Committee on Labor & Workforce Development

House Committee on Ways & Means

Background: The Personnel System Reform Act of 2002 (Act) provides for collective bargaining with representatives of civil service employees in general government and institutions of higher education.

For purposes of negotiations, state agencies are represented by the Governor. Institutions of higher education may be represented by either their governing boards or by the Governor. The Act provides for multi-employer bargaining involving state agencies and coalition bargaining involving state agencies and institutions of higher education represented by the Governor. Representatives of more than one bargaining unit must negotiate one master collective bargaining agreement covering all of the represented employees. Representatives of fewer than 500 employees must bargain in one coalition. The coalition must bargain for a master collective bargaining agreement covering all represented employees. For universities and colleges, if the parties mutually agree, the Governor and a bargaining representative must negotiate one master collective bargaining agreement for all of the bargaining units that the representative represents at multiple universities or colleges.

The Governor must submit requests for funds necessary to implement collective bargaining agreements to the Legislature. The request must not be submitted to the Legislature unless two conditions are met. First, the requests must be submitted to the Director of the Office of Financial Management (Director) by October 1 prior to the legislative session at which the requests are to be considered. Second, the request must be certified by the Director as being financially feasible for the state. For institutions of higher education, if a bargaining representative is certified

during or after a legislative session and the compensation and fringe benefit provisions of the bargaining unit's initial agreement are submitted before final legislative action on the budget, the Legislature may act upon the provisions.

Summary: Two changes are made to the process for requests for funds to implement the compensation and fringe benefit provisions of agreements. These changes apply only in the case of agreements between the University of Washington and representatives of classified employees.

If appropriations of less than \$10,000 are necessary to implement an agreement, the Governor must submit a request for funds to the Legislature if the request is submitted to the Director by October 1 prior to the legislative session at which the request is to be considered. The request need not be certified by the Director as being feasible financially for the state.

If appropriations of \$10,000 or more are necessary to implement the agreement and the request is not certified by the Director as being feasible financially for the state, the parties must enter into collective bargaining solely for the purpose of reaching a mutually agreed upon modification to address the absence of requested funds. The Legislature may act on a modified collective bargaining agreement if those provisions are submitted to the Office of Financial Management and legislative budget committees before final legislative action on the operating budget.

Votes on Final Passage:

Senate 47 1

House 95 0 (House amended)

Senate 46 1 (Senate concurred)

Effective: July 22, 2011**2SSB 5622**

C 320 L 11

Concerning recreation access on state lands.

By Senate Committee on Ways & Means (originally sponsored by Senators Ranker, Swecker, Fraser, Hargrove, White, Regala, Shin, Chase, Kline and Conway; by request of Parks and Recreation Commission, Department of Natural Resources and Department of Fish and Wildlife).

Senate Committee on Natural Resources & Marine Waters
Senate Committee on Ways & Means

Background: The Washington Department of Fish and Wildlife (WDFW), Department of Natural Resources (DNR), and the State Parks and Recreation Commission (State Parks) are charged with managing the public lands of the state. WDFW owns or manages nearly one million acres of public land for fish and wildlife, habitat conservation, and wildlife-related recreation. DNR protects and manages 5.6 million acres of state-owned land. In addition, the Washington State park system includes 120 developed parks.

DNR and State Parks currently do not charge fees for access to their lands or recreation sites. WDFW charges \$10 for the annual fish and wildlife lands vehicle use permit, or the permit is provided free of charge with all hunting and fishing licenses.

Public or private landowners are not liable for unintentional injuries to members of the public who use the land for outdoor recreation, if no fee is charged. State Parks and WDFW vehicle use and parking permits are not considered a fee for purposes of recreational immunity.

Summary: Creates the Discover Pass which costs \$30 per year and is available for purchase at the Department of Licensing (DOL) at the time of vehicle registration, through the WDFW's automated system, and through the State Parks Reservation System. A complimentary Discover Pass must be provided to a volunteer who performs 24 hours of service on agency-sanctioned volunteer projects in a year.

Creates the Day-Use Permit which costs \$10 per calendar day and is available for purchase through each state agency.

Hunters and fishers will receive a Vehicle Access Pass to WDFW lands only with the purchase of certain specified hunting and fishing licenses.

The Discover Pass or the Day-Use Permit is not required for persons who have a valid camper registration issued by State Parks. The annual investment permit is allowed in lieu of the Discover Pass or Day-Use permit at State Parks' designated boat launch sites. The sno-park seasonal permit is allowed in lieu of the Discover Pass or Day-Use permit at designated sno-parks between November 1 and March 31 of each year.

State Parks may offer up to 12 free days, of which three days must be on weekends.

The act maintains the current donation for State Parks at the time of vehicle registration at DOL.

A new account is created with the following disbursements:

For the first \$71 million in revenue:

- 8 percent is deposited into the Wildlife Account (WDFW);
- 8 percent is deposited into Park Land Trust Revolving Account (DNR); and
- 84 percent is deposited into State Parks Renewal & Stewardship Account.

For any additional revenue beyond \$71 million:

- Revenues are distributed equally amongst the agencies.

The Discover Pass, Vehicle Access Pass, and Day-Use Permit must be visible in the front windshield of the vehicle. Failure to display the pass or permit is an infraction with a penalty of \$99, reduced to \$59 if a Discover Pass is purchased.

The Discover Pass and the Day-Use Permit are not considered a fee under the Recreational Immunity Statute for purposes of liability.

The agencies are authorized to delegate and accept enforcement authority under the Interlocal Cooperation Act.

Votes on Final Passage:

Senate	33	14
House	55	42

Effective: July 1, 2011
October 1, 2011 (Section 12)

SB 5625

C 297 L 11

Authorizing implementation of a nonexpiring license for early learning providers.

By Senators Harper, King, McAuliffe, Litzow and Nelson.

Senate Committee on Human Services & Corrections
House Committee on Early Learning & Human Services

Background: The Department of Early Learning (DEL) is charged with licensing early learning providers in Washington. (Child care is included in the definition of early learning.) According to DEL, it licenses more than 7500 child care providers, who care for approximately 180,000 children. DEL also monitors licensed providers to ensure minimum licensing requirements are met.

In the 2010 legislative session, ESB 6444 directed DEL, by January 15, 2011, to develop a plan to improve child care licensing practices. On January 14, 2011, DEL released its report to the Legislature. The report outlines a ten-year plan to improve licensing. One of the items addressed in the plan is to allow non-expiring licenses for child care providers.

Currently, child care providers are issued an initial license for a six-month period until the licensee can demonstrate that they meet specific requirements. Four initial licenses can be issued within a two-year period. All licensed child care providers are required to reapply for licensure every three years. According to DEL, "relicensing is a time-consuming process that involves much paperwork for both the licensor and provider, and culminates in a relicensing visit that can last several hours."

According to a 2008 survey administered by the National Association for Regulatory Administration and National Child Care Information and Technical Assistance Center, the following 12 states use the non-expiring license model: Arkansas, California, Colorado, Georgia, Kansas, Maryland, North Carolina, Nebraska, Oklahoma, South Dakota, Texas, and Wisconsin.

Summary: Fully licensed child care providers are no longer required to reapply for licensure every three years. Instead, full licenses will remain valid so long as licensees submit the following items to DEL on an annual basis:

- the annual licensing fee;
- a declaration indicating the intent to either continue or cease operating a licensed child care program;
- a declaration of compliance with all licensing rules; and
- a background check application, according to DEL's established schedule.

If a licensee fails to submit the items listed above, the license will expire, and the licensee must submit a new application for licensure.

DEL is required to consider whether an agency is in good standing before granting a continuation of a full license and when determining the most appropriate approach and process for monitoring visits. An agency in good standing is defined as an agency that does not have:

- complaints;
- history of noncompliance related to those complaints or pending from prior monitoring visits; or
- other information that when evaluated may result in a finding of noncompliance.

DEL is authorized to issue a probationary license to an agency that is not in good standing. Before issuing a probationary license, DEL is required to provide licensees with a written referral to the Child Care Resource and Referral Network or other appropriate resources for technical assistance. DEL, the licensee, and the technical assistance provider must meet to develop a plan to correct the areas of noncompliance identified by DEL within 30 days after the licensee accepts the referral. DEL may issue a probationary license within 15 working days after it has sent its referral if (1) the licensee has refused, in writing, to accept the referral, or (2) the licensee has failed to respond in writing to DEL's referral. DEL may issue a probationary license after 60 days if the licensee has not corrected the areas of noncompliance in consultation with the technical assistance provider.

Votes on Final Passage:

Senate	48	0	
House	94	2	(House amended)
House	96	0	(House amended)
Senate	46	0	(Senate concurred)

Effective: July 22, 2011

SB 5628
C 365 L 11

Concerning a limited property tax exemption from the emergency medical services levy.

By Senators Fain, Eide, Roach and Litzow.

Senate Committee on Ways & Means
House Committee on Ways & Means

Background: All real and personal property in Washington is subject to a property tax each year, based on its

value, unless a specific exemption is provided by law. The tax is determined by multiplying the assessed value by the tax rate for each taxing district in which the property is located.

Regular and Excess Property Tax Levies. The sum of property-tax rates is limited by the state Constitution to a maximum of 1 percent of true and fair value, or \$10 per \$1,000 of value. The Constitution provides a procedure for voter approval for tax rates that exceed the 1 percent limit. These taxes are called excess levies. Excess levies require not only voter approval, but most also require a 60 percent super majority to be approved. Taxes imposed under the 1 percent limit are called regular taxes. The Constitution does not require voter approval of regular taxes. However, some regular taxes are limited in time duration and require voter approval.

EMS Levies. An emergency medical service (EMS) levy is a regular voter-approved levy which is used to provide emergency medical care or emergency medical services, including related personnel costs, training for such personnel and related equipment, supplies, vehicles, and structures needed to provide this care or service.

An EMS levy must be approved by a super majority of registered voters at a general or special election and may be six years, ten years, or permanent. If approved, a taxing district can impose a regular property-tax levy in an amount that cannot exceed \$0.50 per \$1,000 of assessed value of the property of the taxing district.

Only a county, emergency medical service district, city, town, public hospital district, urban emergency medical service district, or fire protection district is authorized to impose an EMS levy. If a county is the first taxing district to impose the \$0.50 per \$1,000 of assessed value EMS levy, no other taxing district within the county may subsequently impose the EMS levy.

EMS Levies in the City of Milton. King County currently imposes a countywide EMS levy of \$0.30 cents per \$1,000 of assessed value. Pierce County does not impose an EMS levy. The City of Milton is located partially in King County and partially in Pierce County.

The voters of Milton have authorized the city to impose the levy at its maximum rate of \$0.50 per \$1,000 of assessed valuation. Through an interlocal agreement, King County remits to Milton the funds that it receives from its county levy from property located within Milton. Milton has, however, collected only \$0.20 per \$1,000 of assessed valuation pursuant to its city levy, and not the full \$0.50 authorized by the city's voters.

The Department of Revenue construed the provisions of the EMS levy statute, which requires a city's levy to be reduced if a county has first imposed the levy to require that Milton's levy be reduced, such that the combined levies of King County and Milton would not exceed \$0.50 per \$1,000 of assessed valuation. An Attorney General Opinion was issued, AGO 2010 No. 8, concluding that a city divided between two counties may impose an EMS levy of up to \$0.50 per \$1,000 of assessed valuation throughout

the city, without regard to any EMS levy imposed by a county in which some of the city's territory is located. Therefore, if the city of Milton imposed an EMS levy up to the maximum tax rate in the future, the portion of the city located in King County would have an EMS levy of \$0.80 per \$1,000 of assessed value, while the remainder of the city would have an EMS levy of \$0.50 per \$1,000 of assessed value.

Summary: All real and personal property is exempt from a county EMS levy if the following requirements are met:

1. the property is located in a county with a population of more than 1.5 million;
2. the property is located in a city included within two counties; and
3. the locally assessed value of the property in the portion of the city included within the county described under subsection (1) of this section is less than \$125 million.

This act applies to taxes levied for collection in 2012 and thereafter.

Votes on Final Passage:

Senate	47	0	
House	92	0	(House amended)
Senate	46	0	(Senate concurred)

Effective: July 22, 2011

SB 5633

C 116 L 11

Exempting agricultural fair premiums from the unclaimed property act.

By Senators Pridemore, Hewitt, Kastama and Swecker.

Senate Committee on Agriculture & Rural Economic Development

House Committee on Ways & Means

Background: Washington's Unclaimed Property Act (UPA) requires holders of unclaimed property, including private entities and local governments, to hold the property for owners. Unclaimed property includes uncashed checks. After three years, a private entity holding an obligation to pay an uncashed check must transfer funds to pay the check to the state Department of Revenue (DOR). A local government holding an obligation to pay an uncashed check may transfer funds to pay the check to DOR or retain the funds. There is no time limit for an owner to claim the funds from either DOR or the local government.

Some uncashed checks are exempt from the UPA, including certain claim offers issued by insurers. Checks that are not subject to the UPA may become unpayable six months after issuance.

In Washington, counties and private nonprofit entities operate agricultural fairs. The fairs commonly award small premium checks as prizes. Recipients sometimes

retain the checks as mementos, rather than cashing them. The fairs remain subject to long-term liability under the UPA to pay the uncashed checks.

Summary: Unclaimed premiums paid by an agricultural fair by check are not subject to the UPA. An agricultural fair is a fair or exhibition intended to promote agriculture by including varied exhibits of livestock, agricultural products, and related manufactured products and arts. A premium is an amount paid for exhibits and educational contests, displays, and demonstrations, but does not include judges' fees and expenses, livestock sale revenues, or prizes or amounts paid for promotion or entertainment activities such as queen contests, parades, dances, rodeos, and races.

Votes on Final Passage:

Senate	45	0
House	95	0

Effective: July 22, 2011

SSB 5635

C 117 L 11

Concerning changes in the point of a diversion under a surface water right permit.

By Senate Committee on Environment, Water & Energy (originally sponsored by Senators Honeyford and Rockefeller; by request of Department of Natural Resources).

Senate Committee on Environment, Water & Energy
House Committee on Agriculture & Natural Resources

Background: Washington operates under a water right permit system. The right to use water that has been put to beneficial use is, and remains, an appurtenance of the land or place where the water is used. The Department of Ecology (Ecology) may permit certain changes to a water right. Ecology may also permit a transfer of a water right from one holder to another. In processing change or transfer applications, Ecology analyzes the validity, limits, and quantity of the right. If it appears that the transfer of the water right, change of point of diversion, or purpose of use can be made without harming existing rights, Ecology must grant the transfer or change.

If the transfer involves surface water supplied by an irrigation district, and the transferred water remains in the district, the transfer needs only to be approved by the irrigation district. Water users may make a seasonal or temporary change of point of diversion or place of use of water when the change can be made without detriment to existing rights. Such a seasonal or temporary change requires the permission of Ecology or the local water master. With such approval, water users who own the land to which the water rights are attached may also rotate the use of the water when the rotation can be accomplished without detriment to other existing water rights. Ecology may allow a

change of the point of diversion to a downstream intake structure when a modification will provide both environmental benefits and water supply benefits. The structure must be located downstream, have an existing approved intake structure with capacity to transport the additional diversion, and have the same ownership, purpose of use, season of use, and place of use.

Summary: Ecology may allow a change of the point of diversion to a point of diversion located between Columbia River miles 215.6 and 292, if the existing point of diversion is also within those miles on the Columbia River.

Votes on Final Passage:

Senate	49	0
House	96	0

Effective: July 22, 2011

2SSB 5636

C 321 L 11

Concerning the University Center of North Puget Sound.

By Senate Committee on Ways & Means (originally sponsored by Senators Haugen, Harper, Shin and Delvin).

Senate Committee on Higher Education & Workforce Development

Senate Committee on Ways & Means
House Committee on Higher Education
House Committee on Ways & Means

Background: A number of studies have been undertaken over the past decade to determine the higher education needs of North King, Snohomish, Island, and Skagit Counties. In November 2006 a consultant team's final report found that the needs of about 10,800 full-time equivalent students would be unmet by 2025 if students from those counties participated in baccalaureate and graduate degree programs at the 1998 national average for all adults.

The mission of the University Center of North Puget Sound (University Center) is to develop partnerships with other colleges and universities for the purpose of providing baccalaureate and graduate degrees for the residents of North Snohomish, Island and Skagit Counties and to provide the services and facilities that deliver these educational opportunities. The University Center offers on-line and in-class courses from Washington State University (WSU), University of Washington (UW)-Bothell, Western Washington University (WWU), Central Washington University, The Evergreen State College, Hope International University, and Saint Martin's University. Instruction is delivered in various formats including web-based distance education, two-way interactive video, technology supported classrooms and combinations of these. In 2005 the legislature named consortium member Everett Community College (ECC) as manager of the University Center and in

March, 2009 the University Center moved to the new Undergraduate Center in Gray Wolf Hall on the main campus.

Summary: WSU assumes management and leadership for baccalaureate and graduate degree production at the University Center by July 1, 2014. The Director of the University Center reports to the President of WSU and implements decisions of the Coordinating and Planning Council (council). The council is established to provide long-range strategic planning, facilitate collaborations, and resolve internal disputes. The membership of the council is specified, but may be modified by agreement.

The council must establish a strategic plan addressing the employers' needs for skilled workers by expanding high employer demand programs of study, with an ongoing emphasis by WSU on undergraduate and graduate engineering degree programs in a variety of engineering disciplines such as civil, mechanical, aeronautical, and aerospace manufacturing. The plan must specifically address the operating and capital budget required to implement the plan, expansion of the range of regional educational opportunities, include specified strategies, and establish a process for program development. It must be completed by December 1, 2012. The strategic plan is considered approved if the Legislature does not take further action during the 2013 legislative session.

Academic programming and delivery are developed in accordance with the missions of WSU, ECC, and other institutions that have a presence at the University Center. Each participating institution awards degrees granted in its programs at the University Center. The council establishes a process for prioritizing new programs and revising existing programs to fit the needs of the region.

University Center expansion needs and capital facility funding are reviewed annually by WSU in cooperation with ECC. WSU designs, constructs, and manages any facility developed at the University Center with the exception of facilities design efforts utilizing ECC capital funding. WSU is responsible for infrastructure development and maintenance with costs shared equitably.

The act takes effect only after the Higher Education Coordinating Board (HECB) determines whether a needs assessment and analysis is required and, if so, conducts a needs assessment and viability determination and recommends that this should move forward. The Office of Financial Management, the Legislature, and the Code Reviser must be notified of the HECB's recommendations by July 1, 2012.

Votes on Final Passage:

Senate	39	9	
House	66	31	(House amended)
Senate	38	10	(Senate concurred)

Effective: Contingent

2ESB 5638

C 28 L 11 E 1

Concerning the exemption of certain taxing districts.

By Senators Keiser, Fain, Prentice and Shin.

Senate Committee on Ways & Means

House Committee on Ways & Means

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 1 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 local 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, and park districts, among others.

If the combined rates of the senior and junior taxing districts exceed \$5.90 – or if the combined rate of all districts exceed the \$10 limit – the rates of certain districts are reduced according to statutorily set priorities until the combined rate fits within the \$5.90 limit or the overall \$10 limit. This process is referred to as pro-rationing.

There are also local property taxes with rates outside of the \$5.90 limit, but which are still subject to the 1 percent constitutional limit. These following taxes are reduced first in the pro-rationing process for the \$10 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;
- voter-approved county criminal justice taxes;
- a portion of levies by fire protection districts; and
- certain King County transit taxes.

A flood control zone district (zone) is an independent taxing authority. A zone may receive funding from a variety of sources, including property tax receipts; rates, charges, and assessments; and debt proceeds.

A zone may impose annual, nonvoter-approved regular property tax levies of up to \$0.50 per \$1,000 of assessed value. With 60 percent voter approval, a zone may also impose excess levies for general purposes and to retire general obligation bonds issued for capital purposes.

In the latest tax year, the King County Flood Control Zone District was subject to pro-rationing.

Summary: Metropolitan Park Districts in King County may, if authorized by a vote of the people, move all or a portion of their levy outside the \$5.90 aggregate limit if it would otherwise have been pro-rationed away. The protected levy for such Metropolitan Park Districts is still within the constitutional \$10 limit.

Should the \$10 limit be exceeded the protected portion of the Metropolitan Park District's levy will be the first priority to be pro-rationed down.

Unintentional errors in EHB 1969 which dealt with flood control districts and passed earlier this session are corrected.

Votes on Final Passage:

Senate 44 2

First Special Session

Senate 38 7

House 53 37

Effective: August 24, 2011

Contingent

ESSB 5656

C 309 L 11

Creating a state Indian child welfare act.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Hargrove, Regala, White, McAuliffe and Kline).

Senate Committee on Human Services & Corrections
House Committee on State Government & Tribal Affairs
House Committee on Early Learning & Human Services

Background: The Indian Child Welfare Act (ICWA) is a federal law passed in 1978. ICWA was passed in response to the high number of Indian children being removed from their homes by both public and private agencies. The intent of Congress under ICWA was to "protect the best interests of Indian children and to promote the stability and security of Indian tribes and families" (25 U.S.C. § 1902). ICWA sets federal requirements that apply to state child custody proceedings involving an Indian child who is a member of or eligible for membership in a federally recognized tribe. These requirements apply to proceedings under chapters 13.32A, 13.34, and 26.33 RCW.

Indian children involved in state child custody proceedings are covered by ICWA. A person may define his or her identity as Indian but in order for ICWA to apply, the involved child must be an Indian child as defined by the law. ICWA defines an Indian child as "any unmarried person who is under age 18 and is either (1) a member of an Indian tribe, or (2) is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe" (25 U.S.C. § 1903). Under federal law, individual tribes have the right to determine eligibility, membership, or both. However, in order for ICWA to apply, the child

must be a member of or eligible for membership in a federally recognized tribe. ICWA does not apply to divorce proceedings, intra-family disputes, juvenile offender proceedings, or cases under tribal court jurisdiction.

All tribes have the right to determine who is a member of their tribe, and different tribes have different requirements for eligibility.

Caseworkers must make several considerations when handling an ICWA case, including (1) providing active efforts to the family, (2) identifying a placement that fits under the ICWA preference provisions, (3) notifying the child's tribe and the child's parents of the child custody proceeding, and (4) working actively to involve the child's tribe and the child's parents in the proceedings.

The child's tribe must have exclusive jurisdiction over the child custody proceeding involving the Indian child who resides on a reservation unless the tribe has consented to state's concurrent jurisdiction, or the tribe expressly declined jurisdiction or the state is exercising emergency jurisdiction. If the court or any party knows or has reason to know that a child is or may be an Indian child, the court or party must notify the parent or Indian custodian and the child's tribe, by registered mail, of any pending proceedings and their right of intervention.

In a child custody proceeding involving an Indian child who is not a resident of the reservation and not a ward of the tribal court, the court must transfer the case to tribal court unless either parent objects or there is good cause not to transfer the case. The tribe may decline jurisdiction.

Before an Indian child can be placed in foster care, the Department of Social and Human Services (DSHS) or a supervising agency must show that active efforts have been made to provide remedial services and rehabilitative programs to prevent the breakup of the Indian family and that these efforts have been unsuccessful. The court cannot order a foster care placement without a determination, supported by clear and convincing evidence, including testimony of a qualified expert witness, that continued custody by the child's parent or Indian custodian is likely to result in serious physical or emotional damage to the child.

A court cannot order the termination of parental rights without a determination, supported by evidence beyond a reasonable doubt, including testimony of a qualified expert witness, that continued custody by the child's parent or Indian custodian or return of custody to the parent or custodian is likely to result in serious physical or emotional damage to the child.

A court may order the emergency removal of an Indian child, including a child who is a resident of or domiciled on a reservation, to prevent imminent physical damage or harm to the child. The court, DSHS, or supervising agency must terminate the emergency removal or placement of a child when the removal or placement is no longer necessary to prevent imminent physical damage or harm to the child. The party that obtained emergency

removal or placement of the child must immediately initiate a child custody proceeding that complies with ICWA, transfers the child to the jurisdiction of the appropriate tribe, or restores the child to the parent or custodian. An emergency removal or placement of an Indian child must immediately terminate and the court order approving the removal vacated when the removal or placement is no longer needed to prevent imminent physical damage or harm to the child.

If the petitioner in a child custody proceeding has improperly removed the child from the parent or custodian's custody or has improperly retained custody after a visit or other temporary relinquishment of custody, the court must decline jurisdiction over the petition and immediately return the child to the parent or custodian unless such return would subject the child to substantial and immediate danger or threat of danger.

Under current law, an Indian child must be placed in a foster care home with the following characteristics which must be given preference in the following order:

1. relatives;
2. an Indian family of the same tribe as the child;
3. an Indian family of a Washington Indian tribe of a similar culture to that tribe;
4. any other family which can provide a suitable home for an Indian child, such suitability to be determined through consultation with a local Indian child welfare advisory committee.

Summary: The provisions of the act are substantially similar to those in the federal ICWA. The state act will apply to child custody proceedings, which are defined as proceedings, to determine (1) foster care placements; (2) terminations of parental rights; (3) pre-adoptive placements, which are placements of children after parental rights have been terminated; and (4) adoptive placements. There are some differences between the federal statute and the provisions in the act regarding definitions, jurisdiction, notice requirements, and placement preferences of the child.

Definitions. Active Efforts. The federal ICWA employs the term active efforts. For example, any party seeking to remove an Indian child from a parent or custodian for placement in foster care must satisfy the court that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian child family and that the efforts have proved unsuccessful. The federal statute does not define active efforts, and this act includes a definition. Active efforts requires a showing that the party actively worked with the parent to engage in remedial services and rehabilitative programs to prevent the breakup of the family, beyond simply providing referrals to such services.

Qualified Expert Witness. Testimony from a qualified expert witness is required under the federal statute before a court can place an Indian child in foster care or enter an

order terminating parental rights. The term qualified expert witness is not defined in federal law. In this act, a qualified expert witness is defined as (1) a member of the child's Indian tribe or other person of the tribe's choice who is recognized by the tribe as knowledgeable regarding tribal customs of family organization or child rearing practices; (2) any person having substantial experience in the delivery of child and family services to Indians, and extensive knowledge of prevailing social and cultural standards and child rearing practices within the Indian child's tribe; (3) a professional person having substantial education and experience in the area of his or her specialty; or (4) any person having substantial experience in the delivery of child and family services to Indians, and knowledge of prevailing social and cultural standards and child rearing practices in Indian tribes with cultural similarities to the Indian child's tribe.

Best Interests of the Indian Child. This term is not defined in the federal ICWA. For purposes of the state act, it is defined as the use of practices designed to accomplish the following: (1) protect the safety, well-being, development and stability of the Indian child; (2) prevent unnecessary out of home placements; (3) acknowledge the right of Indian tribes to maintain their existence and integrity which will promote the stability and security of their children and families; (4) recognize the value to the Indian child of establishing, developing and maintaining ties to the child's tribe; and (5) prioritize placement of a child in accordance with the placement preferences outlined in the act.

Tribal Customary Adoption. This term is not included in the federal ICWA but is defined in the act as an adoption through tribal custom, traditions, or laws of an Indian child's tribe by which the Indian child is permanently placed with a nonparent, who in turn has the rights, privileges, and obligations of a legal parent. Termination of the parent-child relationship between the Indian child and the biological parent is not required to effect or recognize a tribal customary adoption.

Jurisdiction. Jurisdictional provisions over an Indian child in a custody proceeding who, regardless of whether the child resides or is domiciled within the reservation of his or her tribe, are substantially similar to the federal statute. For children who do not reside on the reservation, a parent or other party identified in the statute may make a motion to the court to have the case transferred to the jurisdiction of the Indian child's tribe. The tribe, as in the federal statute, may decline jurisdiction. Unlike the federal law, which is silent on this issue, the act provides a 75-day time frame for the tribe to respond.

Notice. The notice provisions of the federal law are substantially duplicated in the act.

Burden of Proof in an Involuntary Child Custody Proceeding. The burdens of proof for foster care placement and termination of parental rights for a proceeding involving an Indian child are the same as those in the federal

ICWA. For foster care placement, the court must find by clear and convincing evidence that continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child. A termination order cannot be issued unless the court finds beyond a reasonable doubt that continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

Not included in federal law but included in the act is the provision that harm that may result from interfering with a bond or attachment between a foster parent and an Indian child can not be the sole basis or the primary reason for keeping an Indian child in foster care or for the termination of parental rights.

Where a child has been determined by the court not to be an Indian child, and an Indian tribe subsequently determines that the child is a member, the tribe may move the court for redetermination during the pendency of the proceeding, rather than at any time.

Voluntary Foster Care Placement or Termination of Parental Rights. The required consent for a voluntary foster care placement or termination of parental rights involving an Indian child is the same as federal law. An Indian child's parent or Indian custodian may withdraw consent to a voluntary foster care placement at any time, and upon the withdrawal of consent, the child must be returned to the parent or Indian custodian.

For a voluntary termination of parental rights or adoptive placement involving an Indian child, the consent of the parent may be withdrawn for any reason at any time prior to the entry of an order terminating parental rights or a final decree of adoption. Upon withdrawal of consent, the child must be returned to the parent. If consent to adoption was obtained through fraud or duress, a parent may withdraw consent after the entry of a final decree of adoption if the adoption has been effective for less than two years.

Placement of Indian Child. The federal ICWA sets out placement priorities for adoptive and foster care and pre-adoptive placements. The placement priorities in the act contain two options in addition to those provided in the federal law: (1) an Indian family that is of a similar culture to the child's tribe, and (2) any other family which can provide a suitable home for an Indian child, as determined in consultation with the child's tribe or the Local Indian Child Welfare Advisory Committee, where the child's tribe has not intervened.

Other Provisions. DSHS, in consultation with the Indian tribes, must establish standards and procedures for its review of cases involving Indian children under the newly created chapter and methods for monitoring the DSHS's compliance with the federal and state acts.

Nothing in this chapter shall affect, impair, or limit rights or remedies provided to any party under the federal ICWA, 25 U.S.C. Sec. 1914.

Every order or decree entered in any child custody proceeding must contain a finding that the federal ICWA or state Indian Child Welfare Act applies. The order must also contain a finding that all notice, consent, and evidentiary requirements under the state and federal acts have been satisfied.

Votes on Final Passage:

Senate	46	1	
House	79	18	(House amended)
House	82	16	(House amended)
Senate	44	3	(Senate concurred)

Effective: July 22, 2011

SSB 5658

C 376 L 11

Concerning the sale or exchange of surplus real property by the department of transportation.

By Senate Committee on Transportation (originally sponsored by Senators King, Haugen and Shin).

Senate Committee on Transportation
House Committee on Transportation

Background: The Washington State Department of Transportation (WSDOT) has the authority to identify property that is no longer needed for transportation purposes as surplus. Once property has been identified as surplus, WSDOT may dispose of the land for no less than fair market value through one of the following processes:

1. through a call for bids as part of the construction or maintenance of a highway;
2. at public auction to the highest bidder;
3. through a licensed real estate broker; or
4. direct sale to any of the following entities:
 - a. any other state agency;
 - b. a city, county or Indian tribe if the land is located within their boundaries;
 - c. any other municipal corporation;
 - d. Sound Transit;
 - e. the former owner;
 - f. a tenant that has resided there for six or more months;
 - g. an abutting property owner;
 - h. to anyone for transportation purposes;
 - i. nonprofit organizations for low-income housing; and
 - j. a federally qualified community health center until June 30, 2012.

Summary: WSDOT may only remove property from an auction for a person or organization listed in a. through i. above if the requestor can provide the lesser of 10 percent of the fair market value or \$5,000. If the requestor is unable to complete the sale within 60 days, the requestor loses the down payment and the property is put back up for sale.

Votes on Final Passage:

Senate	45	0	
House	93	0	(House amended)
Senate	47	0	(Senate concurred)

Effective: July 22, 2011
June 30, 2012 (Section 2)

2SSB 5662

C 345 L 11

Concerning preferences for in-state contractors bidding on public works.

By Senate Committee on Ways & Means (originally sponsored by Senators Conway, Chase, Kline, Shin, Keiser, Kohl-Welles, White, Roach, Hobbs, Nelson, Prentice, Haugen and Fraser).

Senate Committee on Labor, Commerce & Consumer Protection

Senate Committee on Ways & Means
House Committee on State Government & Tribal Affairs
House Committee on Capital Budget

Background: Contracts for public works projects are generally awarded to the responsible bidder submitting the lowest responsive bid. A responsible bidder must be licensed; have a current state unified business identifier number; maintain industrial insurance coverage for the bidder's employees working in Washington; have an Employment Security Department number and a state excise tax registration number; and must not be disqualified from bidding based on noncompliance with licensing requirements, state apprenticeship requirements, or prevailing wage violations.

Summary: The Department of General Administration (GA) must survey the 50 states to determine which ones provide advantages for their in-state contractors bidding on public works projects. The survey must be completed by November 1, 2011. GA must report on the results of the survey, and provide recommendations necessary to implement the intent of the legislation, to the Legislature by December 1, 2011. GA must distribute the report to all state and local agencies with public works procurement authority.

Any bidding process for public works in the state in which a bid is received from a nonresident contractor, from a state that is identified in the survey as providing an in-state contractor advantage, must provide a comparable disadvantage to the bid of that nonresident contractor. This requirement applies when GA has adopted rules and procedures to implement the reciprocity requirement.

The reciprocity provisions do not apply if they contradict requirements for federal funding.

Votes on Final Passage:

Senate	32	13	
House	87	8	(House amended)
House	93	2	(House amended)
Senate	35	12	(Senate concurred)

Effective: July 22, 2011

SSB 5664

C 118 L 11

Concerning the Lake Washington Institute of Technology.

By Senate Committee on Higher Education & Workforce Development (originally sponsored by Senators McAuliffe, Shin, Hobbs, Nelson, Rockefeller, Litzow, Chase, Tom, Zarelli, Brown, Kilmer, Delvin and Murray).

Senate Committee on Higher Education & Workforce Development

House Committee on Higher Education

House Committee on Education Appropriations & Oversight

Background: Lake Washington Technical College officially became part of the community and technical college system on September 1, 1991. Lake Washington Technical College serves as a flexible college, providing multiple entrance points and pathways. The college is a conduit for students to upgrade their skills, transition into a new career, or further their education for other reasons. Available pathways include basic skills transition, high school programs, certificates of proficiency and completion, apprenticeships, associates degrees (technical and transfer), professional and technical direct transfer agreements, an applied baccalaureate degree, incumbent and displaced worker training, and continuing education.

Lake Washington Technical College is accredited by the Northwest Commission on Colleges and Universities at the associate degree level and has been granted candidacy at the baccalaureate degree level.

Summary: The name of Lake Washington Technical College is changed to Lake Washington Institute of Technology.

Votes on Final Passage:

Senate	49	0	
House	72	24	

Effective: July 22, 2011

SSB 5688

C 324 L 11

Concerning shark finning activities.

By Senate Committee on Natural Resources & Marine Waters (originally sponsored by Senators Ranker, Swecker, Rockefeller, Litzow, Shin and Kline).

Senate Committee on Natural Resources & Marine Waters
House Committee on Agriculture & Natural Resources

Background: Shark Finning Defined. The National Oceanic and Atmospheric Administration explains shark finning as the practice of cutting off a shark's fins and returning the remainder of the shark to the water.

Current Shark Finning Prohibitions. Currently, rules of the Department of Fish and Wildlife (DFW) make it illegal to fin a shark in state waters. A commercial fisher must retain the entire shark in order to retain a fin. Once a shark has been delivered to a dealer and the sale recorded on a fish ticket, the shark fin may be dealt with separately from the carcass.

The practice of shark finning is also prohibited under federal law.

Summary: Creates the Crime of Unlawful Trade in Shark Fins. A person is guilty of unlawful shark trade in the second degree if that person (1) offers to or does buy, sell, or otherwise exchange a shark fin or derivative product for commercial purposes; or (2) prepares or processes a shark fin or derivative product for human or animal consumption for commercial purposes. A violation constitutes a gross misdemeanor, and triggers suspension of commercial fishing privileges for one year.

A person is guilty of a violation in the first degree if the violation (1) involves shark fins or a derivative product worth more than \$250; (2) is committed with knowledge the shark was illegally caught; or (3) is committed within five years of a conviction of this or other specified fish and wildlife crimes. A violation constitutes a class C felony, and triggers suspension of commercial fishing privileges for one year.

Provides Certain Exemptions. A person may conduct scientific or educational activities under a DFW permit without being liable for unlawful trade in shark fins. Additionally a person may exchange, prepare, or process for commercial purposes shark fins or derivative products lawfully caught or acquired before the act takes effect.

An intent section is included, and terms are defined.

Votes on Final Passage:

Senate	47	0	
House	95	1	(House amended)
Senate	47	0	(Senate concurred)

Effective: July 22, 2011

SSB 5691
PARTIAL VETO
C 346 L 11

Streamlining the crime victims' compensation program.

By Senate Committee on Human Services & Corrections
(originally sponsored by Senator Hargrove).

Senate Committee on Human Services & Corrections
House Committee on Public Safety & Emergency
Preparedness
House Committee on Ways & Means

Background: The Crime Victims' Compensation Program (CVCP) is a program which uses a combination of state appropriations and federal grants for benefits such as medical treatment, counseling, and financial support to certain victims of crime and their beneficiaries. The CVCP is administered by the Department of Labor and Industries (L&I), and is based on the structure of the Industrial Insurance (Workers Compensation) Program. CVCP benefits are capped at \$50,000 per claim until July 1, 2015, at which time the benefit cap is due to rise to \$150,000.

A permanent partial disability is an injury causing permanent physical limitation which does not incapacitate the victim or prevent the victim from performing work in any gainful occupation.

Summary: The benefit for permanent partial disability for victims of criminal acts is repealed. The benefit for payments for home and vehicle modifications is also repealed. Non-medical benefits are limited to \$40,000 out of the \$50,000 benefit cap. Colposcopy exams are excluded from the \$50,000 benefit cap. The methods used to determine the amount of claim payments for total permanent disability, financial support, and fatality benefits are simplified. L&I is permitted to use electronic means of communication. The CVCP must not pay for experimental or controversial treatment, but only for treatment which is evidence based and curative. CVCP provisions are severed from laws relating to Industrial Insurance.

Votes on Final Passage:

Senate	46	2	
House	92	0	(House amended)
Senate	47	0	(Senate concurred)

Effective: July 1, 2011

Partial Veto Summary: Removes provisions which would restore CVCP benefits for permanent partial disability and home and vehicle modifications on July 1, 2015. Removes a provision which would disallow making exceptions to the CVCP benefit cap for necessary medical benefits after July 1, 2015.

VETO MESSAGE ON SSB 5691

May 12, 2011

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to Sections 402, 503, 804 and 805, Substitute Senate Bill 5691 entitled:

"AN ACT Relating to crime victims' compensation."

With this bill, the Legislature has taken important steps to ensure the sustainability of our Crime Victims' Compensation program. Administrative efficiencies, coupled with painful but necessary benefit reductions, will allow the program to maintain its viability for the foreseeable future. However, only temporarily reducing these benefits will only temporarily strengthen the Crime Victims' Compensation program. An increase in crime victims' benefits is a discussion that should occur if and when state revenues improve, but not before that time.

For these reasons, I have vetoed Sections 402, 503, 804 and 805 of Substitute Senate Bill 5691.

With the exception of Sections 402, 503, 804 and 805, Substitute Senate Bill 5691 is approved.

Respectfully submitted,



Christine O. Gregoire
Governor

SSB 5700
PARTIAL VETO
C 377 L 11

Concerning certain toll facilities.

By Senate Committee on Transportation (originally sponsored by Senators Haugen and King).

Senate Committee on Transportation
House Committee on Transportation

Background: During the 2009 regular legislative session, the Legislature authorized tolling on the State Route 520 (SR 520) corridor, authorized bonds to finance construction of corridor projects, and committed to continue imposing tolls on the corridor in amounts sufficient to pay the principal and interest on the bonds. The Washington State Department of Transportation has indicated it will be ready to start imposing tolls on the corridor in Spring of 2011, using a new electronic toll collection system, including photo tolling, authorized during the 2010 regular legislative session. As such, on January 5, 2011, the Transportation Commission adopted a schedule of toll rates applicable to the SR 520 corridor, and on January 25, 2011, adopted a schedule of photo toll rates applicable to the Tacoma Narrows Bridge. Included in the commission's January 5 action was the adoption of administrative fees for toll collection processes.

On November 2, 2010, Washington State voters approved Initiative Measure No. 1053 (I-1053). Among other things, I-1053 provides that "[a] fee may only be imposed or increased in any fiscal year if approved with

majority legislative approval in both the house of representatives and the senate ..." I-1053 took effect December 2, 2010. Tolls are considered fees.

Summary: Consistent with the fee provisions of I-1053 and previously enacted statutory toll-related criteria, the Legislature approves the action taken by the Transportation Commission in January to (1) adopt the schedule of toll rates applicable to the SR 520 corridor, (2) adopt the schedule of photo toll charges applicable to the Tacoma Narrows Bridge, and (3) adopt the assessment of administrative fees for toll collection processes. The Legislature authorizes the Transportation Commission to set and adjust toll rates on the SR 520 corridor in accordance with previously enacted statutory criteria. The Transportation Commission may exceed the SR 520 toll rates only in amounts not greater than those sufficient to meet maintenance and operating costs on the corridor and to make debt service payments and other associated financing costs. The Transportation Commission must send a report to the Legislature regarding any increase or decrease to the SR 520 toll rates, and to photo toll rates on the Tacoma Narrows Bridge, along with a detailed justification for the action.

Corrective language is enacted to reauthorize the issuance of toll revenue bonds applicable to the SR 520 corridor. The definition of toll revenue for bonding purposes applicable to the SR 520 corridor is broadened to include funds received for the benefit of transportation facilities in the state.

Votes on Final Passage:

Senate	35	10	
House	73	25	(House amended)
Senate	32	10	(Senate concurred)

Effective: May 16, 2011

Partial Veto Summary: The intent section was vetoed.

VETO MESSAGE ON SSB 5700

May 16, 2011

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to Section 1, Substitute Senate Bill 5700 entitled:

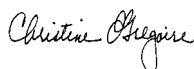
"AN ACT Relating to certain toll facilities."

I am vetoing Section 1, the intent section. As outlined in an informal Attorney General Opinion, Initiative 1053 does not constrain the manner in which the legislature approves imposition or increases in fees. Section 1 could be misconstrued to constrain the form of legislative approvals. Vetoing the intent section does not impede implementation of the bill.

For these reasons, I have vetoed Section 1 of Substitute Senate Bill 5700.

With the exception of Section 1, Substitute Senate Bill 5700 is approved.

Respectfully submitted,



Christine O. Gregoire
Governor

Creating flexibility in the delivery of long-term care services.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senator Keiser).

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

Background: Boarding homes are privately owned facilities that are licensed by the state to assume general responsibility for the safety and well-being of seven or more residents. The services provided are considered domiciliary care may include a wide range of support, from light care and housekeeping to intermittent nursing services and other specialized care. Boarding homes vary in size and ownership from a small, locally-owned seven-bed facility to a 150-bed facility operated by a large national corporation. The majority of residents are private pay. Medicaid contracts for assisted living, adult residential care, and group homes for developmentally disabled individuals. There are approximately 544 boarding homes in the state, with 28,882 licensed beds. Boarding homes may also have non-licensed beds. Nonresidents in these beds may not receive domiciliary care directly by the boarding home. They receive all of their services independently, through contracts or arrangements not directly involving the boarding home.

Nursing facilities provide 24-hour supervised nursing care, personal care, therapy, nutrition management, organized activities and other specialized services. Residents in nursing facilities may require nursing services for chronic illness or rehabilitation, and are not capable of independent living, or they may need short post-hospital recuperative care. In general, because of the regulatory limits on the amount of nursing care provided in boarding homes, residents in nursing facilities are considered to have more acute needs than those in boarding homes. Some nursing facilities in the state have converted part of their facility to boarding homes in order to provide lower levels of care under assisted living and private pay arrangements.

Summary: Nonresidents of boarding homes may receive technology-based monitoring devices, scheduled blood pressure checks, reminders about health care appointments, medication assistance, falls risk assessment, and nutrition management and education services, dental services, and wellness programs. Boarding homes must notify residents in non-licensed rooms that certain protections and services available to licensed beds do not apply to them.

The State Board of Nursing Home Administrators is authorized to determine the parameters for on-site full time administrators in nursing homes with small resident populations when the nursing home has converted some of

its licensed nursing facility bed capacity into assisted living.

Under certain circumstances, nursing facilities may provide transitional care management services for up to 30 days by either telephone or through web-based means to patients who have been discharged from their facilities. These transition care services may be provided when a resident is without in-home care services, because they have refused them, or they are not eligible. The services may include care coordination, review of the discharge plan, and other support. If the nursing facility is concerned about the discharged patient's situation, the facility must call the patient's primary care physician.

DSHS must convene a workgroup of stakeholders to identify mechanisms to incentivize nursing facilities to close or eliminate licensed beds from active service. The recommendations from the workgroup must be submitted in a report to the Governor and the Legislature by September 1, 2011.

Votes on Final Passage:

Senate	49	0	
House	96	0	(House amended)
Senate	47	0	(Senate concurred)

Effective: July 22, 2011

SSB 5722

C 347 L 11

Concerning the use of moneys collected from the local option sales tax to support chemical dependency or mental health treatment programs and therapeutic courts.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Hargrove, Morton, Stevens, Regala, Shin and McAuliffe).

Senate Committee on Human Services & Corrections
House Committee on Ways & Means

Background: A county may impose a sales and use tax (tax) of 0.1 percent to support mental health treatment programs, chemical dependency treatment programs, and therapeutic courts. Limitations exist on the extent to which this money can be used to supplant funding for existing services. Fifteen counties have imposed this tax: Clallam, Clark, Ferry, Grays Harbor, Island, Jefferson, King, Okanogan, San Juan, Skagit, Snohomish, Spokane, Thurston, Wahkiakum, and Whatcom.

Summary: A county with a population greater than 25,000 which imposes the tax may use up to 50 percent of monies collected to supplant funding for existing services in 2011-2012, up to 40 percent in 2013, up to 30 percent in 2014, up to 20 percent in 2015, and up to 10 percent in 2016. A county with a population less than 25,000 which imposes the tax may use up to 80 percent of monies collected to supplant funding for existing services in 2011-

2012, up to 60 percent in 2013, up to 40 percent in 2014, up to 20 percent in 2015, and up to 10 percent in 2016.

Monies used to support the cost of a judicial officer and support staff of a therapeutic court are exempt from supplant restrictions.

Votes on Final Passage:

Senate	40	8	
House	79	16	(House amended)
Senate	32	14	(Senate concurred)

Effective: July 22, 2011

SB 5731

C 310 L 11

Concerning Washington manufacturing services.

By Senators Chase, Kastama, Shin and Conway.

Senate Committee on Economic Development, Trade & Innovation

House Committee on Community Development & Housing

Background: In 2006 the Legislature created the Washington Manufacturing Services in statute as a nonprofit corporation (the corporation) to operate a modernization extension system, coordinate a network of public and private modernization resources, and stimulate the competitiveness of small and midsize manufacturers. The Legislature stated an intent to encourage small and midsize firms to aggregate their demand for training and other modernization services, thus driving down the cost to the individual firm and securing more effective services, and directed the corporation to provide assistance to industry associations, networks, or consortia. In 2010 the board of directors of the corporation changed the name of Washington Manufacturing Services to Impact Washington.

The U.S. Department of Commerce commissions an annual audit of the corporation's clients. Their most recent audit results for 2010 showed increased sales of \$47,806,779; 150 jobs created; 410 jobs retained; decreased costs of \$12,127,512; and increased capital spending of \$18,576,608.

The corporation receives about \$2 million annually from the federal government. The federal government requires local matching funds. The corporation receives \$200,000 annually from the state, and the remainder of its \$4 million annual budget comes from fee for services.

The U.S. Department of Commerce's Trade Adjustment Assistance for Firms program helps American companies become more competitive when faced with import competition in their markets. Companies can receive up to \$75,000 in matching grant funding for assistance projects that enhance their competitiveness. The types of projects funded include re-engineering, production control and

inventory systems, marketing and sales, cost reduction, and information technology.

Summary: The corporation may be known as Impact Washington. Impact Washington is to collaborate with industry sector and cluster associations to inform import-impacted manufacturers about Trade Adjustment Assistance funding. A minimum of 35 percent and a maximum of 65 percent of its state funding must be used to provide assistance to industry or cluster associations, networks, or consortia.

Votes on Final Passage:

Senate	47	1	
House	93	2	(House amended)
Senate	44	0	(Senate concurred)

Effective: July 22, 2011

SSB 5741

C 311 L 11

Concerning the economic development commission.

By Senate Committee on Economic Development, Trade & Innovation (originally sponsored by Senators Kastama and Chase).

Senate Committee on Economic Development, Trade & Innovation
 Senate Committee on Ways & Means
 House Committee on Community Development & Housing
 House Committee on General Government Appropriations & Oversight

Background: In 2002 Governor Locke created the Washington Economic Development Commission (Commission) through executive order. The following year the Legislature established the Commission in statute with the stated intent to have it develop and update the state's economic development strategy and performance measures; and provide advice to and oversight of the Department of Community, Trade, and Economic Development, now the Department of Commerce (Department).

In 2007 the Legislature revised the statutory structure, and expanded the policy role and responsibilities of the Commission. The Commission has 11 voting members appointed by the Governor for three-year terms and seven nonvoting, ex officio members. The chair of the Commission is a voting member selected by the Governor with the consent of the Senate.

The Executive Director of the Commission is appointed by the Governor with the consent of the voting members of the Commission. The Executive Director may appoint additional staff with the Commission's consent, employ outside consultants when appropriate, and use staff of existing operating agencies.

The Commission is directed to:

- concentrate its major efforts on planning, coordination, evaluation, policy analysis, and recommending improvements to the state's economic development system;
- develop and maintain on a biennial basis a state comprehensive plan for economic development;
- establish and maintain an inventory of programs of the state economic development system;
- perform a biennial assessment of the ongoing and strategic economic development needs of the state;
- assess the extent to which the system and its programs are a consistent and efficient approach to meet the state's needs;
- beginning no later than January 1, 2012, periodically administer scientifically-based outcome evaluations of the state economic development system; and
- produce a biennial report to the Governor and the Legislature on its progress coordinating the state's economic development system and include recommendations for statutory changes necessary to enhance the operational efficiencies and improve coordination.

The Commission's funding has historically flowed through the Department. The Commission does not have specific authorization to solicit funds from non-state sources.

Summary: Membership in the Commission is increased from 18 to 24 by adding two more private sector members, one more labor representative, a representative with expertise in international trade, the Secretary of the Department of Transportation, and the Director of the Department of Agriculture.

The Executive Director's salary is set by the Governor with Commission consent and the Commission is to evaluate the Executive Director's performance in a manner consistent with the process used for evaluation of agency directors. The Executive Director is to hire, using available funds, a research manager to carry out the Commission's data collection, database, and evaluation functions. The Executive Director is to develop an annual budget and work plan and report solely to the Governor and the Commission regarding Commission operations.

The Commission's statewide economic development strategy is due by January 31 of every odd-numbered year. The Commission must consult with relevant state agencies, private sector businesses, nonprofit organizations involved in economic development, trade associations, and relevant local organizations when developing the strategy.

The requirements to maintain an inventory of state economic development programs, assess the state's economic development needs, and assess how well the state economic development programs are meeting those needs are removed. However, an inventory and recommendations may be included in the comprehensive statewide

economic development strategy. The Commission may not take an administrative role in the delivery of services and must evaluate its own performance on a regular basis.

The Commission may accept and spend gifts, grants, and contributions from public or private sources. A Commission account is created in the state treasury. Monies in the account may be spent only after appropriation, and only for purposes related to carrying out the mission, roles, and responsibilities of the Commission. The Executive Director must use the unanticipated receipts process to request authority from the Office of Financial Management to spend money not anticipated in the legislatively-approved budget.

Votes on Final Passage:

Senate	46	2	
House	88	7	(House amended)
Senate	41	6	(Senate concurred)

Effective: July 22, 2011

2ESSB 5742
PARTIAL VETO
C 16 L 11 E 1

Concerning the Washington state ferry system.

By Senate Committee on Transportation (originally sponsored by Senators Haugen, Ranker and Shin).

Senate Committee on Transportation
House Committee on Transportation
House Committee on Ways & Means

Background: The Transportation Commission (Commission) adopts Washington State Ferries' (WSF) fares and pricing policies by rule.

In general, fuel used for purposes other than for the propulsion of a motor vehicle on public highways is not subject to the state motor vehicle fuel tax or special fuel tax. However, such fuel is subject to the state retail sales and use tax. Fuel used for urban passenger transportation systems and fuel used for passenger-only-ferry services are exempt from the state retail and use tax as well.

Washington State Department of Transportation's public works projects estimated to cost \$2 million or more must require the contractor to have a minimum of 15 percent of the work performed by apprentices.

The Marine Employees Commission (MEC) is the agency that processes grievances for the WSF unions and provides arbitration services. In grievance arbitration, the employee organization determines whether the issue will be resolved through arbitration.

Summary: The Capital Vessel Replacement Account (CVRA) is created. The Commission must impose a \$0.25 surcharge on every ferry fare sold; the proceeds of which are deposited into the CVRA. Expenditures from the CVRA must be by appropriation and may only be for the construction or purchase of ferry vessels. Surcharge

revenues are to be first used to support the construction or purchase of a ferry vessel with a carrying capacity of at least 144 cars.

Effective July 1, 2013, fuel purchased for WSF and county ferry vessels are exempt from the state retail and use tax.

Management rights as they relate to collective bargaining are defined. Effective July 1, 2013, WSF captains are severed from the Masters, Mates, and Pilots union and may be in their own union. Captains duties are defined.

Performance measures are defined. An ad hoc committee is established and directed to establish performance targets. The Office of Financial Management must report to the Legislature on whether targets are met.

Effective July 1, 2011, the MEC is created within the Public Employment Relations Committee (PERC). For the 2011-13 biennium, all processes and procedures will be handled according to PERC processes in place, and only appeals will be handled by MEC. Effective July 1, 2013, MEC is dissolved.

Votes on Final Passage:

Senate	36	10	
House	76	20	(House amended)

First Special Session

Senate	34	10	
House	72	16	(House amended)

Conference Committee

Senate	36	9	
House	77	14	

Effective: June 7, 2011 (Sections 1-15)
July 1, 2011 (Sections 16-25)
July 1, 2013 (Sections 26-28)

Partial Veto Summary: On-time performance measure requirements are removed. The consequences of not meeting at least 80 percent of performance measure targets are removed. Performance measures are not required to be included in the department's attainment report.

VETO MESSAGE ON 2ESSB 5742

June 7, 2011

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to Sections 11, 13, 14, and 15, Second Engrossed Substitute Senate Bill 5742 entitled:

"AN ACT Relating to the Washington state ferry system."

Section 11 requires the Washington State Department of Transportation (WSDOT) to provide quarterly on-time performance reports to the Legislature and to post the data on vessels, at terminals, and on the WSDOT's website. I am vetoing this section because Washington State Ferries already reports on-time performance through the Government Management Accountability and Performance program (GMAP), and quarterly reports are posted on the GMAP website.

Sections 13 and 14 contain conflicting requirements for actions that must be taken if Washington State Ferries does not meet at least eighty percent of performance measure targets. Section 13 requires that the governor appoint a management representative

and Section 14 requires WSDOT to solicit requests for qualifications to privatize Washington State Ferries management. In addition, I do not believe either of these requirements is necessary or practicable.

Section 15 requires the Office of Financial Management's (OFM) Attainment Report to include the performance measures in Sections 10 and 11. Once the ad hoc committee in Section 10 completes its work, a determination will be made regarding the high-level performance indicators that should be included in the Attainment Report. Accordingly, I am vetoing this section so the ad hoc committee's recommendations can be considered.

For these reasons, I have vetoed Sections 11, 13, 14, and 15 of Second Engrossed Substitute Senate Bill 5742.

With the exception of Sections 11, 13, 14, and 15, Second Engrossed Substitute Senate Bill 5742 is approved.

Respectfully submitted,

Christine O. Gregoire
Governor

ESSB 5747

C 12 L 11

Concerning Washington horse racing funds.

By Senate Committee on Labor, Commerce & Consumer Protection (originally sponsored by Senators Hewitt, Kohl-Welles and Conway).

Senate Committee on Labor, Commerce & Consumer Protection

House Committee on State Government & Tribal Affairs

Background: The Washington Horse Racing Commission is authorized to license, regulate, and supervise all race meets in the state. The commission can license race meets which are nonprofit and meet certain other criteria for a fee of \$10 per day. The sponsoring nonprofit is exempt from other fees. Other licensees of race meets are not exempt from these fees or taxes.

If a licensee is not exempt from payment of a parimutuel tax they must withhold and pay a specific percentage of all daily gross receipts from its in-state parimutuel machines, based on the gross receipts of all its in-state parimutuel machines in the previous calendar year. A licensee is also required to forward one-tenth of 1 percent of the daily gross receipts of its in-state parimutuel machines to the commission for payment to certain non-profit horse race meets. Payments to nonprofit race meets must only be used for purses at race tracks that have been operating for the five consecutive years immediately preceding the year of payment. The commission is required to distribute \$15,800 per race day from the funds generated. If these funds are not sufficient to pay for purses of \$15,800 per race day, the commission is authorized to pay for them by other means such as: fines imposed by the board of stewards, a percentage of an authorized source market fee generated from advance deposit wagering, interest earned from the commission operating account or from the account. If more than \$15,800 is generated per race day, the

excess must be returned to the licensees. Funds not needed in a calendar year must be deposited in the Washington Horse Racing Commission operating account.

Investment earnings from the Washington Horse Racing Commission operating account are required to be distributed to the class C purse fund account for nonprofit race meets.

When determining how to allocate funds available for the purpose of developing the equine industry the commission must give first consideration to uses that assist the nonprofit race meets and equine health research.

Summary: Payments to fund purses at nonprofit race meets must be to only those race tracks that have been operating in 2010 or for the five consecutive years immediately preceding the year of payment. The commission is required to distribute up to \$15,800 from funds generated for nonprofit race meets. Provisions for the commission to cover payment of purses for nonprofit race meets when insufficient funds are generated are removed. Provisions for return of excess funds to licensees are removed.

Investment earnings from the Washington Horse Racing Commission operating account at the State Treasurer are retained in the operating account, not the class C purse fund.

When determining how to allocate funds available for the purpose of developing the equine industry, the commission must give first consideration to uses that regulate the nonprofit race meets and equine health research.

Votes on Final Passage:

Senate	46	2
House	93	2

Effective: April 5, 2011

ESSB 5748

C 281 L 11

Regarding cottage food operations.

By Senate Committee on Agriculture & Rural Economic Development (originally sponsored by Senators Rockefeller, Honeyford and Chase).

Senate Committee on Agriculture & Rural Economic Development

House Committee on Agriculture & Natural Resources

House Committee on Health & Human Services

Appropriations & Oversight

Background: In 2010 Michigan enacted a law allowing residents to make certain food products at home and to sell them. Previously, residents were required to make their foods in a commercial kitchen certified by the Michigan Department of Agriculture and to pay license fees. The Michigan law covers businesses that gross less than \$15,000 annually. The foods that can be sold must be classified as non-potentially hazardous foods and the

legislation contains a list of items that qualify and that do not qualify.

Washington State has similar requirements to those that existed in Michigan prior to the passage of the 2010 Michigan legislation. There is interest in Washington State to allow a similar program to allow cottage food operations to sell breads, baked goods, and other food directly to the ultimate consumer.

Summary: Cottage food is defined to include baked goods, jams, jellies, preserves, fruit butters, and other non-potentially hazardous food identified by rule, that may be produced for sale in a person's home kitchen. Cottage foods may be sold only directly to the consumer and may not be sold through the Internet, mail order, or for retail sale outside the state. A permitted cottage food operation may have sales of up to \$15,000 per year. This maximum annual sales limit may be increased by rule each biennium to reflect inflation.

To produce cottage foods, a person is required to obtain a permit from the Department of Agriculture (Department) and to allow inspection of the kitchen and areas of the home in which the cottage food is prepared or stored. Fees include a \$30 permit fee, a \$75 public health review fee, and a \$125 basic hygiene inspection fee. An additional fee may be charged for additional compliance inspections.

The areas of the home used to prepare or store cottage food products are subject to inspection. The operator must sign a document that expressly grants authority to the Department the right to enter this portion of the residence during normal business hours or other reasonable times. If access is denied to this area, the Department is authorized to obtain a search warrant for the permitted area from court. Denial of access to the Department may be grounds for denial or suspension of a permit.

Labeling requirements are listed and must include the statement: "Made in a home kitchen that has not been subject to standard inspection criteria." Any person who works at a cottage food operation must have secured a food and beverage service worker's permit.

The Department may contract with local health jurisdictions to conduct the required inspections. Except as otherwise provided, cottage food operations with the required permits are not required to be licensed under the state Food Processors Act nor to be permitted or inspected by a local health jurisdiction. This act does not affect application of any other state or federal law, or any applicable local ordinance.

The Department may adopt by rule, requirements for cottage food operations pertaining to:

- the permit application and renewal process;
- sanitary procedures;
- facility, equipment, and utensils;
- food product labeling in addition to those specifically listed in the legislation;

- clean water sources and waste and wastewater disposal; and
- washing and hygiene practices.

When conducting an annual inspection, the Department must inspect for the following:

- no unauthorized persons may be engaged in preparation of any cottage food product or be in the home kitchen during the preparation of any cottage food product;
- no cottage food preparation may occur with any other domestic activity such as family meal preparation, dishwashing, clothes washing or ironing, kitchen cleaning, or guest entertainment;
- no infants, small children, or pets may be in the home kitchen during the preparation of any cottage food products;
- all food contact surfaces, equipment, and utensils used for the preparation of cottage food products must be washed, rinsed, and sanitized before each use;
- all food preparation and food and equipment storage areas are to be maintained free of rodents and insects;
- all persons involved in preparation of cottage food products must (1) have a food and beverage service worker permit; (2) not go to work in a home kitchen when sick; (3) wash their hands before preparing any food; and (4) avoid contact of bare hands with ready-to-eat food products by using disposable gloves, bakery papers, tongs, or other utensils.

Authority to enforce the provisions of this act is provided to the Department. Grounds for denial or suspension of a permit are listed. The Department may issue a civil fine of up to \$1,000 per violation, and violations are punishable as a misdemeanor.

Votes on Final Passage:

Senate	47	2	
House	92	0	(House amended)
Senate	46	1	(Senate concurred)

Effective: July 22, 2011

ESSB 5749
PARTIAL VETO
 C 12 L 11 E 1

Regarding the Washington advanced college tuition payment (GET) program.

By Senate Committee on Higher Education & Workforce Development (originally sponsored by Senators Brown, Hewitt and Shin).

Senate Committee on Higher Education & Workforce Development
 Senate Committee on Ways & Means
 House Committee on Higher Education
 House Committee on Ways & Means

Background: The Guaranteed Education Tuition (GET) Program is Washington's 529 prepaid college tuition plan. Families can prepay for their child's college tuition today knowing that the value of their account is guaranteed by the state to keep pace with rising college tuition. Since GET began in 1998, families have opened more than 119,000 accounts.

The state guarantees that 100 GET units will cover one year of resident undergraduate tuition and state-mandated fees at the most expensive Washington public university. GET accounts can be used at nearly any public or private college in the country. Families can buy between one and 500 units per child, and the account will benefit from tax-free growth and withdrawals. To date, 16,500 students have used their GET accounts in all 50 states.

The Higher Education Coordinating Board administers the GET Program while the State Investment Board oversees its investments. A five-member committee establishes the policies of the program and sets the price of the GET unit, currently \$117.

Summary: The Committee on Advanced Tuition Payment (Committee) utilizes the State Actuary in reviewing the Guaranteed Education Tuition Program rather than a nationally recognized actuary, but the Committee may, at its discretion, obtain an assessment by a nationally recognized actuary. The Committee, with the State Actuary, reviews the program in light of passage of E2SHB 1795 (Higher Education Opportunity Act) and makes any necessary changes to the program for units purchased on or after September 1, 2011.

A legislative advisory committee to the Committee on Advanced Tuition Payment is established. The advisory committee provides advice to the Committee and the state actuary regarding the administration of the program including, but not limited to, pricing guidelines, the tuition unit price, and the unit payout value.

Votes on Final Passage:

Senate	47	0	
House	90	2	(House amended)

First Special Session

Senate	41	3
House	89	7

Effective: June 6, 2011 (Sections 1–6)
 August 24, 2011

Partial Veto Summary: The Governor vetoed section 1 of the bill which would have expanded the membership of the Committee on Advanced Tuition Payment to include citizen and business representatives.

VETO MESSAGE ON ESSB 5749

June 6, 2011

To the Honorable President and Members,
 The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to Section 1, Engrossed Substitute Senate Bill 5749 entitled:

"AN ACT Relating to the Washington advanced college tuition payment program."

Section 1 would expand the membership of the Committee on Advanced Tuition Payment, limit private sector and citizen representatives on the committee to four year terms and require Senate confirmation of citizen and business representatives. The work of this committee involves oversight of complex financial issues. The bill does not stagger the terms of the committee members, and expands the number of term-limited members to four of the committee's seven members. Unstaggered and limited terms for a majority of the committee members would leave the committee highly vulnerable to the loss of expertise accumulated by citizen and business representatives and inhibit the work of this committee.

For these reasons, I have vetoed Section 1 of Engrossed Substitute Senate Bill 5749.

With the exception of Section 1, Engrossed Substitute Senate Bill 5749 is approved.

Respectfully submitted,



Christine O. Gregoire
 Governor

SB 5763
 C 7 L 11

Amending the existing nonresident retail sales tax exemption.

By Senators Ranker, Ericksen, Morton, Fraser and Shin; by request of Department of Revenue.

Senate Committee on Ways & Means

Background: Retail sales and use taxes are imposed by the state, cities, and counties. Retail sales taxes are imposed on retail sales of most articles of tangible personal property, digital products, and some services. A retail sale is a sale to the final consumer or end user of the property, digital product, or service. If retail sales taxes were not

collected when the property, digital products, or services were acquired by the user, then use taxes apply to the value of most tangible personal property, digital products, and some services when used in this state.

A sales tax exemption is allowed to residents of a state, possession, or Canadian province that does not impose a retail sales tax or use tax of 3 percent or more on purchases of goods for use outside the state. The exemption does not apply to items or services consumed in the state such as hotel stays or meals at restaurants. Retailers are not required to make tax-exempt sales to qualifying nonresidents. A vendor may choose to collect sales tax on purchases made by qualifying nonresidents or to sell merchandise tax free.

Beginning July 1, 2010, the provinces of British Columbia and Ontario implemented a Harmonized Sales Tax (HST), which replaced their provincial sales taxes. The Department of Revenue (DOR) has determined that, despite its name, the HST is not a retail sales tax but rather a value added tax. Consequently, the department took the position that residents of British Columbia and Ontario would become eligible for the nonresident sales tax exemption effective July 1, 2010.

The City of Bellingham and Whatcom County brought suit against the department, arguing that residents of British Columbia and other provinces that have implemented an HST are not entitled to the nonresident exemption. On July 16, 2010, a Skagit County Superior Court judge issued a preliminary injunction requiring DOR to advise retailers not to grant the nonresident retail sales tax exemption to residents of British Columbia, Nova Scotia, New Brunswick, Newfoundland and Labrador, Ontario, and Quebec.

Summary: Residents of any state, possession, territory or province of Canada may not take the nonresident sales tax exemption if their place of residence imposes sales tax, use tax, value added tax, gross receipts tax or similar generally applicable tax of 3 percent or more. This is an expansion of the requirement to qualify for the exemption as currently it is limited to only sales and use taxes of less than 3 percent in order to take the exemption.

Votes on Final Passage:

Senate	46	1
House	95	0

Effective: July 1, 2011

2ESB 5764
PARTIAL VETO
C 14 L 11 E 1

Creating innovate Washington.

By Senators Kastama, Chase, Shin, Kilmer, Brown, Conway and McAuliffe.

Senate Committee on Economic Development, Trade & Innovation

Senate Committee on Ways & Means
House Committee on Higher Education
House Committee on Ways & Means

Background: The Legislature created the Washington Technology Center (WTC) in 1983 and the Spokane Intercollegiate Research and Technology Institute (SIRTI) in 1998. Both have a mission to conduct and commercialize research and to strengthen university-industry relationships through the conduct of research that is primarily of interest to Washington-based companies or state economic development programs. WTC's focus is state-wide while SIRTI's is Eastern Washington.

WTC operates a Small Business Innovation Research (SBIR) Assistance Program and SIRTI has taken part in the program by assisting small businesses in applying for federal SBIR grants. WTC has a statutory obligation to operate the Investing in Innovation Grants Program, but funding has never been appropriated for its operation.

The Clean Energy Leadership Council (CELC) was created in 2009 to develop strategies and recommendations for growing the state's clean energy sector. CELC was directed to identify the clean energy industry segments and where the state has competitive advantages or emerging strength in research, development, or deployment of clean energy solutions.

Summary: Innovate Washington is created as the successor agency to WTC and SIRTI and is the primary state agency responding to the technology transfer needs of existing businesses in the state. Innovate Washington:

- facilitates research supportive of state industries and provides mechanisms for collaboration between technology-based industries and higher education institutions;
- helps businesses secure research funds and develops and integrates technology into new products;
- offers technology transfer and commercialization training opportunities;
- serves as the lead entity for coordinating clean energy initiatives; and
- administers technology and innovation grant and loan programs.

Innovate Washington must develop a five-year business plan to be updated every even-numbered year. The first plan is due by December 1, 2012, and must include a plan for operating additional facilities in Vancouver, the

Tri-Cities, and Bellingham. The plan must also include methods of working with community and technical colleges, including Centers of Excellence; methods to ensure access to Innovate Washington's services by clients of Impact Washington; mechanisms for outreach to firms in Innovation Partnership Zones; and a clean energy component consistent with CELC recommendations.

A board of directors (board) governs Innovate Washington. The board must convene a group to determine the best method to develop and make available a database of in-state technologies and inventions. It must also report to the Governor and the Legislature every year on customer satisfaction and a variety of outcome measures. The board is authorized to:

- employ staff and engage technical experts;
- create advisory committees;
- enter into agreements with other entities to carry out any of its programs;
- solicit funds from a variety of sources;
- establish affiliated organizations, special funds, and controls as it sees fit; and
- delegate any of its powers and duties if consistent with the purposes of the act.

Innovate Washington must operate a small business innovation assistance program to help in the procurement of awards from federal small business research programs.

Centers of Excellence are to broker assistance available for firms in targeted industries and work with Innovate Washington to develop methods to identify businesses within a targeted industry that could benefit from the services of Innovate Washington.

The Investing in Innovation Grants Program is changed to the Investing in Innovation Program. The program is operated by Innovate Washington and may make both loans and grants using funds raised by the board of directors. Proprietary information of those applying or receiving funding through the Investing in Innovation Program is not subject to public disclosure. The Investing in Innovation Account is established in the custody of the State Treasurer.

Votes on Final Passage:

Senate 46 2

First Special Session

Senate	43	0	
House	53	35	(House amended)
Senate	45	2	(Senate concurred)

Effective: August 1, 2011

Partial Veto Summary: The requirements that the Joint Legislative Audit and Review Committee (1) review the performance of Innovate Washington regarding the effectiveness of Innovate Washington programs, and (2) make recommendations to the appropriate policy and fiscal committees of the Legislature by December 1, 2015 were vetoed.

VETO MESSAGE ON 2ESB 5764

June 7, 2011

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to Section 18, Second Engrossed Senate Bill 5764 entitled:

"AN ACT Relating to innovate Washington."

This bill creates Innovate Washington as the successor agency to the Washington Technology Center and the Spokane Intercollegiate Research and Technology Institute.

Section 1 provides that Innovate Washington will act as the primary agency focused on growing innovation-based sectors of our economy and will work with business to meet technology transfer needs. This section defines the mission of Innovate Washington as making our state the best place to develop, build, and deploy innovative products with collaborative partnerships among academic institutions, industry and government. Among the means Section 1 outlines to carry out this mission is leveraging state investments in sector-focused, innovation-based economic development initiatives. Innovate Washington is designated as the lead entity to coordinate and approve state funding "for programs targeted at expanding the clean energy sector" while maintaining policy and regulatory functions at the state energy office housed at the Department of Commerce.

Given Innovate Washington's mission, the definition of "lead entity" in Section 1(7) to mean "the organization that all other state agencies must coordinate with and receive approval from in order to award state funds in support of clean energy initiatives" is limited to approval of state funding awards for the primary purpose of economic development in the clean energy sector. Approval would not extend to state funding of initiatives not specifically targeted to grow the clean energy sector. Moreover, as stated in a colloquy on the Senate floor and consistent with the terminology clean energy "initiatives," the approval required under Section 1(7) applies to new programs begun after the effective date of the act. The above understanding and interpretation of the bill is shared by the legislature as set forth in a letter to me from Senator Jim Kastama and Representative Deb Eddy dated May 25, 2011 encouraging me to give clarifying direction to the agencies involved. It is with this understanding that I approve Section 1.

I am vetoing Section 18 of Second Engrossed Senate Bill 5764 which requires the joint legislative audit and review committee to review performance of Innovate Washington and to make recommendations regarding the effectiveness of its programs by December 1, 2015. Innovate Washington is required to submit its first five year business plan to the legislature by December 1, 2012, which will identify its activities and programs, and set forth its operational plan and strategy for carrying out its mission. The timing of a study to determine the effectiveness of its programs is best determined based on the schedule in the business plan. When the business plan is completed, the joint legislative audit and review committee can determine the appropriate timing and content of a review based on experience without the need for a statutory provision.

For this reason, I am vetoing Section 18 of Second Engrossed Senate Bill 5764.

With the exception of Section 18, Second Engrossed Senate Bill 5764 is approved.

Respectfully submitted,



Christine O. Gregoire
Governor

E2SSB 5769

C 180 L 11

Regarding coal-fired electric generation facilities.

By Senate Committee on Ways & Means (originally sponsored by Senators Rockefeller, Pridemore, Kohl-Welles, White, Chase, Murray, Ranker, Regala, Fraser, Shin and Kline).

Senate Committee on Environment, Water & Energy
Senate Committee on Ways & Means
House Committee on Environment
House Committee on Capital Budget

Background: Greenhouse Gas (GHG) Emission Reductions. The state is required to achieve the following statewide GHG emission reductions:

- by 2020 reduce overall GHG emissions in the state to 1990 levels;
- by 2035 reduce overall GHG emissions in the state to 25 percent below 1990 levels; and
- by 2050 reduce overall GHG emissions in the state to 50 percent below 1990 levels, or 70 percent below the state's expected GHG emissions that year.

GHG Emissions Performance Standard (EPS) for Electric Generation Plants. Electric utilities may not enter into a long-term financial commitment for baseload electric generation on or after July 1, 2008, unless the generating plant's emissions are the lower of:

- 1100 pounds of GHG per megawatt (MW)-hour; or
- the average available GHG emissions output as updated by the Department of Commerce (Commerce).

Baseload electric generation means electric generation from a power plant that is designed and intended to provide electricity at an annualized plant capacity factor of at least 60 percent. Long-term financial commitment means (1) either a new ownership interest in baseload electric generation or an upgrade to a baseload electric generation facility; or (2) a new or renewed contract for baseload electric generation with a term of five or more years for the provision of retail power or wholesale power to end-use customers in this state.

Executive Order. In 2009 the Governor issued an executive order directing the Department of Ecology (Ecology) to work with the existing coal-fired plant within Washington that burns over 1 million tons of coal per year, TransAlta Centralia Generation LLC, to establish an agreed order to apply the EPS to the facility by no later than December 31, 2025. The agreed order must include a schedule of major decision making and resource investment milestones.

Senate Work Sessions. On January 19, 2011, the Senate Environment, Water & Energy Committee held a work session on the role of coal in meeting Washington's electric needs. On January 21, 2011, the same committee held

a work session on the environmental and health impacts of coal power.

Energy Facility Site Evaluation Council (EFSEC). EFSEC is the permitting and certifying authority for the siting of major energy facilities in Washington, such as thermal electric power plants 350 megawatts or greater. In addition, energy facilities of any size that exclusively use alternative energy resources (wind, solar, geothermal, landfill gas, wave or tidal action, or biomass energy) can opt-in to the EFSEC process. EFSEC must generally process an application within 12 months of receipt; however, it can be as short as 180 days under an expedited siting process.

Community Economic Revitalization Board (CERB). Comprised of 20 members appointed by the Governor, CERB funds public infrastructure improvements, such as the acquisition, construction, or repair of water and sewer systems, bridges, railroad spurs, telecommunication systems, roads, structures, and port facilities.

Public Works Board. Comprised of 13 members appointed by the Governor, the Public Works Board administers the public works assistance account to provide loans to local governments and special purpose districts with infrastructure projects.

Sales and Use Tax Exemptions for Coal. Purchases of coal used at a thermal electric generating facility placed in operation after 1969 and before July 1, 1997, are exempt from retail sales and use taxes. The exemptions are contingent upon owners of the plant demonstrating to Ecology that progress is being made to install the necessary air pollution control devices and that the facility has emitted no more than 10,000 tons of sulfur dioxide during the previous 12 months.

Technology to Control Emissions of Nitrogen Oxides (NOx). Selective Catalytic Reduction (SCR) is a technology for capturing NOx emissions from industrial boilers such as coal fired power plants. It uses a combination of ammonia injection and a catalyst to capture NOx emissions. Selective Noncatalytic Reduction (SNCR) is also a NOx control technology for industrial boilers. It is similar to SCR but only uses injected ammonia without a catalyst. According to Ecology, SCR may capture up to 90 percent of NOx emissions from a large coal-fired plant while SNCR may capture up to 25 percent, but SCR is substantially more expensive than SNCR.

Washington Utilities and Transportation Commission (WUTC). The WUTC is a three-member commission that has broad authority to regulate the rates, services, and practices of investor-owned electric utilities, among other industries. Under general rate-making principles, an electric utility may recover the full cost of a power purchase contract in rates, with no additional premium, if the contract is approved by the WUTC. An electric utility may recover the full cost of an investment in a new generating facility in rates, with an additional return to reflect the risk of the investment, if the investment is approved by the WUTC.

Integrated Resource Plan (IRP). All investor-owned and consumer-owned electric utilities in the state, with more than 25,000 customers, must develop IRPs. All other utilities in the state, including those that essentially receive all their power from the Bonneville Power Administration, must file either an IRP or a less detailed resource plan.

An IRP must describe the mix of generating resources and conservation and efficiency resources that will meet current and projected needs at the lowest reasonable cost to the utility and its ratepayers. When determining the lowest reasonable cost for resources identified in its IRP, a utility must consider state and federal policies regarding resource preference, among other factors.

Carbon Dioxide Mitigation for Fossil-Fueled Energy Facilities. Under state law, certain fossil-fueled thermal power facilities with a generating capacity of 25 MW or more must mitigate their carbon dioxide (CO₂) emissions. The requirement applies to new electric generating facilities seeking site certification from EFSEC or an order of approval under the Washington Clean Air Act. The requirement also applies to existing facilities between 25 and 350 MW that increase their generating capacity by at least 25 MW or their emissions production of CO₂ by 15 percent or more.

Mitigation is required for 20 percent of the CO₂ emissions produced by a facility over a 30-year period, and must include one or a combination of the following options: (1) payments to an independent qualified organization; (2) direct purchase of permanent carbon credits; or (3) direct investment in CO₂ mitigation projects, including qualified alternative energy resources and cogeneration.

Summary: Applying the EPS to Specified Facilities. A coal-fired baseload electric generation facility in Washington that emitted more than 1 million tons of GHG in any calendar year prior to 2008 (qualifying facility) must meet the lower of the following emissions standards such that one generating boiler is in compliance by December 31, 2020, and any other generating boilers are in compliance by December 31, 2025:

- 1100 pounds of GHG per MW-hour; or
- the average available GHG emissions output as updated by Commerce, whichever is lower.

The emission standard does not apply to a coal-fired baseload electric generating facility if Ecology determines as a requirement of state or federal law or regulation that selective catalytic reduction technology must be installed on any of its boilers.

Requiring a Memorandum of Agreement (MOA). By January 1, 2012, the Governor on behalf of the state must enter into an MOA that takes effect on April 1, 2012, with the owners of a qualifying facility for achieving the specified emissions reductions. The MOA must include a number of terms, such as binding commitments to install SNCR pollution control technology by January 1, 2013.

The MOA terminates if Ecology determines state or federal law or regulation requires the installation of SCR technology. If the MOA is not signed by January 1, 2012, the Governor must impose requirements consistent with the installation of SNCR technology.

The MOA must also require the facility to provide the following financial assistance to the affected community: (1) \$30 million for economic development and energy efficiency and weatherization; and (2) \$25 million for energy technologies with the potential to create considerable energy, economic development, and air quality, haze, or other environmental benefits. The MOA must specify the accounts where the funds are to be deposited, individuals who may approve expenditures from the accounts, and the schedule for disbursing the funds. Financial assistance is no longer required if the sales and use tax exemptions on coal are repealed.

If an MOA is reached, no state agency or political subdivision of the state may adopt or impose additional or inconsistent GHG emission standards as specified in the act.

Recognizing Coal Transition Power in the EPS and in WUTC Rate Proceedings. The EPS is amended to allow long-term contracts for the output of a qualifying facility, called coal transition power (transition power). In addition, a process is created to allow an electric utility to petition the WUTC for approval of a power purchase agreement for transition power. If approved, the utility may treat the purchase as an investment entitled to a portion of the premium it would receive if it constructed a facility with an equivalent generation capacity.

Recognizing Carbon Reductions. An MOA may include provisions recognizing such reductions in state policies and programs relating to GHG emissions, and advocating for such reductions in all established and emerging regional, national, or international GHG frameworks. The Governor may recommend actions to the Legislature concerning the recognition of investments in early emissions reductions.

Requiring Expedited EFSEC Processing. EFSEC must use its expedited process for siting generating facilities meeting the EPS if the facility is to be sited in the county where a qualifying facility is located, and if the siting application is filed before December 31, 2025.

Requiring a Decommissioning Plan. A qualifying facility subject to closure must provide Ecology with a plan for the closure and postclosure of the facility at least 24 months prior to closure or 24 months prior to start of decommissioning work, whichever is earlier. Among other things, the plan must include financial assurances to fund required activities and the preparation of a decommissioning and site restoration plan. The decommissioning plan as well as any significant changes to it are subject to Ecology's approval.

Requiring Financial Assistance Guarantees in the Decommissioning Plan. A qualifying facility subject to

closure must guarantee funds are available to perform all activities in the decommissioning plan. The guarantee may be accomplished with an Ecology approved letter of credit, surety bond, or other means acceptable to Ecology.

Providing for Community Economic Development. CERB and the Public Works Board must each solicit and give priority consideration to projects that attract new industrial and commercial projects to areas affected by the closure or potential closure of a qualifying facility. Project awards must be consistent with applicable plans for future major industrial activities on lands formerly used or designated for surface coal mining and other supporting uses.

Requiring Additional Analysis in IRPs. When developing its IRP, a utility must compare the benefits and risks of purchasing power or building new resources.

Exempting Certain Fossil-Fueled Facilities from Carbon Mitigation. The owner of a qualifying facility applying to EFSEC for the siting a natural gas-fired generation plant to be constructed in a county with the qualifying facility is exempt from state carbon mitigation requirements, if the application is filed before December 31, 2025. The exemption expires December 31, 2025, or when the station-generating capability of all natural gas-fired generation plants approved under this provision equals the station-generating capability from a coal-fired electric generation facility subject to the EPS provision for qualifying facilities.

Adopting Findings, Expressing Legislative Intent, and Adding a Severability Clause. Various findings are adopted, including the harmful effects of emissions from the combustion of coal to generate electricity; the contribution of coal-fired electricity generation as a large source of the state's GHG emissions; the role of coal-fired electricity generation in providing baseload power necessary for near-term grid stability and reliability; and that coal-fired baseload electric generation facilities are a significant contributor of family-wage jobs.

Among other things, the Legislature intends to provide for the reduction of GHG emissions from large coal-fired baseload electric power generation facilities; to ensure appropriate cleanup and site restoration upon decommissioning of any facilities in the state; and to provide assistance to host communities planning for new economic development and mitigating the economic impacts of the closure of these facilities.

A severability clause is added, stating that if any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Votes on Final Passage:

Senate	36	13	
House	87	9	(House amended)
Senate	33	14	(Senate concurred)

Effective: July 22, 2011

2ESB 5773

C 8 L 11 E 1

Making a health savings account option and high deductible health plan option and a direct patient-provider primary care practice option available to public employees.

By Senators Zarelli, Baumgartner, Hill, Parlette, Schoesler, Ericksen and Holmquist Newbry.

Senate Committee on Ways & Means
House Committee on Ways & Means

Background: In 2003 Congress enacted section 223 of the Medicare Modernization Act which allows people to establish health savings accounts (HSAs) to work in combination with qualifying high-deductible health plans (HDHP) to help finance medical expenses. A health plan qualifies as an HDHP if it has an annual deductible of at least \$1,200 for individuals and annual out-of-pocket expenses (not premiums) that do not exceed \$5,950. HSAs are tax-free accounts that can be set up by individuals or employers. They are personal accounts that are owned by individuals, even when employers establish and contribute to them. Interest earned is not taxed, and funds that are not used may carry over to the following year.

Under Chapter 299, Laws of 2006 (EHB 1383) the Health Care Authority (HCA) is directed to develop a Health Savings Account option for covered employees. A Health Savings Account option is not currently available to employees enrolled in HCA-administered health plans.

Chapter 257, Laws of 2007 (E2SSB 5958) created a statutory framework for direct patient-provider primary health care practices. Direct practices were explicitly exempted from the definition of health care service contractors in insurance law. Direct practices furnish primary care services in exchange for a direct fee from a patient. Services are limited to primary care, including screening, assessment, diagnosis, and treatment for the purpose of promotion of health, and detection and management of disease or injury. Direct practices are also allowed to pay for charges associated with routine lab and imaging services. Direct practices are prevented from accepting payments for services provided to direct care patients from regulated insurance carriers, all insurance programs administered by the Washington State Health Care Authority (Authority), or self-insured plans. Direct practices may accept payment of direct fees directly or indirectly from non-employer third parties, but are prevented from selling their direct practice agreements directly to employer groups.

Summary: The Health Care Authority (HCA) is directed to offer a high-deductible health plan with a health savings account as an option alongside its traditional comprehensive medical insurance offerings in the Public Employees' Benefits Board (PEBB) program, beginning with the 2012 plan year. The HCA must also develop a plan to offer direct patient-provider primary care practices to PEBB

SSB 5784

participants for the open enrollment period beginning with the 2013 plan year and submit the plan to the PEBB and the House and Senate health care committees by December 1, 2011.

By November 30, 2015, and annually thereafter, the Health Care Authority is required to submit a report to the relevant legislative policy and fiscal committees that includes medical care utilization trends over the past three years, the demographics of each plan offered to employees, and the impact of alternative plan offerings on the most comprehensive plan offered to employees.

Votes on Final Passage:

Senate 42 7

First Special Session

Senate 33 9

House 80 15 (House amended)

Senate 32 9 (Senate concurred)

Effective: August 24, 2011

SSB 5784

C 250 L 11

Advancing the regional ocean partnership.

By Senate Committee on Natural Resources & Marine Waters (originally sponsored by Senators Litzow, Ranker, Swecker, Hobbs, Fain, Hill, Pridemore, Nelson, Rockefeller, Regala, Shin and Kline).

Senate Committee on Natural Resources & Marine Waters
House Committee on Environment

Background: West Coast Governors' Agreement on Ocean Health (WCGA). On September 18, 2006, the Governors of California, Oregon, and Washington entered into the WCGA. The WCGA cites a need to improve coordination among coastal governing bodies, and states a desire to advance the following goals:

- clean coastal waters and beaches;
- promote effective ecosystem based management;
- reduce impacts of offshore development;
- increase ocean awareness and literacy among the region's citizens;
- expand ocean and coastal scientific information, research, and monitoring; and
- encourage sustainable economic development of coastal communities.

Marine Resources Stewardship Trust Account (Account). The Account was created in 2010 as an appropriated account that can accept grants, gifts, donations, and appropriations. Monies in the Account may be used for purposes including marine management planning, marine spatial planning, research, monitoring, and the restoration and enhancement of marine habitat or resources.

Summary: Makes a Series of Findings and Statements Regarding Ocean and Coastal Resource Management.

The Legislature:

- finds that Washington, Oregon, and California have a common interest in marine waters management, and that coordination between these states is essential to achieve effective resource management;
- recognizes the WCGA as an important step towards such coordination; and
- cites the potential for federal resources and policy gains resulting from coordination, and calls for continued coordination efforts through the WCGA and the Legislatures.

Provides for Recommendations on Expenditures from the Account. When funds are deposited in the Account, the Governor must recommend to the Legislature prior to the next regular legislative session activities and projects to be funded from the Account. The recommendations must be consistent with the allowable uses of the account and the goals articulated in the 2006 WCGA.

Votes on Final Passage:

Senate 49 0

House 78 17 (House amended)

Senate 44 2 (Senate concurred)

Effective: July 22, 2011

SSB 5788

PARTIAL VETO

C 119 L 11

Regulating liquor by changing tied house and licensing provisions and making clarifying and technical changes to liquor laws.

By Senate Committee on Labor, Commerce & Consumer Protection (originally sponsored by Senators Conway, Hewitt, Kohl-Welles and King).

Senate Committee on Labor, Commerce & Consumer Protection

House Committee on State Government & Tribal Affairs

Background: Liquor industry members and retailers are prohibited from advancing or receiving monies or monies worth by agreement or through a business practice or arrangement.

Liquor industry members are permitted to provide retailers with branded promotional items of nominal value, consistent with the retailers license, imprinted with advertising of the industry member, only to retailers or their employees, and cannot be targeted to or appeal principally to youth.

Liquor industry members can enter into an arrangement with a holder of a sports entertainment facility license or an affiliated business for brand advertising at the

facility or promoting events at the sports entertainment facility.

Liquor manufacturers, importers, and distributors can apply for a special permit to serve liquor without charge to delegates and guests at a convention or trade association composed of board licensees, when the liquor is served in a hospitality room or a board approved suppliers' display room during the convention.

A license is required for any person to solicit, receive, or take orders for the purchase or sale of liquor.

Summary: Special occasion licensees are permitted to pay for beer or wine immediately after the event. Wineries and breweries participating in a special occasion event can pay reasonable booth fees to the special occasion licensee.

Professional sports teams holding a retail liquor license can accept liquor advertising for use in the sporting arena. Professional sports teams holding a retail liquor license may license the manufacturer, importer, or distributor to use the name or trademarks of the professional sports team in their advertising and promotions. However, the advertising must be paid for at the published advertising rate or a reasonable fair market value and the advertising cannot carry with it any offer or promise to stock or list any particular brand of liquor to the exclusion of any other brand. Industry members are permitted to use professional sports team logos on branded promotional items.

Producers or sellers of products which must be sampled with liquor are permitted to obtain a special permit which allows them to serve liquor without charge to industry convention delegates and guests.

Drivers who deliver beer or wine and domestic wineries and their employees are not required to be the accredited representative of a certificate of approval holder, or hold a beer or wine distributor's license, a domestic brewers license, a beer or wine importer's license, a winery license, or be an accredited representative of a distiller, manufacturer, importer, or distributor of spirituous liquor or foreign produced beer or wine.

The Board is permitted to issue an endorsement to a private club licensee that permits an unlimited number of nonclub, member-sponsored events using club liquor. These clubs were formerly limited to 40 events per year.

A restaurant with a spirits, beer, and wine restaurant license and which has an endorsement to sell malt liquor in kegs can sell beer under that same endorsement to a purchaser who provides their own container or is furnished one by the licensee. The container is filled at the tap at the time of sale.

A hotel license which authorizes the licensee to sell spirits, beer, and wine for on premise consumption including honor bars and through room service, can also sell beer to a purchaser who provides their own container or is furnished one by the licensee. The container is filled at the tap in the restaurant area at the time of sale.

Internal references are clarified, outdated references are updated or corrected.

Votes on Final Passage:

Senate	48	1
House	97	0

Effective: July 22, 2011

Partial Veto Summary: The Governor vetoed the emergency clause that would have made certain sections of the bill effective July 1, 2011.

VETO MESSAGE ON SSB 5788

April 18, 2011

*To the Honorable President and Members,
The Senate of the State of Washington*

Ladies and Gentlemen:

I am returning herewith, without my approval as to Section 501, Substitute Senate Bill 5788 entitled:

"AN ACT Relating to regulating liquor by changing tied house and licensing provisions and making clarifying and technical changes to liquor laws."

The emergency clause in Section 501 provides that three sections of Substitute Senate Bill 5788 take effect on July 1, 2011. All sections of the bill will be effective ninety days after the adjournment of the session at which it was enacted, which will be no later than July 24, 2011. There is no need to provide an earlier effective date for the sections listed in Section 501. Therefore, this emergency clause is unnecessary.

For these reasons, I have vetoed Section 501 of Substitute Senate Bill 5788.

With the exception of Section 501, Substitute Senate Bill 5788 is approved.

Respectfully submitted,



*Christine O. Gregoire
Governor*

SSB 5791

C 378 L 11

Allowing certain commercial activity at certain park and ride lots.

By Senate Committee on Transportation (originally sponsored by Senators Hobbs, Fain, King, Haugen and White).

Senate Committee on Transportation
House Committee on Transportation

Background: Various local transit agencies own and operate park and ride lots as part of the agencies' public transportation service. Many of these park and ride lots received state transportation funding. Additionally, the Washington State Department of Transportation (WSDOT) owns and operates park and ride lots.

Summary: WSDOT, or any local transit agency that has received state funding for a park and ride lot, may contract with private vendors to provide various services at the park and ride lots; such as food or beverage services, grocery and convenience store services, or other private

SSB 5797

enterprise services that are of benefit to the traveling public. Lease payments derived from the arrangement must first be applied towards maintenance and operations of the applicable park and ride lot and the remainder must be deposited into the state Multimodal Transportation Account. WSDOT must adopt rules to administer the program, including a flexible process to prioritize local business interests when entering into lease agreements.

Votes on Final Passage:

Senate	46	0	
House	56	39	(House amended)
Senate	47	1	(Senate concurred)

Effective: July 22, 2011

SSB 5797

C 120 L 11

Eliminating the urban arterial trust account.

By Senate Committee on Transportation (originally sponsored by Senators Fain and Haugen).

Senate Committee on Transportation
House Committee on Transportation

Background: The Transportation Improvement Board (TIB) is a state agency that distributes and manages highway construction and maintenance grants to cities and urban counties. TIB is funded from \$0.03 of the state gas tax. TIB administers six grant programs that serve cities, urban counties, and transportation benefit districts. TIB manages grants through three different accounts:

- the Small City Pavement and Sidewalk Account;
- the Transportation Improvement Account; and
- the Urban Arterial Trust Account.

The Local Agency Efficiencies Study, conducted by the Joint Transportation Committee, finalized in January 2011, recommended consolidating the Urban Arterial Trust Account and the Transportation Improvement Account to allow for simpler cash management.

Summary: The Urban Arterial Trust Account is eliminated and all deposits are transferred into the Transportation Improvement Account.

Votes on Final Passage:

Senate	47	0	
House	96	0	

Effective: July 22, 2011

SSB 5800

C 121 L 11

Authorizing the use of modified off-road motorcycles on public roads.

By Senate Committee on Transportation (originally sponsored by Senators King, Haugen and Shin).

Senate Committee on Transportation
House Committee on Transportation

Background: Currently, Washington State law does not permit the conversion of off-road motorcycles for on-street use.

Summary: A person may operate an off-road motorcycle upon a public road, street, or highway in Washington, if the person complies with the following requirements:

- file a motorcycle use declaration, in which the Department of Licensing (DOL) certifies conformance with all applicable federal motor vehicle safety standards and state standards;
- obtain and have in full force and effect a current and proper off-road vehicle (ORV) registration or temporary ORV use permit;
- obtain a valid driver's license and motorcycle endorsement issued to Washington residents; and
- install various outlined motorcycle components, if not already present on the off-road motorcycle.

An off-road motorcycle is defined. In order to be registered for on-road use, an off-road motorcycle must travel on two wheels with a seat designed to be straddled by the operator and have handlebar-type steering control.

DOL must establish a declaration, which must be submitted by an off-road motorcycle owner when applying for on-road registration of an off-road motorcycle. The declaration must include the following:

- documentation of a safety inspection conducted by a licensed dealership or repair shop;
- documentation that the licensed dealership or repair shop did not charge more than \$100 for the inspection, all of which goes to the dealership or repair shop;
- verification of the vehicle identification number; and
- a release signed by the owner that releases the state from liability.

Votes on Final Passage:

Senate	46	2	
House	96	0	

Effective: January 1, 2012

SSB 5801

C 6 L 11

Establishing medical provider networks and expanding centers for occupational health and education in the industrial insurance system.

By Senate Committee on Labor, Commerce & Consumer Protection (originally sponsored by Senators Kohl-Welles, Holmquist Newbry, Conway and Kline).

Senate Committee on Labor, Commerce & Consumer Protection

House Committee on Labor & Workforce Development

Background: The state Industrial Insurance Program provides medical and other benefits to workers who suffer a work-related injury or develop an occupational disease. The Industrial Insurance Program is administered by the Department of Labor and Industries (L&I) and is funded through a premium collected from employers and employees in the state. An injured worker can see the medical professional of his or her choice who is qualified to treat the injury.

Centers of Occupational Health and Education (COHE) are resources that attempt to improve injured worker outcomes and reduce disability through community-based health care delivery. COHE efforts focus on the first 12 weeks of a claim and promote disability prevention through helping coordinate health services and return to work activities, assisting providers to adopt occupational health best practices, and early identification of cases that appear to be at risk for long-term disability. There are currently four COHEs in the state: Renton COHE at Valley Medical Center; Eastern Washington COHE at St. Luke's Rehabilitation Institute in Spokane; the Everett Clinic; and Harborview Medical Center.

Summary: L&I must establish a health care provider network to treat injured workers. Providers who meet minimum standards are accepted into the network and must agree to follow L&I evidence-based coverage decisions, treatment guidelines, and policies. Providers who follow L&I established best practice standards can qualify for a second tier within the network. Financial and nonfinancial incentives may be provided to second tier providers. L&I is to convene an advisory group to advise the department on issues related to the implementation of the network, and seek input of various health care provider groups and associations concerning implementation of the network.

Network provider contracts will automatically renew, unless L&I or the provider give written notice of contract termination. Once a provider network is established in a worker's geographic area, an injured worker needs to seek medical services from a health care provider in the network. Providers failing to meet minimum network standards can be temporarily or permanently removed from the network.

L&I must establish additional COHEs, with a goal of extending access to all injured workers by December 2015. L&I can certify or decertify COHEs based on criteria listed in the legislation. Incentives can be established for COHE providers, and electronic methods of tracking measures to identify and improve outcomes for injured workers are to be developed.

Votes on Final Passage:

Senate	48	0
House	96	1

Effective: July 1, 2011

SB 5806

C 352 L 11

Authorizing a statewide raffle to benefit veterans and their families.

By Senators Conway, Swecker, Kastama, Hobbs, Roach, Kilmer, Shin and Kline.

Senate Committee on Labor, Commerce & Consumer Protection

Senate Committee on Ways & Means

House Committee on Ways & Means

Background: Lottery. The Washington Lottery was established in 1982. Lottery revenues are used for the following purposes:

- Washington Opportunity Pathways Account;
- stadium bonds;
- problem gambling education;
- economic development; and
- General Fund.

Veterans Innovations Program. In 2006 the Legislature established the Veterans Innovations Program (VIP) within the Department of Veterans Affairs. The purpose of the VIP is to provide crisis and emergency relief and education, training, and employment assistance to veterans and their families. The VIP terminates on June 30, 2016.

Two separate programs were created within the VIP: the Defenders' Fund Program and the Competitive Grant Program. The Defenders' Fund Program allows recent veterans to receive a one-time financial hardship grant of no more than \$500 (\$1,000 in fiscal year 2007-09) related to employment, education, housing, and health care. The Competitive Grant Program provides crisis and emergency relief and education, training, and employment assistance.

Summary: The Lottery Commission is directed, beginning 2011 and each subsequent year, to conduct a statewide raffle to benefit veterans and their families. The veterans raffle tickets will go on sale on Labor Day with a drawing to occur on Veteran's Day, November 11th of each year.

All revenues received from the sale of the games, less amounts paid out in prizes and actual administrative

ESSB 5834

expenses related to the veteran lottery games, must be deposited into the VIP Account for purposes of serving veterans and their families.

Votes on Final Passage:

Senate	46	2
House	96	1

Effective: July 22, 2011

ESSB 5834

C 38 L 11 E 1

Permitting counties to direct an existing portion of local lodging taxes to programs for arts, culture, heritage, tourism, and housing.

By Senate Committee on Ways & Means (originally sponsored by Senators Murray, Litzow, McAuliffe, Nelson, Hill, White, Kohl-Welles, Fain and Eide).

Senate Committee on Ways & Means

House Committee on Ways & Means

Background: A hotel-motel tax is a special sales tax on lodging rentals by hotels, motels, rooming houses, private campgrounds, RV parks, and similar facilities. Cities and counties are authorized to levy a basic, or state-shared hotel-motel tax of up to 2 percent. These taxes are credited against the state sales tax on the furnishing of lodging. Other hotel-motel taxes are imposed in addition to ordinary state and local sales taxes and are added to the amount paid by the customer. The latter type is often referred to as special hotel-motel taxes.

In King County the 2 percent state-shared hotel-motel tax is currently used for retiring the debt on the Kingdome and supporting arts and heritage programs. After 2015 (or earlier if the debt is repaid) the tax will be used to repay the debt on the football stadium and exhibition center and to provide youth athletic-facility grants to cities, counties, or nonprofit organizations if sufficient money is available.

Cities in King County, except Bellevue, are not allowed to impose the 2 percent state-shared hotel-motel tax until the football stadium and exhibition center debt is retired. This is anticipated to occur in 2020.

The distribution of a portion of the 2 percent state-shared hotel-motel tax to arts and heritage programs is scheduled to end in 2012. Forty percent of these distributions are deposited into an endowment (fund) of which only the earnings on the fund may be spent on current programs.

Established in January 2003, 4Culture is King County's cultural services agency. It continues the work of the King County Arts Commission, Public Art Commission, and the heritage programs of the Landmarks Commission. 4Culture is a tax-exempt public corporation with a 15 member Board of Directors who are nominated by the King County Executive and confirmed by the Metropolitan King County Council. 4Culture receives a portion of

the hotel-motel tax revenues to provide funding to support the visual and performing arts, public art, heritage programs, and historic preservation.

Summary: The 40 percent distribution of King County's hotel-motel tax to arts and heritage programs is no longer distributed to the fund, but instead is distributed to an account dedicated to art museums, cultural museums, heritage museums, the arts, and performing arts. In addition, the fund is retired and the principal from the fund may be spent on the arts, culture, and heritage programs.

At the time the bonds used to pay for the repairs to the Kingdome are retired, the county hotel-motel tax will be distributed into the account dedicated to the arts, culture, and heritage programs until December 31, 2015.

The prohibition for cities in King County imposing the 2 percent state shared hotel-motel tax is extended indefinitely. Beginning January 1, 2021, at least 37.5 percent of the county hotel-motel tax revenues will be distributed to the account dedicated to art museums, cultural museums, heritage museums, the arts, and performing arts.

Yakima County can continue to receive hotel/motel tax distributions from within the city of Yakima until 2035. The requirement that Yakima County must do a financial audit of organizations that receive funding from the lodging tax is removed.

Beginning January 1, 2021, at least 37.5 percent of the county hotel-motel tax revenues will be distributed for affordable workforce housing and services for homeless youth.

The Washington State Major League Baseball Stadium Public Facilities District is authorized to impose the 10 percent parking tax at a parking facility owned or leased by the district without voter approval. This tax is in lieu of the city parking tax. The revenue from the tax must be used for repair, re-equipping, and capital improvement of the baseball stadium.

The permitted uses of the county 5 percent admissions charge is changed to fund repair, re-equipping, and capital improvement of the baseball stadium.

Votes on Final Passage:

Senate	35	14
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First Special Session

Senate	33	8
House	62	34

Effective: August 24, 2011

SSB 5836

C 379 L 11

Allowing certain private transportation providers to use certain public transportation facilities.

By Senate Committee on Transportation (originally sponsored by Senators King, Haugen, Hobbs, Delvin and Shin).

Senate Committee on Transportation

House Committee on Transportation

Background: Washington's rules of the road exclude certain vehicles from traveling in the left-hand lane of a limited access roadway having three or more lanes of traffic traveling in one direction. Under the rules of the road, many buses are excluded from the left-hand lane because of weight restrictions. The high occupancy vehicle (HOV) lane is not considered the left-hand lane.

The Washington State Department of Transportation (WSDOT) and local jurisdictions are authorized to reserve all or any portion of a highway or roadway for the exclusive or preferential use of public transportation vehicles. Currently, there are lanes reserved for the exclusive use of transit in the City of Seattle.

In addition, WSDOT and local jurisdictions are authorized to reserve all or a portion of a highway or roadway for the exclusive or preferential use of private motor vehicles carrying a specified number of passengers. Public transportation vehicles may use the HOV lanes regardless of the number of passengers in the vehicle. Private buses may use the HOV lanes regardless of the number of passengers in the vehicle if the bus has the capacity to carry 16 or more passengers.

Summary: The Washington State Department of Transportation (WSDOT) and local jurisdictions are authorized to allow certain private transportation provider vehicles to use HOV lanes and lanes reserved for public transportation on highways, except for transit-only lanes that allow other vehicles to access abutting businesses.

Local authorities are encouraged to establish a process for private transportation providers to apply for the use of public transportation facilities and to allow such use.

Transit agencies that receive state funding for park and ride lots are required to make reasonable accommodations for certain private transportation providers unless the facility is at or exceeds 90 percent capacity during two consecutive months. Allows the transit agency to recover actual costs and fair market value. WSDOT must convene a stakeholder process to develop standard forms, permit rates, and indemnification provisions for use by local authorities.

WSDOT and local authorities are required, when designing portions of roadways intended for the exclusive or preferential use of public transportation, to consider whether the design will safely accommodate certain private transportation provider vehicles.

If any part of the act is found to conflict with a prescribed condition to allocation of federal funding, the conflicting portion is inoperable.

Votes on Final Passage:

Senate	47	0	
House	96	1	(House amended) (Senate refused to concur)

Conference Committee

Senate	45	0
House	97	0

Effective: July 22, 2011

SB 5849

C 113 L 11

Concerning estates and trusts.

By Senators Prentice and Parlette.

Senate Committee on Ways & Means

House Committee on Judiciary

Background: SSB 6831 was enacted in 2010 in order to provide a rule of construction in interpreting formula clauses in wills and trusts that referred to the federal estate tax or generation-skipping transfer tax exemption amounts. The purpose of the bill was to address issues which arose in 2010 when there was no federal estate tax. Because there was no federal estate tax, there was no exemption amount, so the formula clauses did not work.

SSB 6831 created a rebuttable presumption that the decedent intended, when using a formula clause, the estate tax and generation-skipping transfer tax exemption amounts be equal to what they were when the applicable federal tax was last in effect, *i.e.*, \$3.5 million on December 31, 2009.

On December 17, 2010, Congress retroactively reenacted the estate tax and generation-skipping transfer tax provisions to January 1, 2010. At the same time, Congress increased these exemptions to \$5 million which were also retroactive to January 1, 2010.

As a result, for decedents dying after December 31, 2009, and before December 18, 2010, it is not clear if formula clauses used in wills and trusts would result in a presumed exemption amount of \$3.5 million or \$5 million.

Summary: For estates of decedents dying after December 31, 2009, and before December 18, 2010, the act:

1. Allows for the introduction of extrinsic evidence in order to determine what was the testator's or grantor's intent regarding a formula clause based on the federal estate tax or generation-skipping transfer tax exemptions, even if the will is not ambiguous.
2. Removes the presumption created by SSB 6831 that the formula amount mentioned in paragraph #1 above is \$3.5 million. It also allows for construction of the

ESSB 5860

formula as meaning \$3.5 million or \$5 million based on the decedent's intent.

3. Changes the time limit for bringing a judicial construction action under RCW 11.108.080 to two years following the death of the decedent's death, as opposed to one year.
4. In order to conform to federal disclaimer law, extends the time to make a qualified disclaimer of property passing from an estate of decedent dying after December 31, 2009, and prior to December 18, 2010, to the later of nine months following the date of death or September 17, 2010.

Votes on Final Passage:

Senate	48	1
House	97	0

Effective: April 18, 2011

ESSB 5860

C 39 L 11 E 1

Addressing temporary compensation reductions for state government employees during the 2011-2013 fiscal biennium.

By Senate Committee on Ways & Means (originally sponsored by Senator Murray; by request of Office of Financial Management).

Senate Committee on Ways & Means

Background: The programs and functions of state government are administered by numerous state agencies and institutions, the costs of which are appropriated by the Legislature. These costs include expenditures for salaries, wages, equipment, personal services contracts, and state employee travel and training.

Generally, state employment positions are either exempt, general service, or Washington Management Service (WMS). General service employees are eligible to collectively bargain if they so elect. In higher education, employee positions typically are either exempt or general services; some categories of exempt employees as well as general service employees may collectively bargain if they so elect. For example, higher education faculty and graduate students are exempt employees but may collectively bargain. For employees who collectively bargain, salary and wage increases are determined as provided in the existing contract.

Summary: During the 2011-13 biennium, base salaries are reduced 3 percent for all state employees except for elected officials whose salaries are established by the Commission on Salaries for Elected Officials; employees at state institutions of higher education; certificated employees of the state School for the Blind and the Center for Childhood Deafness and Hearing Loss; commissioned officers of the State Patrol; represented ferry workers of the

Department of Transportation; and employees whose monthly full-time equivalent salary is less than \$2,500 per month. Employees subject to the salary reduction accrue additional Temporary Salary Reduction leave at the rate of 5.2 hours per month. Amounts paid during the 2011-13 fiscal biennium to state employees who cash-out annual or sick leave at the time of retirement or sick leave in excess of 60 days at any time are not reduced by temporary compensation reductions.

Agencies that are prevented by the terms of a collective bargaining contract from implementing the 3 percent salary reduction are required to achieve a 3 percent reduction in compensation expenditures through employee leave without pay, reduced work hours, temporary layoffs, or other actions consistent with the terms of the collective bargaining agreement.

State institutions of higher education are required to reduce compensation to meet savings targets provided in the Omnibus Appropriations Act.

During the 2011-13 fiscal biennium, no performance-based awards or incentives may be granted to state employees. Agencies are prohibited from granting a salary increase for exempt or WMS employees during the 2011-13 fiscal biennium, except in cases where a demonstrated recruitment and retention issue exists; and, in the case of executive branch agencies, the Director of the Office of Financial Management has approved the increase. Agencies that do give salary increases to exempt or WMS employees are required to submit reports by July 31, 2012, and July 31, 2013, describing the increases given and the reasons for granting them.

Votes on Final Passage:

First Special Session

Senate	36	10
House	72	24

Effective: July 1, 2011

ESSB 5891

C 40 L 11 E 1

Addressing criminal justice cost savings.

By Senate Committee on Ways & Means (originally sponsored by Senator Murray).

Senate Committee on Ways & Means
House Committee on Ways & Means

Background: Offender Release and Supervision. Inmates may shorten their sentence time, if they display good behavior, through a program called earned early release. Depending on the crime committed, date of conviction, and the offenders' risk classification, offenders may get from 10-33 percent time off their sentence.

Offenders who are convicted of a sex offense, a violent offense, a crime against persons, or a drug crime are eligible to be released to community custody in lieu of

earned early release. The Department of Corrections (DOC) may deny transfer of the offender to community custody if the offender does not have an approved release plan. In the release plan, the offender must propose a residence location and living arrangements. If DOC finds that the proposed plan may violate the offender's conditions of sentence, place the offender at risk to reoffend, or compromise community safety, DOC will not approve the offender's release plan. In this case, the offender will remain incarcerated until a viable release plan is found or the offender reaches the end of his or her sentence. DOC may provide rental vouchers to an offender for a period up to three months, if rental assistance will enable the offender to have an approved release plan.

DOC is currently required to supervise felony offenders sentenced to community custody who are classified at a high risk to reoffend; all sex offenders; all dangerously mentally ill offenders; all offenders with an indeterminate sentence; all offenders sentenced to Drug Offender Sentencing Alternative, Special Sex Offender Sentencing Alternative, and first time offender waiver (FTOW); and all offenders required to be supervised under the Interstate Compact. DOC must also supervise misdemeanor offenders who have been sentenced to probation by a superior court and who have been convicted of a sex offense, including a failure to register; and those convicted of fourth degree assault or violation of a domestic violence court order and who have a prior conviction.

Approximately 60 percent of the offenders supervised by DOC are sentenced to confinement of one year or less and therefore do not serve time in prison.

Cost of Supervision. *Assessments for Supervision of Felony Offenders.* DOC may impose a monthly supervision assessment on a felony offender under supervision, which is considered payment toward providing supervision. The assessment is \$15 per month for routine parole and up to \$50 per month for intensive parole supervision. The assessment is imposed for the duration of supervision and is deposited in the Cost of Supervision Fund. Expenditures from the Cost of Supervision Fund are made for supporting the collection of legal financial obligations.

DOC may exempt an offender from payment of all or part of the assessment if the offender has diligently attempted but has been unable to obtain employment; the offender is a student; the offender has an employment handicap; the offender's age prevents employment; the assessment would create an undue hardship because the offender is responsible for supporting dependents; or other extenuating circumstances exist.

Assessments for Supervision of Misdemeanant Probationers. When an offender convicted of a misdemeanor or gross misdemeanor is placed on probation and supervised by either DOC or a county probation department, DOC or the probation department may collect a monthly assessment up to \$100 per month from the offender. The assessment is imposed for the duration of probation.

Application for Interstate Transfer. DOC processes applications for transfer of offenders under the Interstate Compact for Adult Offender Supervision and may charge offenders a reasonable fee for processing the application.

First Time Offender Waiver (FTOW). An offender is eligible to receive a sentencing alternative of a FTOW if the person:

- has never been convicted of a felony or participated in a program of deferred prosecution for a felony; and
- is not currently convicted of:
 1. a violent offense or sex offense;
 2. manufacturing, delivery, or sale of certain controlled substances; or
 3. felony driving under the influence.

In sentencing a first-time offender, the court may waive imposition of the standard sentence and impose a sentence of up to 90 days confinement and community custody of up to one year, or up to 24 months if treatment is also ordered.

In 2010 the court sentenced 1469 offenders to an FTOW. Approximately 41 percent of the offenders received a sentence of confinement within the standard sentence range. Three hundred fifty-five were sentenced to a 12-month term of community custody and 1021 were sentenced to a 24-month term of community custody. DOC currently supervises 2550 first-time offenders.

Indeterminate Sentence Review Board (ISRB). Prior to 1984 sentences imposed for adult felonies in Washington were indeterminate. Courts had wide discretion over whether or not to impose a prison sentence and the length of any sentence. The Board of Prison Terms and Paroles then decided when or whether to release an offender within the statutory maximum sentence period. Indeterminate sentencing is still in effect for a small number of prison inmates who committed crimes before July 1, 1984. The Board of Prison Terms and Paroles was re-designated as ISRB which has continuing responsibility to set the release dates for those offenders.

In addition to pre-1984 offenders, ISRB also determines whether to release sex offenders who committed their crimes after September 1, 2001, and who were sentenced to a determinate plus sentence including a minimum and maximum term of incarceration. ISRB exists as an independent entity in current law, consisting of a chair and four other members, each of whom is appointed by the Governor.

Sentencing Guidelines Commission (SGC) and the Sex Offender Policy Board. The Legislature established SGC in 1981 and directed it to recommend a determinate sentencing system for adult felonies. The principal goal of the new sentencing guidelines system was to ensure that offenders who commit similar crimes and have similar criminal histories receive equivalent sentences. Sentences were to be determined by the seriousness of the offense and by the criminal record of the offender. SGC completed the original adult felony sentencing grid in 1982, which

was subsequently enacted into law and applied to crimes committed after July 1, 1984. In 1996 the Legislature directed SGC to assume the functions of the Juvenile Disposition Standards Commission, serving similar functions with regard to juvenile sentencing.

SGC is organized as a separate entity with membership appointed by the Governor. The continuing duties of SGC include evaluating and monitoring adult and juvenile sentencing policies and practices and recommending modifications to the Governor and the Legislature and serving as a clearinghouse and information center on adult and juvenile sentencing.

In 2008 the Legislature created the Sex Offender Policy Board (SOPB) to promote a coordinated and integrated response to sex offender management. SOPB is organized as an independent entity, staffed and maintained by SGC. SOPB responds to requests from legislators and conducts case reviews of sex offense incidents that occur within the state.

Summary: Offender Supervision. DOC supervision is eliminated for offenders convicted of a first-time felony failure to register who are assessed at a low or moderate risk to reoffend and misdemeanor offenders convicted after August 1, 2011 of fourth degree assault or violation of a domestic violence court order who also have a prior conviction. DOC must supervise offenders convicted after August 1, 2011 of two or more domestic violence convictions where domestic violence is plead and proven.

In sentencing a first-time offender, the court may impose up to six months of community custody or up to 12 months of community custody if treatment is also ordered.

Tolling for offenders on community supervision is eliminated; the length of supervision will run continuously regardless of whether an offender is incarcerated. Tolling continues for sex offenders subject to community supervision.

Cost of Supervision. *Intake Fee for Supervision of Offenders.* Both felony and misdemeanor offenders under DOC supervision must pay a supervision intake fee, which is considered payment toward the cost of establishing supervision. The fee is imposed after the offender is determined to be eligible for supervision. For an offender whose crime was committed on or after October 1, 2011, the fee is \$400-\$600 and is assessed for each judgment and sentence imposed for which supervision is required. For an offender whose crime was committed before October 1, 2011, the monthly supervision assessment is converted to a one-time fee. The fee is based on the monthly rate and the number of months of supervision left, but may not exceed \$600.

Application for Interstate Transfer. DOC may charge a reasonable fee set by rule for processing an offender's application for out-of-state transfer of supervision under the Interstate Compact for Adult Offender Supervision. The fee is deposited in the Cost of Supervision Fund.

ISRB. ISRB is created within DOC. DOC must provide administrative and staffing support to ISRB. DOC may employ a senior administrative officer and other personnel as necessary to assist ISRB in carrying out its duties. The property and employees of ISRB are transferred to DOC.

Sentencing Guidelines Commission and Related Duties. SGC is created as an advisory agency, located within the Office of Financial Management. The Caseload Forecast Council (CFC) will serve as the clearinghouse and information center for adult and juvenile sentencing and must annually produce a statistical summary of adult felony sentencing and juvenile dispositions. The CFC must also publish and maintain the adult felony sentencing manual. CFC is not liable for errors or omissions in the manual or for sentences that may be inappropriately calculated as a result of a practitioner's or court's reliance on the manual.

DOC assumes full responsibility for administering the interstate compact for adult offender supervision in the state. SGC must establish and maintain the SOPB. The SOPB serves in an advisory capacity and may be convened at the request of the Governor or legislative committee of jurisdiction.

Miscellaneous. By January 1, 2012, DOC must implement the provisions of this act, including recalculating community custody terms and release dates for offenders in accordance with the provisions of this act. This act applies to persons convicted before, on, or after the effective date.

Votes on Final Passage:

First Special Session

Senate	29	17	
House	50	43	(House amended)
Senate	26	20	(Senate concurred)

Effective: June 15, 2011 (Sections 1-9 and 42)
 July 1, 2011 (Section 43)
 August 24, 2011

ESB 5907
 C 252 L 11

Implementing the policy recommendations resulting from the national institute of corrections review of prison safety.

By Senators Kohl-Welles, Holmquist Newbry, Kline, Hewitt, Keiser, King, Regala, Conway, Carrell and Hargrove; by request of Governor Gregoire.

Senate Committee on Labor, Commerce & Consumer Protection

Senate Committee on Ways & Means

House Committee on Ways & Means

Background: The Washington Department of Corrections (Department) submitted a request for the national Institute of Corrections to conduct an independent review of

Monroe Correctional Complex (MCC)/Washington State Reformatory (WSR) into pertinent systems, policies, and procedures relative to the death of Correctional Officer Jayme Biendl. The report contains 15 recommendations relating to changing systems, policies, practices, protocol, and technology within MCC/WRS.

Summary: Statewide and Local Security Advisory Committees. The Department must establish a statewide security advisory committee (Committee) to review the department's security-related policies and procedures. The Committee must be comprised of a wide range of institutional staff, some of who must be custody staff, including:

- the director of prisons;
- a nonsupervisory classified employee and/or sergeant from each local advisory committee of a major facility and one nonsupervisory classified employee and/or sergeant repetitive from a minimum facility;
- the senior-ranking security custody staff member from each security facility and a senior ranking custody staff member from a minimum correctional facility;
- a senior ranking community corrections officer; and
- a delegate from the union that represents department employees located at correctional facilities.

The Committee must:

1. Make recommendations to the Secretary of Corrections on the methods to provide consistent application of the security policies and procedures; and
2. Develop guidelines to establish local security advisory committees (local committee) for each correctional facility within the Department. The chair of each local committee must be the captain at a major facility and the lieutenant at a minimum security facility. The local committee should consist of a wide range of nonsupervisory classified employees and/or sergeants from the facility, such as medical staff; class counselors; program staff; and mental health staff.

The Department must report back to the Governor and the appropriate committees of the Legislature by November 1, 2011, and annually thereafter. The report must include:

- recommendations raised by both the statewide and local security advisory committees;
- recommendations for improving the ability of nonsupervisory classified employees to provide input on safety concerns including labor and industries mandated safety committees, and the inclusion of safety issues in collective bargaining;
- actions taken by the Department as a result of recommendations by the statewide security advisory committee; and

- recommendations for additional resources or legislation to address security concerns in total confinement correctional facilities.

The Department must also report to the Governor and the appropriate committees of the Legislature by November 1, 2011, on issues related to safety within community corrections. The Department is required to engage employees from all levels of the community corrections division in preparing the report.

Multidisciplinary Teams. The Department must establish multidisciplinary teams (Teams) at each correctional facility to evaluate offenders' placements in inmate job assignments and custody promotions. The Teams at each facility must determine suitable placement based on the offender's risk, behavior, or other factors considered by the team. The Teams must be comprised of representatives from a wide range of nonsupervisory classified employees and/or sergeants from the facility, such as medical staff, class counselors, program staff, and mental health staff.

Training Curriculum. The Department must develop training curriculum regarding staff safety issues at correctional facilities in consultation with both the statewide security and local advisory committees. The training must be delivered to applicable correctional staff in-service by July 1, 2012. The training curriculum must address the following issues:

- security routines;
- physical plant layout;
- offender movement and program areas coverage; and
- situational awareness and de-escalation techniques.

Body Alarms and Proximity Cards. The Department must hire a consultant to study the feasibility of implementing a statewide system for staff safety, utilizing body alarms and proximity alarms for staff within correctional facilities. The consultant must seek the input from both the statewide and local security advisory committees. The Department must report the consultant's findings and recommendations to the Governor and appropriate committees of the Legislature by November 1, 2011. The report must include:

- recommendations for the use of body alarms by security level personnel;
- recommendations for specific positions that should require the use of body alarms;
- the information technological and infrastructure requirements needed for body alarms and proximity cards;
- the training requirements for body alarms;
- lessons learned from any pilot project the Department may implement in the interim; and
- the estimated costs of the alarms and proximity cards and needed supporting infrastructure, staffing, and training requirements.

The Department may pilot the use of body alarms and proximity cards within available resources.

Video Monitoring Cameras. The Department must hire a consultant to study and make recommendations on the deployment of video monitoring cameras. The consultant must seek the input from both the statewide and local security advisory committees. The Department must report the findings and recommendations to the Governor and the appropriate committees of the Legislature by November 1, 2011. The report must include:

- recommendations for the use of video monitoring cameras by security level;
- recommendations for specific locations within a correctional facility which would benefit from the use of video monitoring cameras;
- the information technological and infrastructure requirements needed for effective use of video monitoring cameras;
- recommendations for how video monitoring cameras should be incorporated into future prison construction to insure consistency in camera use system-wide; and
- the estimated cost of the video monitoring cameras, supporting infrastructure needed, and staffing required by the correctional facility.

Oleoresin Capsicum Aerosol Products. The Department must develop a plan for the use of oleoresin capsicum aerosol products, also known as pepper spray, as a security measure available for staff at correctional facilities in consultation with the statewide and local security advisory committees. The plan must include recommendations regarding which facility's use should be limited to, what the training requirements should be, the estimated costs, and an implementation schedule. The Department must report its plan, including costs, to the Governor and appropriate committees of the Legislature by November 1, 2011.

The Department may initiate a pilot project, within available funds, to expand the deployment of oleoresin capsicum aerosol products within correctional facilities.

Votes on Final Passage:

Senate	49	0
House	97	0

Effective: July 22, 2011

SSB 5912

C 41 L 11 E 1

Expanding family planning services to two hundred fifty percent of the federal poverty level.

By Senate Committee on Ways & Means (originally sponsored by Senators Keiser, Pflug, Kohl-Welles and Kline).

Senate Committee on Ways & Means
House Committee on Ways & Means

Background: Through the Take Charge program, the Department of Social and Health Services (DSHS) provides family planning services to state residents with family incomes below 200 percent of the federal poverty level. Services include an annual gynecological exam and pap smear; birth control pills and devices; emergency contraception; and sterilization. Pregnancy termination is not a covered service.

Approximately 60,000 people per month are enrolled in the program, at an annual cost of \$21 million. Approximately 80 percent of the cost of the program is covered by federal funds, with the balance coming from the state General Fund. Services are delivered by a variety of local contractors, including county health departments, community clinics, and planned parenthood organizations.

Through Medicaid, the state provides medical coverage for pregnant women with incomes up to 250 percent of the federal poverty level, depending upon family size. Additionally, through the State Children's Health Insurance Program, the state provides medical coverage for children in families with incomes up to 300 percent of poverty. It has been suggested that, by expanding eligibility for family planning services, the state could avoid the cost of some of the unplanned pregnancies and births for which it would otherwise pay.

Summary: The DSHS is to submit an application to the federal Department of Health and Human Services by September 30, 2011, to expand eligibility for family planning services to 250 percent of the federal poverty level. Upon implementation of the expansion, the Office of Financial Management is to reduce General Fund-State allotments for the medical assistance program by \$4.5 million.

Votes on Final Passage:

First Special Session

Senate	30	17
House	52	36

Effective: August 24, 2011

ESSB 5919
PARTIAL VETO
 C 27 L 11 E 1

Regarding education funding.

By Senate Committee on Ways & Means (originally sponsored by Senators Murray and Zarelli).

Senate Committee on Ways & Means

Background: Basic Education and K-12 Funding Formulas. In the 2009-11 biennium, two pieces of legislation were enacted to redefine basic education and restructure the K-12 funding formulas. The first was Engrossed Substitute House Bill 2261, Chapter 548, Laws of 2009, which expands the definition of basic education by adding the programs for highly capable students and student transportation to and from school. A new transportation funding formula was adopted to predict pupil transportation costs based on regression analysis. Additionally, the all-day kindergarten programs that had been phased in since 2007 are to become part of basic education with the continued phase in of the highest poverty schools first. Increases in the number of instructional hours and the minimum number of credits for high school graduation are to be phased in on a schedule set by the Legislature. The framework for a new K-12 funding allocation formula based on prototypical schools was created. These changes are to take effect September 1, 2011.

The second bill, Substitute House Bill 2776, Chapter 236, Laws of 2010, enacted new prototypical school allocation formulas at funding levels which represent the 2009-10 school year state spending on basic education. The bill also established a timeline, effective September 1, 2011, for phasing in enhancements to the program of basic education and certain funding levels as follows: During the 2011-13 biennium,

- enhanced funding for transportation must begin to be phased in to be completed by the 2013-15 biennium;
- beginning with the schools with the highest poverty students, the K-3 class size must be reduced to 17 students per teacher by 2017;
- the minimum allocation for maintenance, supplies, and operating costs (MSOC) must be increased as specified in the Omnibus Appropriations Act until specific amounts are provided in the 2015-16 school year; and
- funding for all-day kindergarten must continue to be phased in each year until full statewide implementation is achieved in the 2017-18 school year.

Career and Technical (CTE) Student Organizations. SPI must provide staff support for statewide coordination of CTE student organizations, including but not limited to the National FFA Organization; Family Career, and Community Leaders of America; SkillsUSA; Distributive

Education Clubs of America; Future Business Leaders of America; and the Technology Student Organization.

Special Services Pilot Program. In 2003 the Legislature authorized and funded two school districts to pilot programs of early and intensive intervention services in reading and language with the intent to reduce the number of children who may eventually require special education services. The pilot program was originally to expire June 30, 2007. In 2007 the Legislature reauthorized, expanded, and funded the pilot program for seven school districts. The expanded pilot program is to expire June 30, 2011.

Summary: Basic Education and K-12 Funding Formulas. It is clarified that the number of instructional hours and the minimum number of credits for high school graduation will be increased no sooner than the 2014-15 school year.

The pupil transportation funding formula, scheduled to go into effect September 1, 2011, is adjusted as follows:

- The new formula includes statistically significant factors only.
- The indirect-cost rate added to the final prior year expenditures is specified as the federal restricted indirect rate.
- The growth in salaries and benefits in the allowable prior year expenditures will not exceed the growth provided in the budget.
- During the transition to full implementation, the funding will include budgeted increases provided in the Omnibus Appropriations Act for salaries or fringe benefits.
- Clarifies that, during the transition to full implementation, in-lieu bus depreciation payments to contracting districts are not included in the reported prior year expenditures.

The transitional bilingual education funding formula is amended to provide that, notwithstanding the requirement that funding allocation provide a statewide average additional number of hours per week of instruction, the actual per-student allocation may be scaled for a larger allocation for students needing more intensive intervention and a commensurate reduced allocation for those needing less intensive intervention.

(CTE) Student Organizations and Special Services Pilot. The SPI is responsible for staffing the CTE student organizations only to the extent that funds are available. The special services pilot program expires March 1, 2011, instead of June 30, 2011.

Votes on Final Passage:

First Special Session

Senate	34	11
House	57	39

Effective: June 7, 2011
 August 24, 2011 (Section 7)
 September 1, 2011 (Sections 1-3)

Partial Veto Summary: Because the section was very similar to a provision in Engrossed Substitute House Bill 1410, Chapter 22, Laws of 2011, the Governor vetoed the section that would have required students in the graduating class of 2015, rather than 2013, to meet the state standard on the high school assessment in order to earn a certificate of academic achievement or certificate of individual achievement.

VETO MESSAGE ON ESSB 5919

June 7, 2011

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to Section 6, Engrossed Substitute Senate Bill 5919 entitled:

"AN ACT Relating to education funding."

Section 6 requires students in the graduating class of 2015, rather than 2013, to meet the state standard on the high school assessment in order to earn a certificate of academic achievement or certificate of individual achievement.

The House of Representatives delivered Engrossed Substitute House Bill 1410 containing a similar provision on May 25, 2011. That bill is among those I sign today.

For this reason, I have vetoed Section 6 of Engrossed Substitute Senate Bill 5919.

With the exception of Section 6, Engrossed Substitute Senate Bill 5919 is approved.

Respectfully submitted,



Christine O. Gregoire
Governor

ESSB 5921

PARTIAL VETO

C 42 L 11 E 1

Revising social services programs.

By Senate Committee on Ways & Means (originally sponsored by Senators Regala and Carrell).

Senate Committee on Ways & Means
House Committee on Ways & Means

Background: Temporary Assistance for Needy Families (TANF). TANF is a federal block grant established under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. TANF program replaced the Aid to Families with Dependent Children program, which had provided grants to poor families with children since the 1930s.

States use TANF block grants to operate their own programs. State programs differ, but operate in accordance with the following purposes set forth in federal law:

- to provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;

- end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage;
- prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and
- encourage the formation and maintenance of two-parent families.

The basic TANF block grant has been set at \$16.6 billion since it was established in 1996. States are required to spend their own funds on programs for needy families or face financial penalties; this is referred to as the maintenance of effort (or MOE) requirement.

WorkFirst. Washington's WorkFirst program was created by the state Legislature in 1997 following the passage of the federal Personal Responsibility and Work Act of 1996 and is administered by the Department of Social and Health Services (DSHS). Parents with children who receive TANF are required to participate in activities designed to lead to employment in return for the cash assistance they receive. Following an initial assessment, each recipient signs an Individual Responsibility Plan which outlines the activities the recipient is required to attend if the recipient has adequate child care and transportation. The activities generally fall into categories of barrier removal (chemical dependency treatment, English as a Second Language, etc.), job search, education and training, and community jobs.

In addition to WorkFirst clients, TANF grants are also provided to qualified non-relative and relative caregivers who are providing personal care to children not residing with their parents.

When participants fail to meet WorkFirst participation requirements, they face sanctions or reduced grants. Participants who are out of compliance with requirements for four months are terminated, but may reapply.

WorkFirst Redesign. The WorkFirst Subcabinet (Subcabinet) chartered a re-examination of the WorkFirst program between July and November of 2010, and released its report to the Legislature on February 3, 2011. The Subcabinet found that WorkFirst, as currently designed, is not financially sustainable within available funding. The report includes a comprehensive set of time-series recommendations to redesign the program so it can be sustained for needy families in the future. Some recommendations include:

- continue to provide a full TANF grant for families with income up to 200 percent of the federal poverty level, and a reduced grant for those with higher incomes;
- revise rules regarding the amount of earned income that can be disregarded when determining participants' eligibility to receive TANF assistance;

- implement reasonable eligibility requirements and follow-up checks for child-only cases, for cases in which the child was not placed by the Children's Administration on a dependency order; and
- enhance participant accountability.

Cash Assistance. TANF benefits are provided to recipients through an electronic benefits transfer (EBT) card. The benefit amount is electronically added to the card each month. The EBT card can be used at ATMs and also at stores through a point of sale machine, similar to how debit cards are used.

A TANF recipient is prohibited from using an EBT card or cash obtained with an EBT card to participate in a gambling activity, a parimutuel wagering activity, or to purchase lottery tickets. DSHS must notify EBT cardholders that using an EBT card or cash obtained with an EBT card for any of the prohibited activities could result in legal proceedings and the forfeiture of all cash benefits.

Fraud. The Division of Fraud Investigations (DFI) within DSHS is responsible for investigating allegations of fraud by applicants and recipients of public assistance programs and for investigating allegations of fraud by vendors with whom DSHS has a contract to provide services to DSHS clients. DFI partners with the Economic Services Administration Community Services Division to investigate current eligibility for TANF, Disability Life-line, Basic Food, Medical, and Working Connections Child Care benefits. According to DSHS material, during the 2009 fiscal year, the cost-avoidance associated with the Fraud Early Detection program was \$24.2 million. During the same period the DFI Overpayment Unit recovered overpayments totaling \$1.8 million and the Criminal Investigations Program referred 98 cases to state and federal prosecutors.

Summary: WorkFirst Program. During fiscal year 2012, the requirement that WorkFirst activity requirements be fulfilled by TANF recipients is suspended for one and two parent families or relatives personally providing care for one child under the age of two years, or two or more children under the age of six years. Both parents in a two parent family cannot use the suspension during the same month. Beginning on July 1, 2012, DSHS is to begin phasing in recipients required to participate in WorkFirst back into work activity starting with those recipients closest to reaching the 60-month time limit for receiving TANF. DSHS is to accomplish the phase-in in such a way that a fairly equal number of required participants are returned to work activities each month until all those required to participate in work activities is reached by June 30, 2013. A recipient affected by the suspension may nevertheless volunteer to participate in the WorkFirst program during the suspension. Recipients who participate in the WorkFirst program on a voluntary basis must be provided an option to participate in the program on a part-time basis, consisting of 16 or fewer hours of activities per week.

The Legislative-Executive WorkFirst Oversight Task Force is established. The President of the Senate appoints two members from each of the two largest caucuses in the Senate. The Speaker of the House of Representatives appoints two members from each of the two largest caucuses in the House. The Governor must appoint members representing the following state agencies:

- DSHS;
- Department of Early Learning (DEL);
- Department of Commerce;
- The Employment Security Department;
- The Office of Financial Management; and
- The State Board for Community and Technical Colleges.

The task force is to choose co-chairs, one from among the legislative members and one from among the executive branch members. The legislative members are to convene the first meeting.

The task force is to oversee the partner agencies' implementation of the redesign of the WorkFirst program and operation of the TANF program to ensure the programs are achieving the desired outcomes for their clients; determine evidence-based outcome measures for the WorkFirst program, including measures related to equitably serving the needs of historically underrepresented populations; develop accountability measures for WorkFirst recipients and the state agencies responsible for their progress towards self-sufficiency; and make recommendations to the Governor and Legislature regarding the following: policies to improve the effectiveness of the WorkFirst program over time; early identification of those recipients most likely to experience long stays on the program; and strategies to improve their ability to achieve progress toward self-sufficiency and necessary changes to the program including taking into account federal changes to the TANF program.

The partner agencies must provide the task force with regular reports on their progress toward meeting the outcome and performance measures established by the task force, caseload trends and program expenditures on client services, and the characteristics of families who have been unsuccessful on the program and have lost their benefits either through sanction or the 60-month time limit.

The task force is to meet on a quarterly basis beginning in September 2011 or as determined necessary by the task force co-chairs. During its tenure, state agency task force members must respond in a timely fashion to data requests from the co-chairs.

TANF. DSHS must institute income eligibility rules, effective November 1, 2011, for those persons receiving TANF benefits for a child, other than a foster child, for whom the person is the caregiver. DSHS is to establish a sliding scale benefit standard for a child when the caregiver's income is above 200 percent but below 300 percent of the federal poverty level based on family size.

DSHS must adopt regulations to apply the 60-month time limit to households in which a parent is in the home and ineligible for TANF. Any regulations must be consistent with federal funding requirements. Exemptions that apply to an adult receiving benefits on his or her behalf must also apply to parents receiving benefits on his or her child's behalf.

Unless otherwise exempt, no TANF recipient can receive benefits for more than 60 months.

DSHS may implement a permanent disqualification for adults who have been terminated from the program because of WorkFirst noncompliance sanction three or more times since March 1, 2007. A household that includes a permanently disqualified adult is ineligible for further TANF assistance.

Working Connections Child Care (WCCC). As a condition of receiving WCCC, the applicant must seek child support enforcement services from DSHS, unless there is good cause not to. The payment for WCCC constitutes an authorization for DSHS to provide the WCCC recipient with child support services. DSHS is authorized to collect but not retain child support payments.

A WCCC recipient is eligible to receive the subsidy for up to six months before having to recertify his or her income eligibility. The six-month recertification period applies only if the WCCC program entries are capped.

DSHS and DEL, in consultation with interested individuals and organizations, must jointly identify different options to track subsidized child care attendance including methods using a landline or cellular telephone, a computer, a point of sale system, or some combination of these methods and report their recommendations to the Legislature by December 31, 2011. Each department's recommendations must address any implementation issues and a proposed implementation time line and should assume a January 2013 implementation date for the attendance tracking system. The Legislature must review the recommendations and authorize implementation of those recommendations. The method that is chosen must interface smoothly with the current and future payment systems for subsidized child care payments.

DSHS and DEL must also assess the current subsidized child care eligibility determination system and develop recommendations to improve the accuracy, efficiency, and responsiveness of the system. The results of the assessment are to be reported to the Legislature no later than December 31, 2011.

Electronic Benefit Cards and Financial Management. DSHS, in consultation with its electronic benefits card contractor and interested persons and organizations, must develop strategies to increase opportunities for public assistance recipients to maintain bank accounts with a goal of increasing recipient financial literacy and financial management skills and minimizing recipient costs associated with ATM transaction fees. A report and

recommendations are to be submitted to the relevant policy and fiscal legislative committees by December 1, 2011.

DSHS, in contracting with electronic benefit card providers, must require that any surcharge or transaction fee charged by the provider be disclosed to EBT clients at the point at which the surcharge or transaction fee occurs.

Fraud. A TANF recipient is prohibited from using an EBT card or cash obtained with an EBT card for the following:

- to participate in or purchase activities located in a tattoo, body piercing, or body art shop;
- to purchase any alcoholic beverage;
- to purchase cigarettes or tobacco products; or
- to purchase or participate in any activity in certain locations.

On or before January 1, 2012, the businesses listed below must disable the ability of the ATMs and point-of-sale machines located on their business premises to accept EBT cards:

- taverns;
- beer/wine specialty stores;
- nightclubs;
- contract liquor stores, but only for the point-of-sale machines used for liquor purchases;
- bail bond agencies;
- gambling establishments;
- tattoo, body piercing, or body art shops;
- adult entertainment venues with performances that contain erotic material where minors under the age of 18 are prohibited; and
- any establishments where persons under the age of 18 are not permitted.

Only the recipient or the recipient's authorized representative may use an EBT card or EBT card benefits and the use may only be for the respective benefit purposes. The recipient may not sell, or attempt to sell, exchange, or donate an EBT card or any benefits to any other person or entity.

The first violation on the use of an EBT card is a class 4 civil infraction under RCW 7.80.120. Second and subsequent violations constitute a class 3 civil infraction. Any of the listed business establishments that do not comply with the requirement to disable ATM and point-of-sale machines on their business premises from accepting EBT cards will have its business license suspended until it complies with the requirements.

The Office of Fraud and Accountability (OFA) is established in DSHS to detect, investigate, and prosecute any act that constitutes fraud or abuse in the public assistance programs administered by DSHS except for Medicaid and other medical programs. The OFA Director is to report directly to the DSHS Secretary and is to ensure that each citizen or employee complaint, law enforcement complaint, and agency referral is assessed and fully

investigated and referred for prosecution when there is substantial evidence of wrongdoing.

OFA is to conduct independent investigations into allegations of fraud and abuse, recommend policies, procedures, and best practices designed to detect and prevent fraud and abuse, analyze cost effective, best practice alternatives to the current cash benefit delivery system, and use best practices to determine the appropriate use and deployment of investigative resources.

By December 31, 2011, OFA is to report to the Legislature on the development of the office, identification of any barriers to meeting the stated goals of OFA, and recommendations for improvement to the system and laws related to the prevention, detection and prosecution of fraud and abuse in public assistance programs.

The Secretary or the Secretary's designee has authority to administer oaths, take testimony, and issue subpoenas.

OFA is to have prompt access to all individuals, records, data, reports, audits, reviews, and other material available to the departments of Revenue, Labor and Industries, Early Learning, Licensing, Employment Security, and any other government entity that can be used to help facilitate an investigation. Information gathered is to remain confidential as required by state or federal law.

Employee Incentive Pilot. DSHS is to establish an employee incentive program pilot for those employees who work directly with WorkFirst participants. The pilot is to provide for eight hours of annual leave, in addition to the amount the employee normally accrues, for those employees who assist participants in meeting certain outcomes as established by DSHS. The outcomes established must be significant for the participant and can include achieving unsubsidized employment or the removal of a significant barrier to achieving unsubsidized employment. DSHS is to report to the Legislature by January 1, 2013, on the implementation results of the pilot.

Votes on Final Passage:

First Special Session

Senate	44	0	
House	70	10	(House amended)
Senate	44	0	(Senate concurred)

Effective: July 1, 2011

September 1, 2011 (Section 6)

Partial Veto Summary: The Governor vetoed the section requiring DSHS to engage in competitive performance-based contracting for all WorkFirst activities and the section establishing the fraud ombudsman in the State Auditor's Office.

VETO MESSAGE ON ESSB 5921

June 15, 2011

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to Sections 3 and 26, Engrossed Substitute Senate Bill 5921 entitled:

"AN ACT Relating to social services."

This omnibus bill addresses redesign and policy changes to Washington's WorkFirst program, including provisions related to eligibility, accountability, fraud detection and enforcement. During the current economic downturn the state has experienced increased utilization of safety net programs. Now is the time to redouble our focus on service delivery that meets the intended outcomes and ensures fiscal accountability for the use of limited public funds.

Section 3 of the bill requires the Department of Social and Health Services to engage in competitive performance-based contracting for all WorkFirst activities. I strongly support government efficiency and improved performance in providing critical services to Washington residents. However, Section 3 of the bill is not needed and could create confusion about the applicable law that would govern such contracting. The Legislature enacted a law in 1997, codified as RCW 74.08A.290, that authorized the Department of Social and Health Services to engage in competitive contracting using performance-based contracts to provide all work activities. The Department of Social and Health Services would be expressly mandated to exercise its authority granted in 1997 under RCW 74.08A.290 by Second Engrossed Substitute House Bill 1087, a bill among those I sign today. I will direct the Department of Social and Health Services and the WorkFirst Subcabinet to act on the Legislature's direction in Second Engrossed Substitute House Bill 1087 to competitively contract all work activities under the 1997 law.

Section 26 of the bill establishes a Fraud Ombudsman in the State Auditor's Office to audit and provide oversight of the Office of Fraud and Accountability at the Department of Social and Health Services. Transparency of public funds is critically important. I remain committed to ensuring appropriate use of public funds when providing critical services for the State's most vulnerable residents.

However, Section 26 is duplicative of the State Auditor's Office existing authority to audit the work of the Office of Fraud and Accountability. The Department of Social and Health Services will provide the State Auditor's Office with access to any relevant records in its possession to the fullest extent practicable upon the request of the State Auditor's Office.

For these reasons, I have vetoed Sections 3 and 26 of Engrossed Substitute Senate Bill 5921.

With the exception of Sections 3 and 26, Engrossed Substitute Senate Bill 5921 is approved.

Respectfully submitted,

Christine O. Gregoire
Governor

ESSB 5927

C 9 L 11 E 1

Limiting payments for health care services provided to low-income enrollees in state purchased health care programs.

By Senate Committee on Ways & Means (originally sponsored by Senators Keiser and Pflug; by request of Health Care Authority and Department of Social and Health Services).

Senate Committee on Ways & Means
House Committee on Ways & Means

Background: The state contracts with health insurance systems to deliver medical care services under the state Medicaid, Disability Lifeline, and Basic Health Plan programs. These systems contract with individual health care practitioners, group practices, clinics, hospitals, pharmacies, and other entities to participate in their network of providers. Persons enrolled in the managed care plan must typically obtain their medical care services from providers who participate in their plan's network in order for the service to be covered.

When they receive services at an in-network facility, managed care enrollees sometimes receive services from health care providers who have not contracted to participate in their managed care plan's network. For example, an enrollee may have surgery at a hospital that has contracted to participate in their managed care plans' network but receive anesthesia from a practitioner who has not.

Disputes have arisen about how much the managed care plan should pay the health care practitioner in such instances. A Snohomish County Superior Court judge has ruled that in such instances the managed care organizations should pay the non-contracted practitioner the full amount billed by the practitioner. Managed care organizations, the Department of Social and Health Services, and the Health Care Authority have expressed concern this will increase the cost of services delivered under state-purchased plans.

Summary: A nonparticipating provider is defined as a health care practitioner or facility that does not have a written contract to participate in a managed health care system's provider network. When a nonparticipating provider delivers services to an enrollee covered by a state-contracted managed care plan, the plan must pay the nonparticipating provider no more than the lowest amount paid for that service under the managed health care system's contracts with similar providers in the state. The nonparticipating provider must accept the payment as payment in full and may not balance bill the patient except for any deductible, copayment, or coinsurance.

State-contracted managed care plans must maintain a network of contracted providers sufficient to provide access to all services covered by the contract, including hospital-based physician services. The department must

monitor and must report to the Legislature by January 1 of each year on the proportion of services provided by contracted providers and nonparticipating providers, by county, for each state-contracted managed care system to ensure that the systems are meeting network adequacy requirements.

Except for the definition of a nonparticipating provider, the provisions of the act expire July 1, 2016.

Votes on Final Passage:

First Special Session

Senate	34	9	
House	94	2	(House amended)
Senate	34	11	(Senate concurred)

Effective: August 24, 2011

ESSB 5931

PARTIAL VETO

C 43 L 11 E 1

Reorganizing and streamlining central service functions, powers, and duties of state government.

By Senate Committee on Ways & Means (originally sponsored by Senators Baumgartner and Zarelli).

Senate Committee on Ways & Means
House Committee on Ways & Means

Background: Washington State has several central service agencies that primarily provide services to other state agencies and occasionally local governments and nonprofits.

Department of General Administration (GA). GA provides support services to state agencies, and other entities such as schools, local governments, higher education institutions, and nonprofits. Services provided by GA include purchasing and contracting for goods and services, lease management, facility and grounds maintenance, construction project management, state motor pool, operation of the consolidated mail services, adoption of state building code, and oversight of bidding procedures.

Office of Public Printer (Printer). The Printer was established in 1854 and provides printing and binding for a wide range of agency documents. The Printer may subcontract printing to a private vendor under some circumstances. In those cases, the Printer may apply a 5 percent markup. Current law requires the Printer to charge the actual cost for print jobs but those costs may not exceed the prices listed in the Franklin Pricing Guide.

Department of Personnel (DOP). DOP manages the state's civil services system since creation by initiative in 1960. Civil service law applies to all state agencies, institutions of higher education, boards and commissions and each employee, unless expressly excluded or exempted by law. DOP duties include oversight and administration of the civil service system and administration and operation of the central personnel payroll system. The Director of

DOP is responsible for adopting rules regarding disciplinary and other employee action, transfers, training and career development, sick leave and vacations, layoffs and reemployment, salary schedules and performance evaluations. The Public Employment Relations Commission manages collective bargaining provisions, including the determination of appropriate bargaining units within any agency.

Office of Financial Management (OFM). OFM was established in 1969 as a division of the Office of the Governor. The general duties of OFM including planning and coordination in the preparation of budgets, accounting functions, research related to the state and federal census, preparation of fiscal notes, oversight of the state's risk management, and management of personal service contracts.

Department of Information Services (DIS). DIS provides technology-based services to state agencies and local governments. The Director of DIS is responsible for managing the functions of DIS, as well as serving as the state's Chief Information Officer (CIO). DIS provides a variety of services including telecommunications and computing services, procurement of technology equipment through master contracts, and information technology (IT) support. DIS must charge a fee sufficient to fully recover all costs associated with providing its services. State agencies may procure information technology services through DIS, but are not required to do so.

The Information Services Board (ISB) is staffed by DIS and provides authorization and oversight for managing large IT projects. ISB is tasked with developing state IT standards, governing acquisitions, reviewing and approving statewide IT strategic plans, and developing statewide technical policies. The members of ISB include state agencies and members of the Legislature.

Civil Service and Collective Bargaining. The state civil service law establishes the state's personnel administration system. Civil service rules apply to non-represented classified employees. These rules may be superseded by collective bargaining agreements for represented employees. State collective bargaining law provides for bargaining by the Governor and representatives of classified employee bargaining units. Collective bargaining agreements must be submitted to OFM by October 1, and to the Legislature as part of the Governor's budget proposal. The Legislature must accept or reject the request for funds necessary to implement the agreements as a whole.

Summary: Many of the central service agencies are significantly reorganized and two new state agencies are created, the Department of Enterprise Services (DES) and the Consolidated Technology Services (CTS).

Part 1 - Creation of DES. DES is tasked with providing products and services to support state agencies, other governmental entities, and nonprofits. DES is an executive branch agency and the director is appointed by the Governor and subject to confirmation by the Senate.

DES assumes the following responsibilities:

- all roles and responsibilities of GA and the Printer;
- risk management and oversight of personal service contracts from OFM;
- training and career development, oversight of the payroll system, and many other basic functions of DOP; and
- purchase of wireless devices and digital signature authority from DIS.

Additionally, OFM must examine on a biennial basis which services within DES might be performed by the private sector. Until June 30, 2018, OFM will select up to six activities each biennium for DES to competitively bid to the private sector. If a service cannot be provided at a lower rate or more efficiently, OFM will notify DES to cancel the bid. If the bid is canceled, OFM must notify the legislative fiscal committees. OFM must report on the results of these examinations biennially and the legislative fiscal committees must hold a public hearing on the reports. The Joint Legislative and Audit Review Committee (JLARC) will conduct a study of the implementation of contracting for services at DES and report to the Legislature by January 1, 2018. DES must also examine state procurement practices and report on recommendations for improvement by December 31, 2011.

Part 2 - Powers and Duties Transfer from GA to DES.

GA is eliminated as a state agency and all of its powers and duties are assigned to DES. Provisions regarding bid processes are revised to require that all purchases require formal sealed bids and exceptions to formal bid direct buy purchases are added. The DES director is required to establish policies annually to define bid criteria and limits.

Part 3 - Powers and Duties Transfer from the Public Printer.

The State Printer's powers and duties are transferred to the DES. State agencies are no longer required to use the State Printer. If a print job is solicited, then DES must be included. Bids must encourage the use of recycled paper and biodegradable ink. Printing that contains sensitive or personally identifiable information must be done by DES or, if contracted, a confidentiality agreement must be included in the printing contract. DES must provide printing services on a cost recovery basis. State agencies are required to consult with DES regarding economic and efficient options for printing jobs. DES will issue guidelines for agencies to manage their print operations. DES will prepare recommendations regarding agency specific print shops. DES will broker print management contracts for state agencies. All agencies with 1,000 FTEs or more will utilize print management services. These print management contracts must result in savings. OFM may authorize an exemption from this requirement. All agencies with 500 FTEs or more must consult with DES to standardize the use of envelopes.

Part 4 - Powers and Duties Transferred from GA to DES. DOP is eliminated and its powers and duties divided

between OFM and DES. DES will receive the majority of DOP's responsibilities including training, and career development, and oversight of the payroll system. DES is responsible for job classification activities.

Other functions currently performed by DOP are transferred to OFM. These functions include creating broad personnel policies, compensation and salary scheduling, and prescription of training provisions for supervisory or management positions.

Part 5 - Powers and Duties Transferred from OFM to DES. Risk management and personal services contracting oversight activities are transferred from OFM to DES.

Part 6 - Powers and Duties Transferred from DIS. DES is authorized to receive funding from the Data Processing Revolving Account as DIS will no longer exist as a state agency. High-speed Internet programs are moved to the Department of Commerce.

Part 7 - Creation of the Office of the Chief Information Officer (OCIO). OCIO is created within OFM. OCIO is responsible for the preparation and implementation of a strategic IT plan and enterprise architecture (EA) for the state. OCIO must work towards standardization and consolidation of IT infrastructure, establish standards and policies for EA, and educate and inform the state on IT matters. CIO is appointed by the Governor and subject to confirmation by the Senate.

OCIO will prepare a biennial state performance report on IT, evaluate current IT spending and budget requests, and oversee major IT projects including procurements.

An 13-member Technology Services Board (TSB) is created. The TSB will consist of eight members appointed by the Governor and four legislators. Three of the Governor's appointees must be representatives of state agencies or institutions, and three representatives must be from the private sector. Of the state agency representatives, at least one must have direct experience using the software projects overseen by the TSB or reasonably expect to use the new software developed under the oversight of the TSB. Two non-voting members with IT expertise must be appointed by the Governor: (1) a representative of a state agency bargaining unit that will be selected from a list of names submitted by each of the general government exclusive bargaining representatives; (2) a representative of local governments that will be selected from a list of names submitted by commonly recognized local government organizations.

The CIO will be a member of the TSB and serve as chair.

The TSB will:

- review and approve standards and procedures developed by the OCIO governing the acquisition and disposition of equipment, proprietary software and purchased services, licensing of radio spectrum by or on behalf of state agencies, and confidentiality of computerized data;

- review and approve statewide or interagency technical policies, standards, and procedures developed by the OCIO;
- review and approve standards and common specifications for new or expanded telecommunications networks proposed by agencies, public postsecondary educational institutions, educational service districts, or providers of K-12 information technology services;
- develop a policy to determine whether a proposed product or service should undergo an independent analysis prior to being submitted for inclusion in any proposed operating, capital, or transportation budget;
- review, approve and provide oversight of major IT projects to ensure that no major IT project is approved or authorized funding without consideration of the technical and financial business case for the project; provide a forum to solicit external input on IT developments, enterprise architecture, standards, and policy development; and
- provide a forum where IT plans, policies, and standards can be reviewed.

Agencies are required to submit IT portfolios and are required to co-locate servers within the state data center. OCIO will assess agencies ability to utilize CTS and develop a strategy for increase agency use of CTS.

Part 8 - Creation of CTS. A majority of service provision duties are transferred from DIS to CTS including server hosting and network administration, telephony, security administration, and email.

Positions within the CTS related to systems integration, data center engineering and management, network systems engineering and management, information technology contracting, information technology customer relations management, and network and systems security can be made exempt. Senior experts in enterprise IT infrastructure, engineering, or systems can also be made exempt.

The CTS may contract for services related to operation and management of the State Data Center, if they are approved by the TSB. The TSB may approve contracting for other services and activities if those services are recommended by the CIO through a business plan.

Votes on Final Passage:

First Special Session

Senate	29	18	
House	54	42	(House amended)
Senate	31	13	(Senate concurred)

Effective: October 1, 2011
 December 31, 2011 (Section 462)
 January 1, 2012 (Sections 109, 448, and 732)

Partial Veto Summary: The Governor vetoed a requirement that the State Auditor conduct a performance audit of the consolidated state data center. Sections related to transferring the Education Research Data Center from OFM to the Legislative Evaluation and Accountability Program Committee are also vetoed.

VETO MESSAGE ON ESSB 5931

June 15, 2011

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to Sections 815 and 816 and Sections 901 through 909, Engrossed Substitute Senate Bill 5931 entitled:

"AN ACT Relating to reorganizing and streamlining central service functions, powers, and duties of state government."

Sections 815 and 816 require the State Auditor to conduct a performance audit of the consolidated state data center during the same period that the Department of Information Services and Office of Financial Management will be fully engaged in the transformative activities associated with implementation of this bill and the consolidated data center business plan. Such activities will include designing and installing the consolidated state data center infrastructure; moving staff to the new office building; structuring the new Department of Enterprise Services, Consolidated Technology Services, and Office of the Chief Information Officer; and conducting a statewide information technology total cost of ownership study. A performance audit during this timeframe will redirect key leadership and staff capacity and attention from implementing these complex and resource intensive initiatives to reviewing the rationale for the current strategies underway.

Sections 901 through 909 transfer the Education Research Data Center (ERDC) from the Office of Financial Management's Forecasting Division to the Legislative Evaluation and Accountability Program Committee (LEAP). The ERDC and LEAP are collaboratively involved in building a robust and informative research capability that informs decision-making for both the executive and legislative branch. This transfer would not accomplish the goals that are shared among the legislative and executive branches and may actually slow the federally funded initiatives underway. The ERDC will continue to serve our shared commitment to transparency, education data quality, and useful information for decision makers while remaining at the Office of Financial Management.

For these reasons, I have vetoed Sections 815 and 816 and Sections 901 through 909 of Engrossed Substitute Senate Bill 5931.

With the exception of Sections 815 and 816 and Sections 901 through 909, Engrossed Substitute Senate Bill 5931 is approved.

Respectfully submitted,



Christine O. Gregoire
Governor

SB 5941

C 44 L 11 E 1

Concerning judicial branch funding.

By Senators Eide, Regala, Rockefeller and Kline.

Senate Committee on Ways & Means
House Committee on Ways & Means

Background: Superior and district courts are authorized by statute to collect filing fees and other fees for court services. County clerks are authorized to collect and distribute these fees.

Superior Court Filing Fees. The following fees are collected for cases filed in superior court. These fees are subject to division between the county, the state General Fund, and the county or regional law library fund. The only exception to that division is the fee for filing a notice of appeal or discretionary review. Those fees are transmitted to the appropriate state appellate court.

Superior Court Filing	Fee
First or initial paper in any civil action	\$200
Unlawful detainer action	\$45
First or initial paper on appeal from a court of limited jurisdiction or any civil appeal	\$200
Petition for judicial review under the Administrative Procedure Act	\$200
Notice of debt due for the compensation of a crime victim	\$200
First paper in a probate proceeding	\$200
Petition to contest a will admitted to probate or petition to admit a will which has been rejected	\$200
Notice of appeal or notice of discretionary review	\$250

District Court Filing Fees. District courts are courts of limited jurisdiction. They have concurrent jurisdiction with superior courts over misdemeanor and gross misdemeanor violations and civil cases in which the amount claimed or in dispute is \$75,000 or less. District courts also have jurisdiction over small claims and traffic infractions.

District court clerks are required to collect the following fees for various services as prescribed by statute. Except for certain costs, all fees, fines, forfeitures, and penalties collected in whole or in part by the district court are remitted by the district court clerk to the county treasurer. The county treasurer must remit 32 percent of the non-interest money received by district courts to the State Treasurer for deposit into the state General Fund. The remaining balance of the non-interest money received by the county treasurer is deposited in the county current expense

fund and the county or regional law library fund. Expenditures of the district court are paid from the county's current expense fund.

District Court Filing	Fee
Any civil action at time of commencement or transfer	\$43 + potential \$10 surcharge for dispute resolution centers
Counterclaim, cross-claim, or third-party claim	\$43 + potential \$10 surcharge for dispute resolution centers
Small claims	\$14 + potential \$15 surcharge for dispute resolution centers

In 2009 the Legislature created surcharges on filing fees in superior and district courts. These surcharges are set to expire July 1, 2011. The surcharges are currently set at:

- \$30 for the filings listed in the superior court chart above, except for the filing of a first or initial paper in an appeal from a court of limited jurisdiction, which is subject to a \$20 surcharge;
- \$20 for the filings listed in the district court chart above, excluding small claims; and
- \$10 for small claims filings.

All surcharges collected by the courts must be remitted to the State Treasurer for deposit in the Judicial Stabilization Trust Account. Expenditures from this account may only be used for the support of the judicial branch agencies.

Summary: The expiration date for the surcharges is extended to July 1, 2013. The revenue from the surcharges is split between the state and the county collecting the fee, with the state receiving 75 percent and the county retaining 25 percent.

Votes on Final Passage:

First Special Session

Senate	26	17	
House	58	29	(House amended)
Senate	29	18	(Senate concurred)

Effective: July 1, 2011

ESSB 5942

C 45 L 11 E 1

Concerning the warehousing and distribution of liquor, including the lease and modernization of the state's liquor warehousing and distribution facilities.

By Senate Committee on Ways & Means (originally sponsored by Senators Hewitt and Zarelli).

Senate Committee on Ways & Means
House Committee on Ways & Means

Background: Washington is one of 18 liquor control states, in which the state has a monopoly over the distribution and sale of specified types of liquor. The Liquor Control Board (Board) determines the localities where state liquor stores are established and the number of stores within each locality. The Board must also appoint contract liquor stores in cities, towns, and other communities where no state liquor store is located. There are approximately 165 state liquor stores and 160 contract liquor stores in the state.

The Board operates a liquor distribution center located in Seattle from which they distribute liquor to the liquor stores. In Washington, spirits may be sold only in state liquor stores and contract liquor stores. An exception allows limited sales of spirits by craft distilleries. The liquor stores are responsible for supplying spirits to the various types of licensees such as restaurants, taverns, and bars.

Summary: Within 120 days, the Office of Financial Management (OFM) must conduct a competitive process for the selection of a private sector entity to lease and modernize the state's spirits warehousing and distribution facilities and related operations.

The lease must include a contract for the entire state spirits warehousing and distribution business, including the facilities, operations, and other assets associated with the warehousing of spirits and the distribution of spirits.

The request for proposals (RFP) must include:

- A requirement that the proposals demonstrate relevant previous experience as well as the financial capacity to perform the obligations.
- A requirement that the proposals demonstrate a positive financial benefit to the state, local government, and interested stakeholders over the term of the proposed contract compared to projected financial benefits to the states from warehousing and distribution. OFM must take into account an initial up front payment, proposed profit sharing payments, liquor taxes, retail profit, and projected business and occupation tax revenues.
- OFM, in consultation with the Spirits Distribution Advisory Committee, must develop a definition and criteria on how to determine "positive financial benefit to the state."

- A requirement that the prevailing proponent deposit into an escrow account within 15 days the full amount of the initial up-front payment, subject to successful negotiation of a mutually acceptable lease or contract.
- A requirement that proposals include a quantified commitment to invest in capital improvements to warehousing and distribution facilities.
- A requirement that proposals include a commitment to assume responsibility for the costs associated with the operation of spirits warehousing and distribution.
- A requirement that proposals demonstrate to the satisfaction of OFM a commitment to improved distribution to improve margins, ensure regularity of deliveries to retail stores, improve service to stores in remote areas, and expanded spirits selection.
- A requirement that measurable standards for the performance of the contract be established.
- A proposal must require a commitment to offer state employees currently in positions affected by the act to be offered employment and that their bargaining unit is recognized.
- OFM must publicly disclose the analysis of the fiscal impacts of each offer.

After consultation with the Board and the Spirits Distribution Advisory Council, OFM is authorized to recommend to the Board the proposal that best meets the criteria and the best interest of the state. If there are no proposals that meet the best interest of the state, OFM must notify the Board to not accept any of the proposals.

Once all the parameters are set for the RFP process that each proposal will be measured against, the fiscal committees of the House and Senate will review and have the opportunity to hear public input on the parameters. The fiscal committees have 14 days to review the RFP and to gather public input.

Requires that challenges or protests of the recommendation of the OFM must be submitted within five days of a decision by respondents that submitted a proposal. The grounds for challenge are limited to claims that the decision was arbitrary and capricious. The OFM has five days to render a decision.

Respondents may appeal decisions to the Superior Court of Thurston County within five days of the decision, and the court has ten days to render its decision. Superior Court decisions on competitive procurement process appeals are final.

Within 60 days after the recommendation of a proposal, the Board may accept that proposal and enter into a long-term contract with that entity for the lease of the business, facilities, and assets associated with the warehousing and distribution of spirits in the state. The contract must include enforceable performance standards and minimum financial returns to the state. The contract must provide a

provision that allows the state to terminate should specific performance standards or financial returns not be realized. The contract must provide for a reasonable termination notification process as well as financial terms of termination should termination of contract take place. The contract must contain a provision that any losses by the private entity must not be compensated for by the state, contract stores, consumers, or licensees. The Board will make the product selections and set the prices of the products.

The director of OFM must appoint a Spirits Distribution Advisory Committee to assist and make recommendations to OFM regarding setting the requirements for the procurement process, selection of a private entity or recommendation that no entity be selected, and creation of the terms of a contract with a selected private entity. The recommendations of the Spirits Distribution Advisory Committee are advisory in nature and do not prohibit OFM and the Board from performing their duties under the act. The Spirits Distribution Advisory Committee is composed of the Washington State Treasurer or designee, and a designee from each of the two largest caucuses of the Senate and House of Representatives.

Votes on Final Passage:

First Special Session

Senate	31	14	
House	52	42	(House amended)
Senate	26	19	(Senate concurred)

Effective: June 15, 2011

SB 5956

C 29 L 11 E 1

Concerning the prohibited practices of collection agencies.

By Senators Harper, Pflug and Kline.

House Committee on Business & Financial Services

Background: Collection agencies are prohibited from engaging in certain practices when attempting to collect debts. A collection agency cannot threaten a debtor with impairment of the debtor's credit rating if a claim is not paid. Credit agencies cannot harass a debtor. Certain behaviors are presumed to be harassment, including:

- communicating with a debtor more than three times in a single week;
- communicating with a debtor at the debtor's place of employment more than one time in a single week; or
- communicating with a debtor or spouse at his or her residence between 9:00 p.m. and 7:30 a.m.

Collection agencies are required to provide a debtor with an itemization of the amounts the collection agency will seek to collect on the claim. This information, along with other required information, must be included in the first claim notice sent to the debtor. If a debtor disputes a

claim in writing, the collection agency must forward a copy of the dispute to the credit reporting bureau.

Current law provides that collection agencies may not send any telegram or make any telephone calls to a debtor or concerning a debt or for the purpose of demanding payment of a claim or seeking information about a debtor, for which the charges are payable by the addressee or by the person to whom the call is made. Senate bill 5574, which passed during the 2011 regular session, prohibits collection agencies from sending any telegram or making any telephone calls to a debtor or concerning a debt or for the purpose of demanding payment of a claim or seeking information about a debtor, with a limited exception for calls to cell phones.

Summary: Collection agencies may not send any telegram, or make any telephone calls to a debtor or concerning a debt or for the purpose of demanding payment of a claim or seeking information about a debtor, for which the charges are payable by the addressee or by the person to whom the call is made.

Votes on Final Passage:

First Special Session

Senate	42	0
House	86	0

Effective: July 22, 2011

SSB 6892

C 2 L 10 E 2

Establishing a temporary penalty and interest waiver program for certain excise taxes administered by the department of revenue.

By Senate Committee on Ways & Means (originally sponsored by Senator Murray; by request of Department of Revenue).

Senate Committee on Ways & Means

Background: Current tax law provides a variety of penalties related to timely and accurate filing and payment of excise taxes.

Penalties are added to the taxes due under the following circumstances: late filing of tax returns; late payment of taxes (including tax assessments and warrants); failure to register as a taxpayer; disregard of specific written instructions; failure to remit sales tax to the seller; evasion; and misuse of resale certificates or reseller permits. Penalties may be waived or cancelled only upon finding that the underpayment or failure to pay tax was the result of circumstances beyond the control of the taxpayer.

Interest is added to the amount of outstanding taxes. However, interest is not added to the amount of any penalties assessed. The rate of interest is calculated as an average of the federal short term rate plus two percentage points. The rates for calendar year 2010 and 2011 are 3 percent. Interest may only be waived or cancelled if the

failure to pay was the direct result of written instructions or a due date was extended for the sole convenience of the Department of Revenue (DOR).

When taxpayers make payment, amounts are applied first to interest, then penalties, and finally to the tax due.

Summary: DOR is authorized to waive most penalties and interest added to the following taxes which became due before February 1, 2011: state business and occupation tax (B&O), state public utility tax (PUT), state or local sales or use taxes.

To obtain an interest and penalty waiver, a taxpayer must meet the following conditions:

- By April 18, 2011, file all outstanding tax returns and any amended tax returns relating to the tax liabilities for which a penalty and interest waiver is requested;
- By April 18, 2011, complete and deliver a request form for a waiver;
- By May 1, 2011, make full payment of taxes due for which a penalty and interest waiver are requested;
- Timely file all current tax returns and make all tax payments due from January 31, 2011, and before May 1, 2011;
- By May 1, 2011, pay any penalties added for evasion or misuse of reseller permit or resale certificate; and
- The taxpayer must never have been a defendant in a criminal prosecution related to an offense involving the failure to collect or pay the proper amount of any excise tax.

Taxpayers receiving penalty or interest waivers under this legislation may not seek a refund or otherwise challenge their tax liability paid under these conditions.

DOR may not waive penalties for tax evasion or misuse of reseller permits or resale certificates.

Payments made to DOR prior to May 1, 2011, are applied first to B&O, PUT, and sales and use taxes, then to any other taxes, and then to penalties or interest.

If taxpayers are current for tax returns due as of November 25, 2010, tax liability that accrues after that date would not qualify for the temporary waiver of interest and penalties. As a condition to request a waiver of penalties and interest, a taxpayer may never have been assessed penalties for evasion or misuse of a reseller permit or resale certificate.

Votes on Final Passage:

Second Special Session

Senate	38	0
House	93	0

Effective: February 1, 2011

SSB 6893

C 3 L 10 E 2

Suspending the child support pass through payment.

By Senate Committee on Ways & Means (originally sponsored by Senator Murray).

Senate Committee on Ways & Means

Background: As a condition of receiving Temporary Assistance for Needy Families (TANF) cash benefits, a family must assign its child support rights to the state during the months they receive TANF. Washington, under a state option in the federal Deficit Reduction Act (DRA), passes child support collections to the family up to \$100 per month for a family with one child or \$200 per month for a family with two or more children. This is known as the child support pass through.

If a state does not choose the child support pass through option, the amount collected is shared between the state and federal government.

Summary: Effective May 1, 2011, the child support pass through is suspended for all families. All rules to the contrary adopted before May 1, 2011, are without force and effect.

Votes on Final Passage:Second Special Session

Senate	28	11
House	86	7

Effective: May 1, 2011

SSJM 8004

Requesting the reestablishment of the road leading to the upper Stehekin Valley within the North Cascades National Park.

By Senate Committee on Natural Resources & Marine Waters (originally sponsored by Senators Parlette, Nelson, Tom, Zarelli, Fraser, Hewitt, Kline, Hatfield, Murray and Shin).

Senate Committee on Natural Resources & Marine Waters
House Committee on Environment

Background: Established in 1968, the North Cascades National Park Complex contains three park units that are all managed as one, which include the North Cascades National Park, and Ross Lake and Lake Chelan National Recreation Areas. These protected lands are united by a contiguous overlay of Stephen Mather Wilderness, which was established by Congress in 1988 in the Washington State Wilderness Act.

The town of Stehekin is located at the end of Lake Chelan and accessible only by boat, floatplane, or on foot. The Stehekin Valley Road was originally built as a wagon road in 1899 and runs over 20 miles from the lake into the national park. It provides access to Stephen Mather

Wilderness trailheads and North Cascades National Park from the Lake Chelan National Recreation Area.

The National Park Service has made the lower portion of the road accessible to vehicles, but the upper portion of the road is closed. Part of the upper portion was damaged in a 1995 flood, and more of the road was washed out when the Stehekin River flooded in October 2003.

Summary: The Legislature requests the United States Congress, the United States Department of the Interior, and the National Park Service to work with Washington State to reestablish the road allowing access to the upper Stehekin Valley within the North Cascades National Park.

Votes on Final Passage:

Senate	49	0
House	83	9

SJM 8008

Requesting that the United States Department of Labor provide Washington with federal unemployment tax relief for Washington employers and a financial benefit for the state's trust fund.

By Senators Brown, Hewitt, Kohl-Welles, Holmquist Newbry, Conway, Parlette, Fraser, Kilmer, White and Hatfield.

Senate Committee on Labor, Commerce & Consumer Protection

House Committee on Labor & Workforce Development

Background: A number of states have had to borrow funds from the federal unemployment account to pay unemployment benefits. Generally, those loans must be paid back, with interest, within two years. If a state fails to fully repay a loan, the federal government is required to recoup it by raising federal unemployment insurance (UI) taxes on employers in the state. It is expected that federal UI taxes on employers will increase automatically in a number of states in 2011 and 2012. Interest payments on UI loans are made separately, and are due in September of each year that a state is borrowing. States commonly enact special assessments on employers to make the interest payments.

Current proposals at the federal level would call for a moratorium on states raising taxes to pay for unemployment insurance, allow states to avoid paying interest on their unemployment insurance debt, and suspend automatic hikes in the federal unemployment tax.

Summary: The United States Department of Labor is requested to provide Washington and UI tax paying employers with federal unemployment tax relief and a financial benefit equal to any benefit provided to employers in states who have had to borrow from the federal Unemployment Account.

Votes on Final Passage:

Senate	47	0	
House	97	0	(House amended)
Senate	46	0	(Senate concurred)

SJR 8205

Repealing a conflicting residency requirement for voting in a presidential election.

By Senator Carrell.

Senate Committee on Government Operations, Tribal Relations & Elections

House Committee on State Government & Tribal Affairs

Background: Article VI, Section 1 of the Washington State Constitution entitles all persons who are 18 years or older, citizens of the United States, and have lived in the state, county, and precinct 30 days immediately preceding the election to vote in all elections.

Article VI, Section 1A of the Washington State Constitution provides that all citizens of the United States who become residents of Washington during the year of a presidential election with the intention of making it their permanent residence may vote for presidential electors or for the office of President and Vice-President of the United States if they resided in the state at least 60 days immediately preceding the election.

At the time Section 1A was added to the Washington State Constitution in 1966, Section 1 required voters to live in the state for one year, in the county for 90 days, and in the city, town, ward, or precinct for 30 days immediately preceding the election. The original purpose behind Section 1A was to allow citizens who met all of the qualifications for voting, except the residence requirement to vote for the office of President. (Section 1 was amended in 1974 to read as it does today.)

Summary: At the next general election, an amendment to Article VI Washington Constitution will be submitted to the voters to repeal Section 1A of Article VI, in its entirety.

The Secretary of State is required to publish notice of the amendment at least four times during the four weeks preceding the election in every newspaper in the state.

Votes on Final Passage:

Senate	46	0	
House	92	0	

Effective: Contingent upon approval by the voters at the November 2011 general election.

SJR 8206

Requiring extraordinary revenue growth to be transferred to the budget stabilization account.

By Senators Zarelli, Brown, Pridemore, Tom, Kilmer, White and Parlette.

Senate Committee on Ways & Means

House Committee on Ways & Means

Background: The state Constitution was amended in 2007 to establish a Budget Stabilization Account. Each fiscal year, 1 percent of general state revenues are deposited to the Budget Stabilization Account. "General state revenues" is defined in the state Constitution as all state revenues that are not dedicated to a particular purpose. Thus, general state revenues consist of all revenues to the state General Fund, with the exception of property tax revenues, which are dedicated to the common school system.

Monies may be appropriated from the Budget Stabilization Account by a majority vote of each house of the Legislature if (1) forecasted state employment growth for any fiscal year is less than 1 percent; or (2) the Governor declares an emergency resulting from a catastrophic event that requires government action to protect life or public safety. Other withdrawals from the Budget Stabilization Account may be made only by a three-fifths vote of the Legislature.

To the extent that the balance of the Budget Stabilization Account exceeds ten percent of general state revenues, the Legislature may appropriate the excess balance to the Education Construction Fund (which is statutorily dedicated to K-12 and higher education construction projects).

Employment forecasts and revenue estimates for the Budget Stabilization Account are made by the Economic and Revenue Forecast Council.

Summary: At the end of each fiscal biennium, three quarters of any extraordinary growth in state revenue is transferred to the Budget Stabilization Account. "Extraordinary revenue growth" is defined as the amount by which the growth in general state revenues exceeds by one-third the average biennial growth in general state revenues over the prior five biennia. The transfer of extraordinary revenue growth will be made only to the extent that it exceeds the automatic 1 percent transfer of general state revenues.

Votes on Final Passage:

Senate	45	3	
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First Special Session

Senate	39	3	
House	76	10	(House amended)
Senate	47	0	(Senate concurred)

Effective: Contingent upon approval by the voters at the November 2011 general election.

Sunset Legislation

Background: The Legislature adopted the Washington State Sunset Act (chapter 43.131 RCW) in 1977 to improve legislative oversight of state agencies and programs. The sunset process provides for the automatic termination of selected state agencies, programs, units, subunits, and statutes. Unless the Legislature provides otherwise, the entity made subject to sunset review must formulate the performance measures by which it will ultimately be evaluated. One year prior to an automatic termination, the Joint Legislative Audit and Review Committee and the Office of Financial Management conduct program and fiscal reviews. These reviews are designed to assist the Legislature in determining whether agencies and programs should be terminated automatically or be reauthorized in either their current or a modified form prior to the termination date.

Session Summary: Legislation repealed the requirement for:

(1) The Office of Regulatory Assistance to be terminated on June 30, 2011, and repealed on June 30, 2012.

(2) The Sex Offender Policy Board to be terminated on June 30, 2013, and repealed on June 30, 2014.

Programs Removed from Sunset Review

Office of Regulatory Assistance

HB 1178 (C 149 L 11)

Sex Offender Policy Board

ESSB 5891 (C 40 L 11)

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62nd Washington State Legislature



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2011-13 Omnibus Budget Overview

Operating Only

The 2009-11 Biennium

In April 2010, as part of addressing a budget shortfall, the Legislature adopted the 2010 supplemental budget. That budget left a projected near general fund ending fund balance of approximately \$459 million.

Over the next three quarters, the revenue forecast for the 2009-11 biennium was reduced by more than \$1.3 billion, resulting in a projected deficit of \$900 million as of December 2010. The shortfall grew larger when projected caseload increases, the latest projection of federal rates used to match Medicaid, and the March 2011 revenue forecast were all incorporated. These factors, combined with the \$900 million shortfall discussed above, created a new total 2009-11 shortfall of \$1.2 billion.

In December 2010, the Legislature met in special session and adopted Chapter 1, Laws of 2010, 2nd sp.s. (HB 3225), which addressed \$588 million of the projected deficit (\$490 million through reduced appropriations and \$98 million through increased resources, primarily fund transfers). In February 2011, the Legislature adopted Chapter 5, Laws of 2011, Partial Veto (ESHB 1086), which addressed another \$367 million of the projected deficit (\$242 million through reduced appropriations and the remainder through fund transfers). In May 2011, the Legislature learned that the impact of the previously enacted tax penalty and interest waiver program was \$200 million better than originally anticipated, reducing the shortfall to \$1 billion. In addition to making initial appropriations for the 2011-13 biennium, Chapter 50, Laws of 2011, 1st sp.s., Partial Veto (2ESHB 1087) addressed the remainder of the 2009-11 shortfall and left a projected near general fund (NGF-S) ending balance for 2009-11 of approximately \$111 million.

With respect to the 2009-11 biennium, Chapter 50, Laws of 2011, 1st sp.s., Partial Veto (2ESHB 1087):

- (1) incorporated the latest projection of federal rates used to match Medicaid expenditure costs of \$128 million;
- (2) delayed a portion of the apportionment payments that would otherwise be made to school districts in June 2011 until July 2011 (saving \$115 million in the 2009-11 biennium and increasing the 2011-13 costs by an equal amount); and
- (3) made a variety of other typical supplemental changes.

2011-13 Shortfall

In addition to the shortfall in the 2009-11 biennium, the Legislature faced an additional shortfall in the 2011-13 biennium.

The March 2011 revenue forecast projected Near General Fund plus Opportunity Pathways (NGFS+) revenue collections of approximately \$32.3 billion (compared to \$28.5 billion in 2009-11). While revenue collections were projected to increase by almost 6.6 percent per year in fiscal years 2012 and 2013, fiscal year 2013 (\$16.5 billion) is the first year that near general fund revenue collections are expected to exceed fiscal year 2007 collections. The 2009-11 biennial budget, including the 2010 supplemental, appropriated approximately \$31.1 billion from NGFS+. That budget also used more than \$2.3 billion in one-time federal funds (primarily American Recovery and Reinvestment Act enhanced FMAP (ARRA FMAP) rates, as well as fiscal stabilization grants in the Department of Corrections, in public schools and higher education) that directly offset state expenditures. Two education-related initiatives (Initiative 732 and Initiative 728) were temporarily suspended in the 2009-11 biennium but, under then current law, were to resume in the 2011-13 biennium. Pension rates were projected to increase by almost \$566 million. Caseloads continued to increase in various programs, including K-12 education, long-term care, and medical assistance programs.

The estimated cost of continuing the 2009-11 budget into 2011-13 biennium was estimated at \$36.3 billion or about \$3.7 billion more than projected revenues. The gap widened further when \$424 million in additional costs

2011-13 Operating Budget Overview

were included, such as repaying the delayed June 2011 apportionment payment, beginning the new education funding formula, increasing the state need grant to keep pace with assumed increases in tuition, and leaving projected reserves of \$741 million (\$282 million of which is in the Budget Stabilization Account).

Altogether, the projected budget problem statement for 2011-13 biennium addressed by this proposal is \$5 billion. Total policy level reductions are \$4.5 billion. The remainder of the shortfall is addressed through fund transfers and resource changes.

2011-13 Policy Level Spending Changes

Major 2011-13 reductions in Chapter 50, Laws of 2011, 1st sp.s., Partial Veto (2ESHB 1087) include: (1) \$1.2 billion from changes to the Initiative 728 class size and Initiative 732 cost-of-living adjustment requirements; (2) \$215 million by eliminating K-4 class enhancement, which is partially offset by maintaining the funding for high poverty schools; (3) \$535 million in reductions to state higher education institutions, which is partially offset by tuition increases; (4) \$356 million by making salary reductions to state, higher education and K-12 employees; (5) \$344 million from ending future automatic cost of living increases for Public Employees' Retirement System Plan 1 and the Teachers' Retirement System Plan 1 members; (6) a \$130 million reduction to the Basic Health Plan; (7) \$110 million from reducing hospital payments by 7 to 8 percent; (8) \$98 million from reduced personal care hours for long term care and developmentally disabled clients; and (11) \$116 million by changing the Disability Lifeline cash program to a housing and essential needs program.

Chapter 50, Laws of 2011, 1st sp.s., Partial Veto (2ESHB 1087) also makes approximately \$424 million in NGFS+ policy additions, some of which are related to achieving greater savings. Policy additions include the following items: (1) \$115 million repayment of the K-12 apportionment delay in the 2011 supplemental budget; (2) \$124 million for the higher education State Need Grant to accommodate authorization to increase tuition; (3) \$82 million in K-12 related items (mostly related to converting to a new funding formula); (4) \$28 million for increased debt service; and (5) \$11 million for repayment to the State Efficiency and Reorganization Account.

2011-13 Fund Transfers & Resource Changes

For the 2011-13 biennium, Chapter 50, Laws of 2011, 1st sp.s., Partial Veto (2ESHB 1087) makes \$459 million in transfers from various funds to increase General Fund-State resources. Some of the largest transfers include: (1) \$204 million from suspending the transfer to the Education Construction Account for the 2011-13 biennium; (2) \$85 million from the Liquor Revolving Account (implicitly assuming continuation of a previous markup on distilled spirits); (3) \$50 million from the Public Works Assistance Account; (4) \$45 million from the Education Savings Account; (5) \$25 million from the Treasurer's Service Account; and (6) \$10 million from a 3.4 percent reduction to various distributions to local governments.

Chapter 50, Laws of 2011, 1st sp.s., Partial Veto (2ESHB 1087), also includes additional actions that are expected to result in \$57 million in additional revenue. These include: (1) \$53.5 million from continued and new revenue collection efforts by the Department of Revenue; and (2) \$3.6 million from changes in liquor retail operations, such as opening six new contract stores and five new co-located stores.

2011-13 Agency Consolidations

Chapter 50, Laws of 2011, 1st sp.s., Partial Veto (2ESHB 1087) assumes the following agency consolidations/transfers: (1) Medical Purchasing Administration where the DSHS Medical Assistance Administration becomes part of the Health Care Authority; (2) Department of Enterprise Services where certain central service and back office functions are transferred (in part or in whole) from various agencies into the newly-created Department of Enterprise Services; (3) the Indeterminate Sentence Review Board being merged into the Department of Corrections; and (4) the Sentencing Guidelines Commission is divided so that the research and data functions are transferred to the Caseload Forecast Council and the policy functions and Sex Offender Policy Board are transferred to the Office of Financial Management.

Multiple Budget Bills Were Enacted

The Legislature adopted budget bills in December 2010 (2009-11), February 2011 (2009-11), and May 2011 (both 2009-11 and 2011-13).

As a result of the multiple budget actions taken by the Legislature in addressing the 2009-11 shortfall, there is an increased possibility for confusion on how the various budget items interact with the budget for 2011-13.

In some instances, the reductions included in Chapter 50, Laws of 2011, 1st sp.s., Partial Veto (2ESHB 1087), are the continuation of reductions (sometimes at a lower or higher level) first begun in either Chapter 1, Laws of 2010, 2nd sp.s. (HB 3225), or Chapter 5, Laws of 2011, Partial Veto (ESHB 1086). Additionally, the reductions from any of the budget versions are not automatically carried in to the future. If the reductions are continued at any level into the 2011-13 biennium, they are displayed at the policy level.

2011-13 Operating Budget Overview

Estimated Revenues and Expenditures Near General Fund-State and Opportunity Pathways Account

(Dollars in Millions)

	2009-11	2011-13
RESOURCES		
Beginning Fund Balance	309.5	111.3
Revenue		
November 2010 Revenue Forecast	28,566.4	33,210.8
December 2010 Legislation with Revenue Impacts	70.3	-30.1
March 2011 Revenue Forecast Change	-143.4	-654.2
2011 Budget Driven Revenue (2ESHB 1087)	0.0	58.1
2011 Revenue Legislation (Net Change)	0.0	-10.1
Interest & Penalty Deferral (Update)	200.0	0.0
Total Revenue	28,693.3	32,574.5
Other Resource Changes		
Transfers to the Budget Stabilization Account	-245.6	-281.4
Use of Budget Stabilization Account	267.0	0.0
Other Previously Enacted Fund Transfers & Adjustments	1,269.4	-204.0
Fund Transfers HB 3225 & ESHB 1086	185.0	0.0
Fund Transfers 2ESHB 1087	20.5	458.6
Total Other Resource Changes	1,496.3	-26.8
Total Resources	30,499.2	32,659.0
EXPENDITURES		
Spending		
Previously Enacted Appropriations	31,084.5	
December 2010 (HB 3225, no vetoes)	-491.8	
February 2011 (ESHB 1086, after vetoes)	-234.4	
May 2011 (2ESHB 1087, after vetoes)	29.4	32,200.0
Total Spending	30,387.8	32,200.0
RESERVES		
Ending Balance & Reserves		
Unrestricted Ending Fund Balance	111.3	459.0
Budget Stabilization Account Balance	0.0	281.5
Total Reserves	111.3	740.6

Note: The balance sheet reflects appropriations as made in enacted budget bills. Beginning in June 2011, approximately \$10 million in payments related to the Convention and Trade Center will be displayed as revenue rather than as a previously enacted fund transfer. Also starting in June, changes to city and county distributions will be displayed as revenue rather than fund transfers.

Washington State Omnibus Operating Budget
Cash Transfers to General Fund-State
(Dollars in Millions)

	<u>2009-11</u>	<u>2011-13</u>
2011 Supplemental		
December 2010 (HB 3225)	54.0	0.0
February 2011 (ESHB 1086: Transfers from GF-S excluding BSA)	-12.4	0.0
February 2011 (ESHB 1086: Transfers to GF-S)	143.4	0.0
Capital Related Fund Transfers		
Suspend GF-S Transfer to Education Construction Account	0.0	204.0
Public Works Assistance Account	0.0	50.0
Education Savings Account	0.0	45.0
CEP&RI Account	0.0	9.0
Thurston County Capital Facilities Account	0.0	8.0
Aquatic Lands Enhancement Account	0.0	7.0
Total	<u>0.0</u>	<u>323.0</u>
Other Fund Transfers		
Liquor Revolving Account	0.0	85.0
Treasurer's Service Account	0.0	25.0
City & County Distributions (varied)	0.0	10.0
Waste Reduction/Litter Account	0.0	7.0
Economic Development Strategic Reserve Account	0.0	4.2
Flood Control Assistance Account	0.0	2.0
Liquor Control Board Construction and Maintenance Account	0.0	1.0
Fair Fund-Reduce Statutory Transfer	0.0	0.5
Department of Retirement Systems Expense Account	0.0	0.5
Foster Care Endowed Scholarship Account	0.0	0.4
Total	<u>0.0</u>	<u>135.6</u>
Total Fund Transfers	185.0	458.6

2011-13 Operating Budget Overview

2011-13 Washington State Budget
Appropriations Contained Within Other Legislation
(Dollars in Thousands)

Bill Number and Subject	Session Law	Agency	GF-S	Total
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2011 Legislative Session

SSB 5181 - State Debt Limit	C 46 L 11	Office of the State Treasurer		150
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Revenues

The March 2011 forecast for Near General Fund-State revenue is \$28.4 billion for the 2009-11 biennium and \$32.3 billion for the 2011-13 biennium. The March forecast was a reduction of \$80 million for 2009-11 and \$698 million for 2011-13 compared to the November 2010 forecast. Although current collections continue to show year over year growth, they are below the forecast, which resulted in another reduction in future revenue expectations.

The reduction for 2009-11 would have been \$191 million but for revenue actions taken in the December special session and an administrative shift in payment frequency for 32,600 taxpayers from quarterly to monthly tax filers. Appropriations to the Department of Revenue made in December supported increased audit activity that was expected to bring in \$19.5 million in business and occupation (B&O) tax from out-of-state companies operating in Washington. Also, Chapter 2, Laws of 2010, 2nd sp.s. (SSB 6892), created a temporary program to provide amnesty on interest and penalties on past taxes owed but not yet paid. Applications were accepted until April 18, 2011. As of the March forecast, amnesty agreements were expected to net an additional \$50.8 million for the 2009-11 period. Since some of this revenue was expected to be pulled forward from the 2011-13 period, the 2011-13 forecast was reduced by \$30.1 million. On May 3, 2011, the Department of Revenue announced that nearly 8,900 businesses paid \$320.7 million in state and local tax under the program. Of the total, \$263.4 million was state general fund. The near general fund balance sheet reflects an additional \$200 million in 2009-11 revenue over the amount included in the March forecast.

In addition to the revenue efforts made in December, additional appropriations were made to the Department of Revenue to continue increased audit activity for out-of-state companies (\$39 million in 2011-13) and to increase traditional collection methods (\$14.5 million in 2011-13).

Revenue Reductions

Chapter 339, Laws of 2011 (SSB 5385), generally increases revenue to the state Wildlife Account by changing fees for recreational hunting and fishing licenses, moving all recreational hunting and fishing license revenue from the general fund, creating a new administrative surcharge for commercial hunting and fishing licenses, and allowing the Wildlife Account to retain interest from the account. The general fund reduction is about \$2.9 million for 2011-13. This is primarily from moving shellfish license revenue from the general fund to the Wildlife Account.

Chapter 322, Laws of 2011, Partial Veto (SB 5083), allows any real estate firm that receives a commission at the time of closing on a real estate transaction to pay the B&O tax only upon their respective shares of the commission. Originating and cooperating brokers were allowed this special B&O tax treatment under prior law. Now commissions shared with a referring real estate broker will be allowed the same treatment.

Chapter 163, Laws of 2011 (ESHB 1902), and Chapter 19, Laws of 2011, 1st sp.s. (2ESHB 1224), deal with the B&O tax treatment of government social services provided by nonprofit service providers. Nonprofit service providers of mental health services (2ESHB 1224) and child welfare services (ESHB 1902) are exempt from the B&O tax on funds received from non-government agencies for providing services for a government-funded program. This change accommodates a shift in management of these programs from direct government agency management to management by nonprofit and for profit firms. Under prior law, the exemption for nonprofit service providers depended on receiving money directly from a government. In addition, the nonprofit and for profit firms are also exempt on the funds they receive from a government that is used to pay nonprofits for these social services.

Moving Revenue to General Fund

Chapter 334, Laws of 2011 (HB 2019), removes the dedication of the additional \$0.60 cigarette tax from the Education Legacy Trust Account and moves the revenue to the general fund. Since the Education Legacy Trust Account is part of the near general fund, this move does not change the combined general fund and near general fund balance sheet. However, removing the dedication makes this cigarette revenue part of general state revenues, which provides an increase to the state debt capacity.

2011 Revenue Legislation**General Fund-State**

Dollars in Thousands

Bill Number	Subject	2011-13
HB 2019	Additional Cigarette Tax	145,700
2ESHB 1087	Operating Budget 2009-11 & 2011-13 (Child Care Licenses)	993
SHB 1506	Fire Suppression Efforts	118
E2SHB 1789	DUI Accountability	118
HB 1239	Delinquent Excise Taxes/Lien	0
ESHB 1346	Tax Law Changes	0
EHB 1357	Taxes/Electronic Means	0
HB 1694	Unauthorized Insurance	0
ESHB 1826	Taxpayer Appeal Protections	0
SHB 1854	Fire Protection Authorities	0
HB 1953	Real Estate Excise Taxes	0
EHB 1969	Flood Control Zone Districts	0
SB 5044	Tax Preference Review	0
SSB 5167	Tax Statute Clarifications	0
ESSB 5253	Landscape Conservation	0
SSB 5525	Hospital Benefit Zones	0
SB 5526	Stirling Converters	0
2SSB 5595	PUD Privilege Tax	0
SB 5628	Emergency Medical Services Levy	0
2ESB 5638	Taxing District Exemptions	0
SSB 5722	Local Option Sales Tax Moneys	0
2ESSB 5742	Ferry System	0
SB 5763	Nonresident Sales Tax Exemption	0
SB 5806	Veteran Lottery Raffle	0
ESSB 5834	Lodging Tax/Arts & Heritage	0
SB 5849	Estates and Trusts	0
ESSB 5942	Spirits Distribution	0
SJR 8206	Extraordinary Revenue Growth	0
SB 5633	Unclaimed Property - Agricultural Fair Premiums	-6
SSB 5359	Contiguous Land/Property Tax	-8
HB 1582	Forest Practice Applications	-21
SHB 1793	Access to Juvenile Records	-26
SHB 2017	Master License Program	-28
HB 1347	Sales & Use Tax Exemptions	-129
SB 5289	Property Management/B&O Tax	-582
SB 5501	Taxation of Employee Meals	-666
SSB 5531	Commitments/Judicial Costs	-853
2ESHB 1224	B&O Deduction/Mental Health	-1,415
SB 5083	Real Estate Firms B&O Tax	-1,773
ESHB 1902	Child Welfare Service/B&O Tax	-1,871
SSB 5385	State Wildlife Account	-2,958
Total General Fund-State Revenue Impact		136,593

Revenue Legislation

The legislation listed below is a summary of bills passed during the 2011 session that affect state revenues or state or local government tax statutes but may not cover all revenue-related bills.

Operating Budget, 2009-11 & 2011-13 – \$993,000 General Fund-State Increase

Chapter 50, Laws of 2011, 1st sp.s., Partial Veto (2ESHB 1087), authorizes the Department of Early Learning to raise license fees for child care centers by \$52 for the first 12 children and \$4 for each additional child (section 1505 (14)).

Business & Occupation (B&O) Tax Deduction/Mental Health – \$1. 4 Million General Fund-State Decrease

Chapter 19, Laws of 2011, 1st sp.s (2ESHB 1224), allows nonprofit mental health service providers a deduction from B&O tax for amounts they receive from a Regional Support Network (RSN) for services provided under a government funded health program. A deduction to RSNs for amounts received from a government for distribution to a nonprofit health or social welfare organization for mental health services is also provided.

Delinquent Excise Taxes/Lien – No Impact to General Fund State

Chapter 131, Laws of 2011 (HB 1239), allows the Department of Revenue to file a notice of lien for any specific real property in which the taxpayer has an ownership interest in lieu of filing a tax warrant that encumbers all real and personal property.

Tax Law Changes – No Impact to General Fund-State

Chapter 20, Laws of 2011, 1st sp.s. (ESHB 1346), makes several adjustments to the tax code: clarifications to the trailing nexus statutes; removal of two redundant annual tax incentive accountability report and survey statutes; clarification that a seller has no obligation to collect use tax if federal law prohibits collection; and reduction of the scope of the January 2012 tax exemption study to include only those tax exemptions which are likely to increase state revenue if the exemption was repealed.

Taxes/Electronic Means – \$129,000 General Fund-State Decrease

Chapter 23, Laws of 2011 (HB 1347), limits the sales and use tax exemption for machinery and equipment to businesses that are taxed under the manufacturing category. A sales and use tax exemption for machinery and equipment used for research and development operations at public research institutions (the University of Washington, Washington State University, Western Washington University, Central Washington University, Eastern Washington University, and The Evergreen State College) is allowed.

Taxes/Electronic Means – No Impact to General Fund-State

Chapter 24, Laws of 2011 (EHB 1357), requires electronic filing and payment of taxes for all taxpayers, however, the Department of Revenue may waive the mandatory electronic filing and payment requirement for annual filer. Applies a 10 percent penalty for disregarding specific written instructions to taxpayers who must e-file.

Fire Suppression Efforts – \$118,000 General Fund-State Increase

Chapter 200, Laws of 2011 (SHB 1506), allows a fire protection service agency to recover actual costs of providing fire protection services to unprotected land. Costs proportionate to the fire itself, is limited to recovery.

Forest Practice Applications – \$21,000 General Fund-State Decrease

Chapter 207, Laws of 2011 (HB 1582), removes the assumption that forestland platted before 1960 will convert to a non-forestry land use and therefore need a Class IV Forest Practices application.

Unauthorized Insurance – No Impact to General Fund-State

Chapter 31, Laws of 2011 (HB 1694), conforms insurance statutes to Dodd-Frank Act including the apportionment of taxes on surplus lines insurance.

DUI Accountability – \$118,000 General Fund-State Increase

Chapter 293, Laws of 2011 (E2SHB 1789), increases the fee on DUI offenders from \$125 to \$200. Of the fee, \$175 is distributed in the same manner as the current fee (including a portion to the general fund.) Also, \$25 of the fee is distributed into the Highway Safety Account to fund Washington Traffic Safety Commission grants to reduce statewide collisions caused by DUI accidents.

Access to Juvenile Records – \$26,000 General Fund-State Decrease

Chapter 333, Laws of 2011 (SHB 1793), prohibits a consumer reporting agency from disseminating to third parties information contained in any juvenile record that it has obtained thereby reducing usage of the Administrative Office of the Court's JIS-Link system.

Taxpayer Appeal Protections – No Impact to General Fund-State

Chapter 84, Laws of 2011 (ESHB 1826), requires that a county Board of Equalization waive the property tax valuation appeal deadline if a request is made within a reasonable time after the normal filing deadline and the taxpayer's property was in the revaluation area, but the taxpayer was not sent a property value change notice and the property value did not change from the previous year.

Fire Protection Authorities – No Impact to General Fund-State

Chapter 271, Laws of 2011 (SHB 1854), establishes a process through which a fire protection jurisdiction may be annexed by a fire service protection authority. The property tax levy rate of a fire protection district, city, town, or port district that is annexed into an authority by the levy rate imposed by the authority is reduced.

Child Welfare Service/B&O Tax – \$1.9 Million General Fund-State Decrease

Chapter 163, Laws of 2011 (ESHB 1902), allows a deduction from B&O tax for amounts received as compensation for providing child welfare services provided under a government-funded program. Also allows a deduction for amounts passed through a for-profit or nonprofit entity to a health or social welfare organization.

Real Estate Excise Taxes – No Impact to General Fund-State

Chapter 354, Laws of 2011 (HB 1953), allows a portion of local real estate excise taxes to be used for maintenance and operation expenditures of existing capital facilities through calendar year 2016.

Flood Control Zone Districts – No Impact to General Fund-State

Chapter 275, Laws of 2011 (EHB 1969), allows flood control districts with boundaries that are coextensive with a county of greater than 775,000 persons to protect up to 25 cents of their 50 cent levy from pro-rationing under the \$5.90 levy limit for taxes levied for collection in 2012 through 2017.

Master License Program – \$28,000 General Fund-State Decrease

Chapter 298, Laws of 2011 (SHB 2017), transfers the administration of the Master License Service Program from the Department of Licensing to the Department of Revenue. The license fee for commercial telephone solicitors moves from the general fund to the Master License Fund.

Additional Cigarette Tax – \$145.7 Million General Fund-State Increase

Chapter 334, Laws of 2011 (HB 2019), moves the \$0.60 cigarette tax from the Education Legacy Trust Account to the general fund.

Tax Preference Review – No Impact to General Fund-State

Chapter 335, Laws of 2011 (SB 5044), makes changes to the tax preference review process: replaces scheduling tax preference reviews in the order in which tax preferences were enacted with a modified approach that also considers grouping preferences for review by type of industry, economic sector, or policy area in determining the schedule; allows an expedited review for any tax preference, not just those with fiscal impact of \$10 million or less; and allows the Joint Legislative Audit and Review Committee to determine which factors should be included in the review of a particular preference based on the factor's relevance to that preference.

Real Estate Firms B&O Tax – \$1.8 Million General Fund-State Decrease

Chapter 322, Laws of 2011, Partial Veto (SB 5083), provides that any real estate firm which receives a commission at the time of closing on a real estate transaction pays the B&O tax only upon their respective share of the commission.

Tax Statute Clarifications – No Impact to General Fund-State

Chapter 174, Laws of 2011 (SSB 5167), makes technical corrections and clarifications to the tax code, including updating statutory references, merging double amendments, and combining redundant statutes. The requirement in the 1 percent county car rental tax that no more than 25 percent of tax revenues can be used for youth or amateur sport activities or facilities is eliminated.

Landscape Conservation – No Impact to General Fund-State

Chapter 318, Laws of 2011 (ESSB 5253), authorizes qualifying cities to create local infrastructure project areas within their boundaries and to finance public improvements through property taxes imposed by the city and the county within the project area. This is limited to cities within a county with population of 600,000 or more, that borders Puget Sound and has an established transfer of development rights program. The city must agree to accept its portion of transferable development rights.

Property Management/B&O Tax – \$582,000 General Fund-State Decrease

Chapter 26, Laws of 2011, 1st sp.s. (SB 5289), permits a B&O tax deduction for the following: amounts that a nonprofit property management company receives for compensating on-site employees from the owner of property; and amounts which a for-profit or nonprofit property management company receives from a housing authority or receives from a limited liability company or limited partnership of which the sole managing member or sole general partner is a housing authority.

Contiguous Land/Property Tax – \$8,000 General Fund-State Decrease

Chapter 101, Laws of 2011 (SSB 5359), allows parcels owned by members of the same family to be aggregated for purposes of the property tax current use programs including legal entities wholly owned by members of the same family, or a combination of individuals and entities that are wholly owned by members of the family.

State Wildlife Account – \$2.9 Million General Fund-State Decrease

Chapter 339, Laws of 2011 (SSB 5385), increases revenue to the state Wildlife Account by: changing fees for recreational hunting and fishing licenses; moving all recreational hunting and fishing license revenue from the general fund; creating a new administrative surcharge for commercial hunting and fishing licenses; and allowing the Wildlife Account to retain interest from the account.

Taxation of Employee Meals – \$666,000 General Fund-State Decrease

Chapter 55, Laws of 2011 (SB 5501), provides B&O tax and sales and use tax exemptions to restaurants for meals provided to employees without a specific charge to the employee.

Hospital Benefit Zones – No Impact to General Fund-State

Chapter 363, Laws of 2011 (SSB 5525), makes several modifications to the existing Hospital Benefit Zone Program: amends the definition of public improvements to include state highways connected to the zone; allows the sponsoring local government to modify the public improvements to be financed, so long as the project cost does not increase; includes amounts expended by a hospital as "local public sources"; excludes from the calculation of "local public sources" funds derived from the state-subsidized portion loans or grants; and removes requirements that the local tax credited against the state taxes imposed under zone be expended in the fiscal year in which the taxes are received.

Stirling Converters – No Impact to General Fund-State

Chapter 179, Laws of 2011 (SB 5526), reduces the B&O tax rate to 0.275 percent for businesses that manufacture Stirling converters. Allows solar projects that generate electricity from a Stirling converter manufactured in Washington to receive an incentive payment for each kilowatt-hour produced.

Commitments/Judicial Costs – \$853,000 General Fund-State Decrease

Chapter 343, Laws of 2011 (SSB 5531), allows a county to apply to its Regional Support Network on a quarterly basis for reimbursement of judicial costs for civil commitment cases. The imposition or collection of a filing fee for civil commitment cases subject to reimbursement of which a portion is currently deposited in the state general fund is prohibited.

Public Utility District Privilege Tax – No Impact to General Fund-State

Chapter 361, Laws of 2011 (2SSB 5595), allocates a portion of the state public utility district (PUD) privilege tax to a city where property of another county's PUD is located in the city but the PUD does not distribute electricity within the city. This applies when the city adjoins a reservoir on the Columbia River wholly or partially created by the district's hydroelectric facility, which began power generation in 1967.

Emergency Medical Services Levy – No Impact to General Fund-State

Chapter 365, Laws of 2011 (SB 5628), excludes property in the King County portion of Milton from the King County emergency medical services (EMS) levy. It is clarified that a fire protection district may levy the full amount of its EMS levy throughout the entire area of the city.

Unclaimed Property -Agricultural Fair Premiums – \$6,000 General Fund-State Decrease

Chapter 116, Laws of 2011 (SB 5633), exempts agricultural fairs from reporting unclaimed fair premiums to the Department of Revenue under the unclaimed property program.

Taxing District Exemptions – No Impact to General Fund-State

Chapter 28, Laws of 2011, 1st sp.s. (2ESB 5638), allows Metropolitan Park Districts in King County, by a vote of the people, to move a portion of their levy outside the \$5.90 aggregate limit if it would otherwise have been prorated.

Local Option Sales Tax Moneys – No Impact to General Fund-State

Chapter 347, Laws of 2011 (SSB 5722), modifies non-supplant restrictions with respect to the local mental health and chemical dependency sales and use tax.

Ferry System – No Impact to General Fund-State

Chapter 16, Laws of 2011, 1st sp.s., Partial Veto (2ESSB 5742), exempts fuel purchased for Washington State Ferries and county ferry vessels from state and local retail sales and use taxes starting July 1, 2013.

Nonresident Sales Tax Exemption – No Impact to General Fund-State

Chapter 7, Laws of 2011 (SB 5763), provides that no resident of Canada or any other jurisdiction may take the nonresident sales tax exemption if the jurisdiction has any type of tax at retail of more than 3 percent.

Veteran Lottery Raffle – No Impact to General Fund-State

Chapter 325, Laws of 2011 (SB 5806), authorizes the Lottery Commission to conduct a statewide raffle to benefit veterans and their families. Deposits net revenue (estimated to be \$660,480 in the 2011-13 biennium) into the Veterans Innovations Program Account for purposes of serving veterans and their families.

Lodging Tax/Arts & Heritage – No Impact to General Fund-State

Chapter 38, Laws of 2011, 1st sp.s. (ESSB 5834), distributes the state shared hotel/motel tax in King County beginning in 2021 as follows: 37.5 percent for arts, heritage, and cultural programs; 37.5 percent for affordable workforce housing and for services to homeless youth; and 25 percent for tourism purposes. Allows the principal on the arts endowment fund to be used beginning in 2012. The "double dip" of the state shared hotel/motel tax continues in Yakima until 2035.

Estates and Trusts – No Impact to General Fund-State

Chapter 113, Laws of 2011 (SB 5849), accommodates the recent change in the federal estate tax exemption amount from \$3.5 million to \$5 million. No impact on state estate tax since the state estate tax is not tied to the federal exemption amounts.

Spirits Distribution – No Impact to General Fund-State

Chapter 45, Laws of 2011, 1st sp.s. (ESSB 5942), directs the Office of Financial Management (OFM) to conduct a competitive process for the selection of a private sector entity to lease and modernize the state's spirits warehousing and distribution facilities and related operations and authorizes the Liquor Control Board to enter into a long-term contract for the lease of the warehousing and distribution of liquor within 60 days after the recommendation of a proposal by OFM.

Extraordinary Revenue Growth – No Impact to General Fund-State

Senate Joint Resolution 8206 (SJR 8206), transfers three quarters of any extraordinary growth in state revenue to the Budget Stabilization Account. Defines "extraordinary revenue growth" as the amount by which the growth in general state revenues exceeds, by one-third, the average biennial growth in general state revenues over the prior five biennia. Limits the transfer of extraordinary revenue growth to the amount that exceeds the automatic 1 percent transfer of general state revenues.

2011-13 Operating Budget Overview

Washington State Omnibus Operating Budget 2009-11 Budget vs. 2011-13 Budget

TOTAL STATE

(Dollars in Thousands)

	Near General Fund-State			Total All Funds		
	2009-11	2011-13	Difference	2009-11	2011-13	Difference
Legislative	149,819	142,344	-7,475	154,196	149,429	-4,767
Judicial	223,823	221,808	-2,015	266,885	274,987	8,102
Governmental Operations	449,163	474,248	25,085	3,864,116	3,707,655	-156,461
Other Human Services	2,104,351	6,349,037	4,244,686	5,100,145	15,172,782	10,072,637
DSHS	8,728,010	5,731,500	-2,996,510	20,997,882	11,171,470	-9,826,412
Natural Resources	358,287	309,303	-48,984	1,481,935	1,490,117	8,182
Transportation	74,600	78,272	3,672	191,806	176,473	-15,333
Public Schools	12,994,104	13,783,321	789,217	15,913,428	15,915,437	2,009
Higher Education	3,018,636	2,602,642	-415,994	9,377,236	11,126,495	1,749,259
Other Education	121,896	86,323	-35,573	493,748	503,435	9,687
Special Appropriations	2,051,641	2,198,004	146,363	2,241,130	2,359,797	118,667
Total Budget Bill	30,274,330	31,976,802	1,702,472	60,082,507	62,048,077	1,965,570
Appropriations in Other Legislation	0	-3,850	-3,850	0	-3,850	-3,850
Statewide Total	30,274,330	31,972,952	1,698,622	60,082,507	62,044,227	1,961,720

Note: Includes only appropriations from the Omnibus Operating Budget enacted through the 2011 legislative session and appropriations contained in other legislation.

Washington State Omnibus Operating Budget

2009-11 Budget vs. 2011-13 Budget

LEGISLATIVE AND JUDICIAL

(Dollars in Thousands)

	Near General Fund-State			Total All Funds		
	2009-11	2011-13	Difference	2009-11	2011-13	Difference
House of Representatives	64,423	60,367	-4,056	64,423	61,683	-2,740
Senate	48,968	45,640	-3,328	48,968	47,040	-1,928
Jt Leg Audit & Review Committee	5,828	5,421	-407	5,828	5,591	-237
LEAP Committee	3,544	4,220	676	3,544	4,220	676
Office of the State Actuary	219	48	-171	3,524	3,392	-132
Joint Legislative Systems Comm	16,623	15,927	-696	16,623	15,927	-696
Statute Law Committee	9,169	8,940	-229	10,241	9,795	-446
Redistricting Commission	1,045	1,781	736	1,045	1,781	736
Total Legislative	149,819	142,344	-7,475	154,196	149,429	-4,767
Supreme Court	13,836	13,443	-393	13,836	13,443	-393
State Law Library	3,521	2,938	-583	3,521	2,938	-583
Court of Appeals	31,225	30,507	-718	31,225	30,507	-718
Commission on Judicial Conduct	2,107	2,048	-59	2,107	2,048	-59
Administrative Office of the Courts	101,840	100,793	-1,047	140,824	150,389	9,565
Office of Public Defense	49,673	49,993	320	52,596	52,483	-113
Office of Civil Legal Aid	21,621	22,086	465	22,776	23,179	403
Total Judicial	223,823	221,808	-2,015	266,885	274,987	8,102
Total Legislative/Judicial	373,642	364,152	-9,490	421,081	424,416	3,335

2011-13 Operating Budget Overview

Washington State Omnibus Operating Budget

2009-11 Budget vs. 2011-13 Budget

GOVERNMENTAL OPERATIONS

(Dollars in Thousands)

	Near General Fund-State			Total All Funds		
	2009-11	2011-13	Difference	2009-11	2011-13	Difference
Office of the Governor	11,182	10,605	-577	12,682	12,105	-577
Office of the Lieutenant Governor	1,434	1,385	-49	1,529	1,480	-49
Public Disclosure Commission	4,216	4,237	21	4,216	4,237	21
Office of the Secretary of State	35,992	30,845	-5,147	107,552	88,864	-18,688
Governor's Office of Indian Affairs	508	526	18	508	526	18
Asian-Pacific-American Affrs	437	451	14	437	451	14
Office of the State Treasurer	0	0	0	14,686	15,146	460
Office of the State Auditor	1,360	0	-1,360	73,164	74,333	1,169
Comm Salaries for Elected Officials	361	353	-8	361	353	-8
Office of the Attorney General	11,000	8,025	-2,975	246,367	229,237	-17,130
Caseload Forecast Council	1,424	2,613	1,189	1,424	2,613	1,189
Dept of Financial Institutions	0	0	0	44,476	46,445	1,969
Department of Commerce	86,380	129,750	43,370	576,798	513,688	-63,110
Economic & Revenue Forecast Council	1,434	1,402	-32	1,434	1,452	18
Office of Financial Management	39,085	37,135	-1,950	135,991	116,142	-19,849
Office of Administrative Hearings	0	0	0	34,855	34,090	-765
Department of Personnel	0	0	0	61,624	0	-61,624
State Lottery Commission	0	0	0	900,705	802,742	-97,963
Washington State Gambling Comm	0	0	0	33,755	32,184	-1,571
WA State Comm on Hispanic Affairs	476	496	20	476	496	20
African-American Affairs Comm	464	477	13	464	477	13
Department of Retirement Systems	0	0	0	52,916	52,666	-250
State Investment Board	0	0	0	29,352	29,256	-96
Public Printer	0	0	0	19,859	0	-19,859
Department of Revenue	216,641	208,612	-8,029	235,227	240,425	5,198
Board of Tax Appeals	2,540	2,460	-80	2,540	2,460	-80
Municipal Research Council	0	0	0	2,729	0	-2,729
Minority & Women's Business Enterp	0	0	0	3,674	3,266	-408
Dept of General Administration	4,339	0	-4,339	190,297	0	-190,297
Department of Information Services	2,098	0	-2,098	260,290	0	-260,290
Office of Insurance Commissioner	0	0	0	50,391	51,961	1,570
State Board of Accountancy	0	0	0	3,649	2,810	-839
Forensic Investigations Council	0	0	0	280	286	6
Washington Horse Racing Commission	0	0	0	10,321	8,201	-2,120
WA State Liquor Control Board	0	0	0	244,684	296,326	51,642
Utilities and Transportation Comm	0	0	0	41,719	48,716	6,997
Board for Volunteer Firefighters	0	0	0	1,052	1,064	12
Military Department	17,240	16,011	-1,229	376,112	308,727	-67,385
Public Employment Relations Comm	5,011	4,749	-262	8,524	8,309	-215
LEOFF 2 Retirement Board	0	0	0	2,027	2,055	28
Archaeology & Historic Preservation	2,568	0	-2,568	5,175	4,639	-536
Growth Management Hearings Board	2,973	0	-2,973	2,973	0	-2,973
State Convention and Trade Center	0	0	0	66,821	0	-66,821
Consolidated Technology Services	0	7	7	0	184,048	184,048
Department of Enterprise Services	0	8,099	8,099	0	477,217	477,217
Innovate Washington	0	6,010	6,010	0	8,162	8,162
Total Governmental Operations	449,163	474,248	25,085	3,864,116	3,707,655	-156,461

Washington State Omnibus Operating Budget

2009-11 Budget vs. 2011-13 Budget

HUMAN SERVICES

(Dollars in Thousands)

	Near General Fund-State			Total All Funds		
	2009-11	2011-13	Difference	2009-11	2011-13	Difference
WA State Health Care Authority	317,154	4,459,259	4,142,105	600,752	10,847,407	10,246,655
Human Rights Commission	4,988	4,482	-506	6,572	6,385	-187
Bd of Industrial Insurance Appeals	0	0	0	36,298	39,380	3,082
Criminal Justice Training Comm	34,076	30,305	-3,771	42,641	44,014	1,373
Department of Labor and Industries	42,851	38,084	-4,767	625,960	638,382	12,422
Indeterminate Sentence Review Board	3,539	0	-3,539	3,539	0	-3,539
Home Care Quality Authority	1,229	0	-1,229	1,229	0	-1,229
Department of Health	170,683	160,547	-10,136	1,134,035	1,081,936	-52,099
Department of Veterans' Affairs	16,835	16,261	-574	113,999	115,305	1,306
Department of Corrections	1,500,256	1,635,488	135,232	1,732,753	1,659,307	-73,446
Dept of Services for the Blind	4,662	4,542	-120	25,023	25,567	544
Sentencing Guidelines Commission	1,805	0	-1,805	1,805	0	-1,805
Employment Security Department	6,273	69	-6,204	775,539	715,099	-60,440
Total Other Human Services	2,104,351	6,349,037	4,244,686	5,100,145	15,172,782	10,072,637

2011-13 Operating Budget Overview

Washington State Omnibus Operating Budget

2009-11 Budget vs. 2011-13 Budget

DEPARTMENT OF SOCIAL & HEALTH SERVICES

(Dollars in Thousands)

	Near General Fund-State			Total All Funds		
	2009-11	2011-13	Difference	2009-11	2011-13	Difference
Children and Family Services	601,069	605,185	4,116	1,108,698	1,091,468	-17,230
Juvenile Rehabilitation	192,564	173,828	-18,736	207,888	179,430	-28,458
Mental Health	787,556	890,068	102,512	1,550,002	1,598,488	48,486
Developmental Disabilities	767,711	1,012,678	244,967	1,872,296	1,926,723	54,427
Long-Term Care	1,271,392	1,594,945	323,553	3,208,873	3,399,830	190,957
Economic Services Administration	1,131,925	1,006,614	-125,311	2,464,609	2,153,005	-311,604
Alcohol & Substance Abuse	159,800	151,709	-8,091	334,336	314,507	-19,829
Medical Assistance Payments	3,512,188	0	-3,512,188	9,726,413	0	-9,726,413
Vocational Rehabilitation	19,765	21,713	1,948	133,669	127,101	-6,568
Administration/Support Svcs	58,887	49,658	-9,229	109,624	95,503	-14,121
Special Commitment Center	97,958	95,388	-2,570	97,958	95,388	-2,570
Payments to Other Agencies	127,195	129,714	2,519	183,516	190,027	6,511
Total DSHS	8,728,010	5,731,500	-2,996,510	20,997,882	11,171,470	-9,826,412
Total Human Services	10,832,361	12,080,537	1,248,176	26,098,027	26,344,252	246,225

Washington State Omnibus Operating Budget

2009-11 Budget vs. 2011-13 Budget

NATURAL RESOURCES

(Dollars in Thousands)

	Near General Fund-State			Total All Funds		
	2009-11	2011-13	Difference	2009-11	2011-13	Difference
Columbia River Gorge Commission	853	364	-489	1,700	766	-934
Department of Ecology	104,944	96,791	-8,153	438,613	430,297	-8,316
WA Pollution Liab Insurance Program	0	0	0	1,639	876	-763
State Parks and Recreation Comm	41,451	17,334	-24,117	148,599	147,632	-967
Rec and Conservation Funding Board	2,797	1,925	-872	17,861	9,778	-8,083
Environ & Land Use Hearings Office	2,142	4,841	2,699	2,142	4,841	2,699
State Conservation Commission	14,306	13,583	-723	15,484	14,884	-600
Dept of Fish and Wildlife	72,316	69,387	-2,929	326,664	358,417	31,753
Puget Sound Partnership	5,668	5,065	-603	15,051	15,829	778
Department of Natural Resources	86,124	68,913	-17,211	373,916	360,495	-13,421
Department of Agriculture	27,686	31,100	3,414	140,266	146,302	6,036
Total Natural Resources	358,287	309,303	-48,984	1,481,935	1,490,117	8,182

2011-13 Operating Budget Overview

Washington State Omnibus Operating Budget

2009-11 Budget vs. 2011-13 Budget

TRANSPORTATION

(Dollars in Thousands)

	Near General Fund-State			Total All Funds		
	<u>2009-11</u>	<u>2011-13</u>	<u>Difference</u>	<u>2009-11</u>	<u>2011-13</u>	<u>Difference</u>
Washington State Patrol	71,844	75,499	3,655	135,771	135,640	-131
Department of Licensing	<u>2,756</u>	<u>2,773</u>	<u>17</u>	<u>56,035</u>	<u>40,833</u>	<u>-15,202</u>
Total Transportation	74,600	78,272	3,672	191,806	176,473	-15,333

Washington State Omnibus Operating Budget

2009-11 Budget vs. 2011-13 Budget

PUBLIC SCHOOLS

(Dollars in Thousands)

	Near General Fund-State			Total All Funds		
	2009-11	2011-13	Difference	2009-11	2011-13	Difference
OSPI & Statewide Programs	65,551	48,657	-16,894	157,245	138,300	-18,945
General Apportionment	9,874,708	10,459,774	585,066	10,082,806	10,459,774	376,968
Pupil Transportation	614,509	649,813	35,304	614,509	649,813	35,304
School Food Services	10,270	14,222	3,952	660,470	597,222	-63,248
Special Education	1,260,208	1,350,186	89,978	1,935,826	2,041,982	106,156
Educational Service Districts	15,881	15,815	-66	15,881	15,815	-66
Levy Equalization	379,121	611,782	232,661	536,164	611,782	75,618
Elementary/Secondary School Improv	0	0	0	43,886	7,352	-36,534
Institutional Education	38,122	32,610	-5,512	38,122	32,610	-5,512
Ed of Highly Capable Students	18,326	17,535	-791	18,326	17,535	-791
Student Achievement Program	25,436	0	-25,436	225,731	0	-225,731
Education Reform	275,509	158,167	-117,342	522,312	266,282	-256,030
Transitional Bilingual Instruction	156,331	172,539	16,208	221,594	243,540	21,946
Learning Assistance Program (LAP)	266,085	252,221	-13,864	846,510	833,428	-13,082
Compensation Adjustments	-5,953	0	5,953	-5,954	2	5,956
Total Public Schools	12,994,104	13,783,321	789,217	15,913,428	15,915,437	2,009

2011-13 Operating Budget Overview

Washington State Omnibus Operating Budget
2009-11 Budget vs. 2011-13 Budget

EDUCATION

(Dollars in Thousands)

	Near General Fund-State			Total All Funds		
	2009-11	2011-13	Difference	2009-11	2011-13	Difference
Higher Education Coordinating Board	412,966	218,980	-193,986	526,696	312,279	-214,417
University of Washington	583,811	426,573	-157,238	4,284,608	5,829,242	1,544,634
Washington State University	374,596	303,366	-71,230	1,151,097	1,238,606	87,509
Eastern Washington University	85,856	68,957	-16,899	230,239	249,680	19,441
Central Washington University	81,684	64,141	-17,543	256,668	299,585	42,917
The Evergreen State College	43,659	36,344	-7,315	106,342	108,563	2,221
Spokane Intercollegiate & Tech Inst	2,925	0	-2,925	5,203	0	-5,203
Western Washington University	102,422	80,629	-21,793	330,292	336,810	6,518
Community/Technical College System	1,330,717	1,154,723	-175,994	2,486,091	2,406,728	-79,363
Council for Higher Education	0	997	997	0	3,374	3,374
Office of Student Financial Assist	0	247,932	247,932	0	341,628	341,628
Total Higher Education	3,018,636	2,602,642	-415,994	9,377,236	11,126,495	1,749,259
State School for the Blind	11,408	11,526	118	13,350	13,487	137
Childhood Deafness & Hearing Loss	16,819	16,900	81	17,345	17,426	81
Workforce Training & Education Coord Board	2,823	2,770	-53	57,348	66,031	8,683
Department of Early Learning	79,702	55,127	-24,575	385,706	389,035	3,329
Washington State Arts Commission	3,072	0	-3,072	6,231	5,230	-1,001
Washington State Historical Society	4,971	0	-4,971	7,470	6,134	-1,336
East Washington State Historical Society	3,101	0	-3,101	6,298	6,092	-206
Total Other Education	121,896	86,323	-35,573	493,748	503,435	9,687
Total Education	16,134,636	16,472,286	337,650	25,784,412	27,545,367	1,760,955

Washington State Omnibus Operating Budget

2009-11 Budget vs. 2011-13 Budget

SPECIAL APPROPRIATIONS

(Dollars in Thousands)

	Near General Fund-State			Total All Funds		
	2009-11	2011-13	Difference	2009-11	2011-13	Difference
Bond Retirement and Interest	1,777,849	1,966,521	188,672	1,956,413	2,120,814	164,401
Special Approps to the Governor	143,225	98,007	-45,218	154,150	105,507	-48,643
Sundry Claims	1,237	0	-1,237	1,237	0	-1,237
Contributions to Retirement Systems	129,330	133,476	4,146	129,330	133,476	4,146
Total Special Appropriations	2,051,641	2,198,004	146,363	2,241,130	2,359,797	118,667

Legislative

The 2011-13 operating budget provides \$140.6 million from the state near general fund and \$146.2 million in total funds for expenses associated with legislative agencies (excluding the Redistricting Commission). This collective level of funding reflects a \$14.9 million (9.6 percent) reduction in Near General Fund-State and a \$12.2 million (7.6 percent) reduction in total funds from funding levels provided in the 2009-11 enacted budget.

Administrative Efficiencies

Legislative agency budgets achieve total savings of \$7.1 million by identifying administrative efficiencies in operations. This can be achieved through leaving vacant positions unfilled and reducing discretionary expenditures such as travel, printing, and goods and services.

Other Reductions

As with all state agencies, employees are subject to a 3 percent salary reduction, which represents cost savings of \$2.5 million for legislative agencies. In addition, House and Senate budgets are further reduced a combined \$486,000 as part of management reforms (e.g., streamlining support functions).

Redistricting Commission

The budget provides \$443,000 in Near General Fund-State to the Redistricting Commission, a bipartisan group that meets every ten years to evaluate how state population shifts will affect legislative and congressional district boundaries based on demographic data collected from the United States Census. Washington State will receive an additional seat in the United States Congress based on population growth indicated from the Census. The additional funding will support the Commission as they reassess and redraw the 49 legislative and now 10 congressional districts.

Judicial

Judicial Agencies Efficiency Efforts

Funding is reduced by \$4.6 million in recognition of efficiency efforts by judicial branch agencies. This amount represents an average reduction of 2.4 percent to the maintenance level budgets of judicial branch agencies, excluding salaries for elected officials. Reductions to the agencies are distributed as follows: \$234,000 (5.0 percent) for the Supreme Court, \$1.2 million (5.0 percent) for the Court of Appeals, \$111,000 (5.0 percent) for the Commission on Judicial Conduct, \$432,000 (12.6 percent) for the State Law Library, \$1.5 million (2.0 percent) for the Administrative Office of the Courts, \$531,000 (1.0 percent) for the Office of Public Defense, and \$234,000 (1.0 percent) for the Office of Civil Legal Aid.

Judicial Stabilization Trust Account

Surcharges on court filing fees initially implemented in the 2009-11 biennium are extended for the 2011-13 biennium. Seventy-five percent of the revenue from the surcharges is deposited into the Judicial Stabilization Trust (JST) Account and 25 percent is retained by the county collecting the fee. The surcharges are estimated to raise \$9.0 million in revenues for the JST Account. Funding from the JST Account is used for costs associated with the Administrative Office of the Courts, the Office of Public Defense, and the Office of Civil Legal Aid.

Judicial Information Systems (JIS) Account

Funding of \$16.2 million from the JIS Account is provided for the following:

- One-time funding of \$5.0 million to continue planning efforts related to procuring and implementing an integrated calendaring and case management system for the Washington State superior courts;
- One-time funding of \$2.0 million which was shifted from fiscal year 2011 to fiscal year 2012 to continue work on the JIS migration plan;
- One-time funding of \$2.0 million to develop and implement information technology projects that are approved by the Judicial Information Systems Committee;
- One-time funding of \$1.2 million for equipment replacement; and
- A shift of \$6.0 million from General Fund-State to the JIS Account for expenditures within the Information Services Division of the Administrative Office of the Courts.

Governmental Operations

Department of Enterprise Services

The Department of General Administration, along with the State Printer, and portions of the Department of Information Services, the Office of Financial Management, and the Department of Personnel will merge into the new Department of Enterprise Services, pursuant to Chapter 43, Laws of 2011, 1st sp.s., Partial Veto (ESSB 5931). The new Department of Enterprise Services will handle facilities and lease management, fleet management, purchasing and contracts, information systems, printing, accounting, and human resources, which are all central services provided to all state agencies. A transition team will work on identifying efficiencies by consolidating back-office functions, such as internal human resources, accounting, purchasing, contracts, and facilities management.

Office of the Chief Information Officer and Consolidated Technology Agency

The Office of the Chief Information Officer (OCIO) is created and is responsible for the development and implementation of state strategic information technology (IT) initiatives and oversight of IT resources. The Information Services Board is eliminated, and the staff is transferred to the OCIO. The Technology Services Board is created and is staffed by the OCIO. Delivery of IT services to state agencies is transferred from the Department of Information Services to the newly created Consolidated Technology Services (CTS) agency pursuant to ESSB 5931. Services offered by CTS include mainframe computing, network operations, telecommunications, and managing the consolidated State Data Center.

Consolidated State Data Center

Funds are provided for the infrastructure to set up and operate the new consolidated State Data Center. Once the move is complete, the Department of Information Services' current data center will be decommissioned.

Liquor Control Board

Customer Service Initiatives

Funding is provided to implement customer service initiatives to improve convenience to customers and generate additional revenues. Initiatives include: adding six contract and two new state stores to keep pace with population growth; two high-volume specialty stores; standardizing hours of operation; selling retail gift cards; and providing optional delivery to restaurants and other licensed locations.

Secretary of State

Presidential Primary

Funding for costs associated with the 2012 Presidential Primary are eliminated, and the primary is suspended. No Presidential Primary will be held in Washington in 2012.

State Auditor

Performance Audit Funding

In the 2011-13 biennium, the Performance Audits of Government Account is reduced to allow the shifting of expenditure authority to four audit-related activities: (1) the Division of Fraud Investigations within the Department of Social and Health Services; (2) the Fraud Ombudsman in the State Auditor's Office; (3) school apportionment audits in the State Auditor's Office; and (4) a portion of the enhanced revenue auditor and collection functions of the Department of Revenue.

The Governor vetoed Section 26 of Chapter 43, Laws of 2011, 1st sp.s., Partial Veto (ESSB 5921), which related to creation of the Office of the Fraud Ombudsman in the Office of the State Auditor. The funding for this office was vetoed in Section 123(4) of Chapter 50, Laws of 2011, 1st sp.s., Partial Veto (2ESHB 1087).

Department of Commerce

The Department of Commerce (COM) administers a variety of state programs focused on enhancing and promoting sustainable community and economic vitality in Washington. Key activities of COM include support for economic development, affordable housing and homeless programs, growth management, and a variety of services to support local communities. The 2011-13 operating budget provides COM with \$513.7 million in total funds (\$129.8 million General Fund-State) to maintain support for these activities.

Reductions:

The operating budget makes several reductions across various programs of COM. The largest reductions (\$18.4 million) fall in the arena of economic development and include elimination of all state funding for tourism promotion and a 75 percent reduction for grants to support global health technology. There is a reduction of \$8.4 million for support of affordable housing and homelessness programs, which are primarily funded by document recording fees. Funding for a variety of programs that support local communities is reduced by \$3.6 million, including a 50 percent reduction for state drug task forces and a 25 percent reduction for Community Service Block Grants. COM's funding for administration and operation of its programs is reduced by \$1.8 million. Funding for growth management grants is reduced by \$0.8 million.

Increases:

Chapter 36, Laws of 2011, 1st sp.s. (ESHB 2082), directs the termination of the Disability Lifeline-Unemployable (DL-U) program that provides a cash benefit to eligible needy individuals who do not qualify for other federal assistance programs. Effective November 1, 2011, \$64.1 million of funds previously provided for cash grants to DL-U clients is transferred from the Department of Social and Health Services to COM to be used to provide support for essential needs and housing of these individuals. COM shall utilize the funds to provide grants to local governments and community-based organizations. Assistance to individuals will be provided within available resources and cannot be provided in the form of cash grants.

Chapter 58, Laws of 2011 (2SHB 1362), authorizes expenditures of \$14.2 million for COM to implement provisions of the act. COM will use revenues from newly-authorized fees on financial institutions issuing notices of defaults to implement provisions including increasing the number of housing counselors and attorneys available to assist individuals at risk of default and establishing a foreclosure mediation program.

The budget also includes increased federal expenditure authority of \$13.4 million for COM in a variety of areas. The largest of these are authority to expend a \$6.1 million federal grant for a program to install renewable energy systems and energy efficiency technologies and a \$5 million federal grant for a program to stabilize neighborhoods with abandoned homes.

Department of Revenue

Revenue Enhancement

Funding is provided to continue efforts that began in the early action bill in December 2010 to collect additional revenue from out-of-state audits. Funding is also provided and for additional staff in 2011-13 to collect state tax revenues. The additional tax collection staff includes taxpayer account administrators, compliance staff, and auditors. On average, each employee is estimated to bring in \$420,000 per fiscal year in revenue. The continuations of the early action efforts are estimated to generate an additional \$39 million, and the additional staff is estimated to generate \$14.5 million, for a total of \$53.5 million in additional revenues.

Business Licensing Transfer

Expenditure authority of \$14.4 million and the administration of the Master License Service (MLS) program are transferred from the Department of Licensing to the Department of Revenue (DOR). Over 500,000 state and city business licenses and endorsements are issued and renewed annually through a one-page application system via the MLS program. By building upon existing processes to administer the MLS program, DOR is expected to achieve expenditure savings of over \$1 million annually.

2011-13 Operating Budget Overview

Military Department

Enhanced 911

Expenditure authority of nearly \$7 million is provided from the Enhanced 911 Account to continue upgrading the current 911-telephone system. The upgrades support the second of a three-phase process to develop a modern Internet protocol system that allows the 911 dispatchers and authorities to accept information from a wide variety of communication devices during emergencies.

Department of Financial Institutions

Mortgage Fraud Prosecution

Expenditure authority of \$1 million is provided to the Department of Financial Institutions to continue administering the Mortgage Lending Fraud Prosecution Account (MLFPA). Funded by a \$1 surcharge at the recording of a deed of trust, MLFPA is used to reimburse county prosecutors for costs related to the investigation and prosecution of mortgage fraud cases. The program was set to expire in July 2011, but legislation extended MLFPA for five additional years.

Other

Heritage Agencies

The budget redistributes over \$3.5 million from the Washington State Heritage Center Account to supplant all or a portion of the Near General Fund-State support for the Department of Archaeology and Historic Preservation and State Library's operating expenses. The Account consists of fee revenue previously collected for the Heritage Center project, a new facility in the planning stages of construction on the Capitol Campus that would house the State Library and Archives. The redistribution of funds is one-time and ongoing fee revenue remains dedicated to the Heritage Center project.

Juvenile and Adult Sentencing Database and Caseload Forecasts

The Sentencing Guidelines Commission (SGC) and the Sex Offender Policy Board are transferred to the Office of Financial Management. Some SGC functions, managing the adult and juvenile sentencing database and preparing criminal justice fiscal notes, are transferred to the Caseload Forecast Council. The Council will maintain the records database and publish an annual statistical summary for both juvenile dispositions and adult felony sentences, along with adult felony and juvenile sentencing manuals.

Innovate Washington

Chapter 14, Laws of 2011, 1st sp.s., Partial Veto (2ESB 5764), creates Innovate Washington as the successor agency to the Washington Technology Center (WTC) and the Spokane Intercollegiate Research and Technology Institute (SIRTI). Innovate Washington is identified as the primary state agency responding to the technology transfer needs of existing businesses in the state. The role of Innovate Washington includes: facilitating research supportive of state industries; providing mechanisms for collaboration between technology-based industries and higher education institutions; helping businesses secure research funds; developing and integrating technology into new products; offering technology transfer and commercialization training opportunities; serving as the lead entity for coordinating clean energy initiatives; and administering technology and innovation grant and loan programs.

The 2011-13 operating budget provides Innovate Washington with \$8.2 million in total funds (\$6.0 million General Fund-State) to maintain support for these activities. This is a reduction in General Fund-State of \$1.5 million (20 percent) from the prior combined funding levels of WTC and SIRTI.

Human Services

The Human Services section is separated into two sections: the Department of Social and Health Services (DSHS) and Other Human Services. The DSHS budget is displayed by program division to most efficiently describe the costs of particular services provided by the Department. The Other Human Services section displays budgets at the agency level and includes the Department of Corrections, Employment Security Department, Department of Veterans' Affairs, Department of Labor and Industries, Criminal Justice Training Commission, Department of Health, and other human services related agencies.

Department of Social & Health Services

Children and Family Services

The Children's Administration operates Child Protective Services (CPS) that responds to reports of child abuse or neglect. The Department also operates the foster care system for children who are out-of-home placements with caregivers and the adoption support program for children who have been adopted from the foster care system. Additionally, the Department contracts for prevention, early intervention services, and services for children and families involved in the child welfare system.

Savings of \$18.7 million in total funds (\$8.1 million Near General Fund-State) are achieved through the reduction of 249 FTEs from the Department of Social and Health Services (DSHS) Children's Administration and through management efficiency savings. These savings are achieved through reducing both vacant and filled positions within the Department.

The budget reduces a total of \$1.8 million in total funds (\$462,000 Near General Fund-State) for Secure Crisis Residential Centers, Crisis Residential Centers, and HOPE beds.

Savings of \$1.7 million in total funds (\$1.1 million Near General Fund-State) are achieved through reductions in the Behavioral Rehabilitative Services (BRS) program. BRS services are provided to children in foster care who need intensive services. The Department will continue to focus on decreasing the length of stay and placing children in less restrictive settings.

The budget reduces funding for foster parent childcare by a total of \$3 million (\$2.6 million Near General Fund-State) reflecting revisions to policies that have been implemented by the Department regarding childcare authorizations.

Savings of \$8.4 million in total funds (\$4.4 million Near General Fund-State) are achieved through expediting adoptions for children awaiting a home study to finalize the adoption and through modifications to policies pertaining to the use of Voluntary Placement Agreements.

Juvenile Rehabilitation Administration

A total of \$179 million is provided for DSHS-Juvenile Rehabilitation Administration (JRA) to incarcerate approximately 600 juvenile felons per month in state institutions, supervise an average of 426 youth on parole, and provide grants to county juvenile courts for alternative disposition and evidence-based treatment in the 2011-13 biennium. This represents a decrease of \$37 million (17 percent) in JRA spending from the 2009-11 biennium and a decrease of \$19 million (10 percent) from the 2011-13 maintenance level.

The budget provides \$500,000 each to JRA and for pass-through grants to juvenile courts for expansion of evidence-based treatment programs.

Funding is reduced by \$12.6 million General Fund-State, including: reducing parole services that includes reducing aggression replacement therapy and functional family therapy (\$4.3 million), reducing juvenile court funding (\$2.3 million), and reducing administrative and JRA institution costs (\$5.2 million).

Funding is reduced by \$3.3 million General Fund-State to reflect the closure of Maple Lane School on June 30, 2011. The 2010 supplemental budget assumed closure of Maple Lane School on June 30, 2013, but a declining caseload and capacity at other institutions enables an earlier closure.

Mental Health

Mental health services for those living with severe, chronic, or acute mental illnesses are administered primarily through DSHS. This includes operation of two adult state hospitals that deliver psychiatric services to clients on civil or forensic commitment orders and for the Child Study Treatment Center, which is a small psychiatric inpatient facility for children and adolescents. In addition, DSHS contracts with 13 Regional Support Networks (RSNs) as local administrative entities to coordinate crisis response, community support, residential, and resource management services through a network of community providers. Services for Medicaid-eligible consumers within each RSN are provided through a capitated Prepaid Inpatient Health Plan. Limited services that cannot be reimbursed through the Medicaid program are provided within available state and local resources.

A total of \$1.598 billion (\$890 million General Fund-State) is provided for operation of the public mental health system during the 2011-13 biennium. This is \$57.2 million (3 percent) less than the estimated amount needed to maintain the current level of mental health services and activities. Major reductions include:

- Funding for the community mental health services delivered through RSNs is reduced by a total of \$26.2 million, or about 3 percent. DSHS is to reduce RSN mental health capitation rates for individuals who are eligible for Medicaid by \$17.5 million, approximately 2 percent. In addition, “state only” funding for people and services not eligible for the federal Medicaid program is reduced by a total of \$8.7 million, or about 4 percent.
- Staffing in the state psychiatric hospitals is reduced by approximately 112 FTEs (4 percent) with a total reduction in funding of \$31.0 million, or about 7 percent. This includes savings of \$6.6 million resulting from a Western State Hospital civil ward closure implemented in fiscal year 2011. In addition, DSHS is to maintain and enhance a variety of strategies at all three of the state hospitals for achieving operating and administrative efficiencies that save another \$9.7 million without further reductions of beds. Reductions to employee compensation and suspension of automatic benefit increases in the Public Employees’ Retirement System Plan 1 will result in savings of approximately \$14.6 million.
- DSHS is to achieve savings of \$2.6 million in General Fund-State during the 2011-13 biennium by leveraging alternative fund sources. This includes increased use of Medicaid to pay for Program of Assertive Community Treatment team services as well as alternative community services provided to former residents of the Program of Adaptive Living Skills. In addition, DSHS will enter into an interagency agreement with the Office of the Attorney General for expenditure of \$700,000 of the state’s proceeds of the cy pres settlement in *State of Washington v. AstraZeneca (Seroquel)* and use this to maintain support for the University of Washington’s Evidence Based Practice Institute.
- A total of \$3 million is provided to adjust RSN Medicaid mental health capitation rate ranges to correct a technical oversight related to costs associated with hospitals participating in the state’s certified public expenditure (CPE) payment program. When rate ranges were reset in 2010, some costs associated with these facilities were inadvertently omitted from the rate-setting study.

Aging and Disabilities Services (Long-Term Care and Developmental Disabilities)

A total of \$5.5 million is provided for health benefit inflation for approximately 39,000 homecare workers who meet minimum standards for hours worked providing personal care services to senior citizens and clients with developmental disabilities. Pursuant to the collective bargaining agreement for individual providers, the way health benefits are paid for is converted from a monthly payment rate to a cents-per-hour payment methodology.

Just under \$1.5 billion in state funding (\$2.9 billion in total funds) is appropriated for DSHS to provide Medicaid Personal Care (MPC) services to an average of 45,000 eligible adult clients per month who are elderly or have developmental disabilities. The MPC program utilizes a client assessment to determine an individual’s need for assistance with activities of daily living - such as bathing, meal preparation, toileting, medication management, and housekeeping. The appropriated amount reflects General Fund-State savings of \$98 million from the 2009-11 biennial appropriation. The savings are achieved through a reduction in hours that are authorized on a monthly

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basis for MPC. The actual reduction in hours is tiered according to client acuity and will range between 6 percent and 18 percent per client with the most acute clients receiving the smallest reduction in authorized hours.

A savings of \$30 million General Fund-State (\$56 million in total funds) is achieved by delaying the implementation of enhanced long-term care worker training and certification requirements established in 2008 by Initiative 1029. The savings include a reduction in contributions paid to the training partnership and to homecare agencies to administer the training for homecare workers. Funding is continued for the current level of fundamental training for long-term care workers, which is 28-34 hours, depending on the type of worker. Funding is maintained for current levels of specialty training as required to care for clients with dementia, mental health, and developmental disabilities. The current continuing education and state background checks remain in effect. The implementation of additional federal fingerprint background checks is also delayed.

A total of \$147 million is appropriated for the aging and disability services home- and community-based waiver programs' employment and day services. This reflects a reduction of \$20 million in total funds due to changes to existing services. These include a modification from the current adult working policy to a work first policy resulting in \$2.8 million total savings and transitioning the Adult Day Health (ADH) program to a long-term care waived service resulting in \$17.2 million total savings. Collectively, these changes prohibit a client with developmental disabilities from receiving more than one employment or day service simultaneously. Clients over the age of 21 must work with contracted employment vendors for nine months seeking employment after which time they may elect to transfer to the community access program. Alternatively, clients who prefer ADH may access this program by switching from the developmental disability waiver program to the long-term care waiver program, making them ineligible for employment or community access services. Services remain unchanged for eligible senior citizens who currently participate in the ADH program.

Developmental Disabilities

A total of \$11 million is provided for community residential placements for 58 individuals who have been identified as aging out of foster care, ready for discharge from juvenile rehabilitation and mental health institutions, or ready for release from the Department of Corrections.

Long-Term Care

The budget assumes the creation of a nursing facility safety net assessment pursuant to Chapter 7, Laws of 2011, 1st sp.s. (ESSB 5581 – Nursing Home Safety Net). The safety net assessment utilizes a new revenue stream and leverages additional federal funding for skilled nursing facility Medicaid payments. All revenues from the safety net assessment are utilized for payments to nursing facilities. New payments total \$170 million to include \$88 million from the newly-created Skilled Nursing Facility Safety Net Trust Fund and matching federal funds.

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Economic Services Administration

The Economic Services Administration operates a variety of programs for low-income persons and families. These programs include the federal Supplemental Nutritional Assistance Program (SNAP), the state Food Assistance Program, the state WorkFirst Program, the Temporary Assistance for Needy Families (TANF) Program, and the Disability Lifeline Program.

Savings of \$100.3 million state general funds are achieved through the continuation of the Disability Lifeline grant reduction implemented in fiscal year 2011. The grant reduction affects all Disability Lifeline recipients.

Funding is reduced by \$79.5 million to reflect provisions included in Chapter 36, Laws of 2011, 1st sp.s. (ESHB 2082). Under ESHB 2082, the Disability Lifeline Program is terminated on October 31, 2011. The Aged, Blind, or Disabled Assistance Program is established for persons likely to meet the federal Supplemental Security Income disability standard. An Essential Needs and Housing Support Program is established for individuals eligible for Medical Care Services who are not recipients of Alcohol and Addiction Services or are not recipients

of Aged, Blind, or Disabled Assistance Program. Total funding of \$64.1 million is provided to the Department of Commerce for the Essential Needs and Housing Support Program.

Savings of \$12.6 million in total funds (\$6.3 million Near General Fund-State) are achieved by continuing the suspension of redistributions of Internal Revenue Service refund payments that previously prioritized former TANF clients over repayment of state debt.

The federal Deficit Reduction Act of 2005 allows states to pass through up to \$100 a month of collected child support to TANF families with one child and up to \$200 a month of collected child support to TANF families with two or more children without having to reimburse the federal government for its share of the child support collected. Chapter 3, Laws of 2010, 2nd sp.s. (SSB 6893), suspended the child support pass through resulting in savings of \$37.6 million in total funds (\$18.8 million Near General Fund-State).

The 2011-13 operating budget set the state Food Assistance Program benefit at 50 percent of the federal SNAP benefit amount resulting in savings of \$30 million state general fund.

Low-Income Medical Assistance

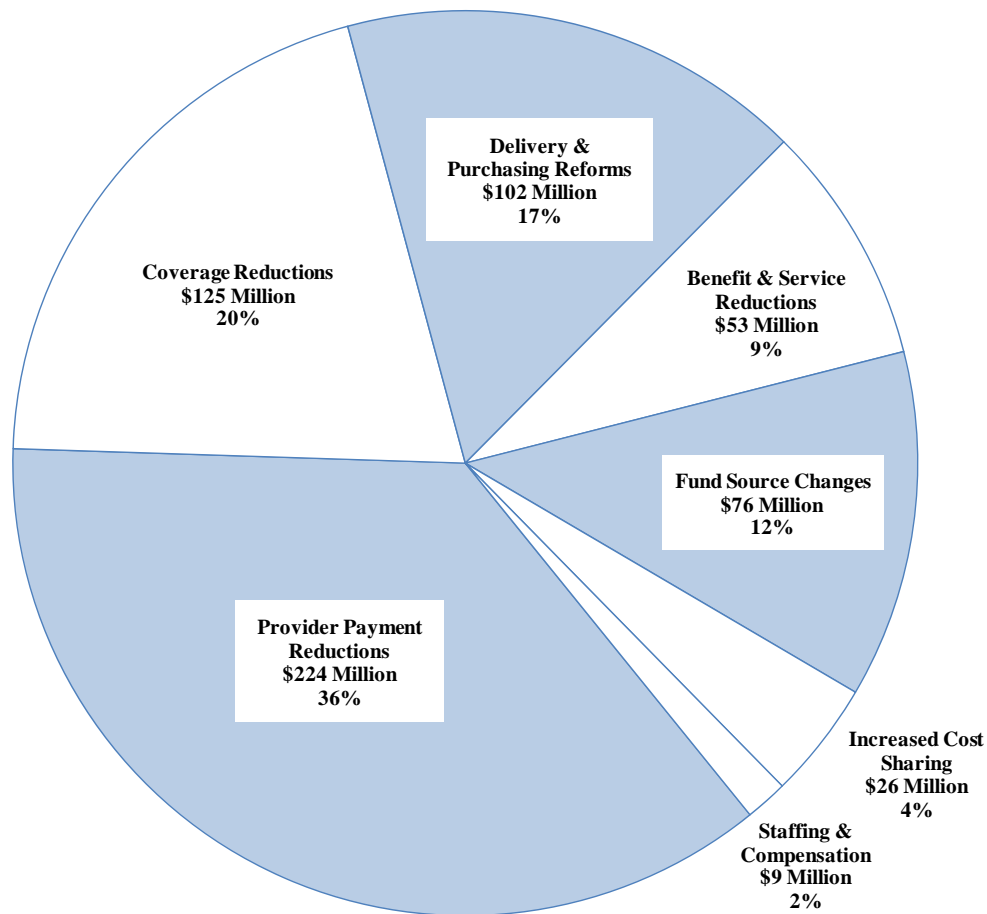
A total of \$10.7 billion is appropriated to pay for medical and dental services for an average of 1.3 million low-income children and adults each month during the 2011-13 biennium. This is an increase of \$519 million (5 percent) from the 2009-11 biennium in total appropriations for such services. An average of 83,000 (7 percent) more persons per month are expected to receive state-subsidized coverage than during the 2009-11 biennium.

These funds are appropriated exclusively to the Health Care Authority (HCA) because Chapter 15, Laws of 2011, 1st sp.s. (2E2SHB 1738), transferred administration of the Medical Assistance Program from DSHS into HCA.

Of the \$10.7 billion appropriated, \$4.9 billion is state funds; \$5.6 billion is federal funds, primarily from Medicaid; and the rest is local government funds provided for purposes of collecting Medicaid matching funds. Of the \$4.9 billion in state funds, \$4.5 billion is state general fund and \$400 million is from the Hospital Safety Net Assessment enacted in 2010. The \$4.9 billion provided for low-income medical assistance is 15 percent of total state fund appropriations and is a \$777 million (19 percent) increase in such appropriations from the 2009-11 level. The increase in state fund appropriations (\$777 million) is greater than the increase in total appropriations (\$519 million) because of the expiration of federal American Recovery and Reinvestment Act (ARRA) funds that temporarily reduced the state share of Medicaid costs during the 2009-11 biennium.

Though a \$777 million increase, the \$4.9 billion state appropriation is \$620 million (11 percent) less than would be required to continue all low-income medical assistance programs and policies with no changes from the 2009-11 biennium. As depicted in the pie chart, and described in some detail below, the \$620 million of state general fund reductions fall into seven broad categories.

2011-13 Operating Budget Overview



- \$224 million (36 percent) of the state general fund reductions (\$427 million total funds) are due to **reduced provider payments**. The largest components are a \$110 million reduction in state Medicaid payment rates for non-rural, non-governmental hospitals (8 percent for inpatient services and 6 percent for outpatient services), and a \$42 million (approximately 11 percent) reduction in payment rates for low-income community clinics. Other state general fund reductions in this category include an anticipated \$27 million savings in fiscal year 2013 as a result of emphasizing price in the selection of managed care contractors; \$25 million from eliminating state grant support for low-income community clinics and community coverage collaboratives; and \$14 million from a 40 percent reduction in grants to hospitals that serve disproportionately large numbers of low-income patients.
- \$125 million (20 percent) of the state general fund reductions (\$196 million total funds) are due to **covering fewer people** under the state's Basic Health Plan (BHP). An average of 35,000 people will receive subsidized BHP coverage during 2011-13, just over half as many as originally planned. This reduction results from terminating BHP coverage for persons who are ineligible for the state's Medicaid Transition Bridge waiver because of their age or immigration status; transferring coverage for approximately 1,700 children from BHP to other state programs; and continuing to freeze new admissions to the program.
- \$102 million (17 percent) of the state general fund reductions (\$199 million total funds) are due to **service delivery and purchasing reforms**. Almost \$40 million of state expenditures are to be avoided by increasing efforts to: (1) identify and bill other insurance coverage for persons who have it and (2) recover payments that have been inappropriately charged. An additional \$36 million of state savings are anticipated from a new policy under which the medical assistance program will not pay for more than three emergency room visits for non-emergent conditions per patient per year. Other state-fund reductions in this category include: \$9 million from improved utilization management of advanced

imaging, prescription drugs, and selected outpatient surgeries; \$8 million from extending managed care coverage to most disabled Medicaid recipients during the second year of the biennium; \$4 million from selectively contracting for wheelchairs and some other medical equipment and supplies; and \$3 million from streamlining delivery of medical interpreter services.

- \$76 million (12 percent) of the state general fund reductions are due to *fund source changes*. The largest is the use of \$44 million from the Tobacco Settlement Account to fund BHP enrollments. The federal government has agreed to cover half the cost of kidney dialysis and cancer treatment for low-income immigrants who do not qualify for Medicaid, saving \$23 million of state expenditures. An additional \$11 million of state expenditures will be saved by reducing the state's contribution towards the required non-federal match for school-based Medicaid services to 40 percent, requiring school districts to provide the other 60 percent with local funds.
- \$53 million (9 percent) of the state general fund reductions (\$118 million total funds) derive from *covering fewer services* for eligible recipients. Preventive and restorative dental care will no longer be covered for adults unless they are pregnant or receiving long-term care services, for an anticipated \$29 million in state savings. Maternity support services are reduced by 30 percent, for a \$12 million state savings. The Medicaid program will no longer cover eyeglasses and most hearing devices for adults, saving approximately \$5 million, and adult occupational, physical, and speech therapy benefits are reduced by about one-third, for a savings of \$4 million.
- \$26 million (4 percent) of the state general fund reductions (\$36 million total funds) are from *requiring recipients to pay more* for covered services. The state will no longer cover the cost of drug co-payments for low-income elderly and disabled persons eligible for Medicare, and HCA will seek a federal waiver under which all Medicaid recipients other than those receiving long-term care services would have drug co-payments comparable to those required in BHP. Families with incomes over 200 percent of the federal poverty level whose children are ineligible for federally funded medical coverage because of their immigration status will be required to pay a premium equal to the average state cost in order to enroll in state-sponsored medical programs.
- \$9 million (2 percent) of the state general fund reductions (\$17 million total funds) are from an approximately 3 percent reduction in state agency staffing, and from the state employee salary and benefit reductions described in other sections of this document.

Special Commitment Center

The 2011-13 biennial budget adjusted the funding for the Special Commitment Center (SCC), providing a total of \$95.4 million state general funds for the operations of SCC. SCC operates both a main facility on McNeil Island and two Secure Community Transitional Facilities for civilly committed sexually violent predators.

Major savings items include:

- \$3.2 million through staff reductions and efficiencies;
- \$1.1 million through changes to residential and community programs;
- \$3.8 million through modification to staffing at the Secure Community Transitional Facilities pursuant to Chapter 19, Laws of 2011 (SHB 1247).

Additionally, \$6 million was provided to SCC for McNeil Island operations. Due to the McNeil Island Correctional Institute closure in April 2011, SCC solely operates the McNeil Island functions including water treatment, road maintenance, and ferry operations.

Other Human Services

Department of Corrections

A total of \$1.7 billion is provided for the Department of Corrections (DOC) to incarcerate an average of 18,000 inmates per month and to supervise an average of 15,225 offenders in the community per month for the 2011-13 biennium. This represents a decrease of \$73.4 million (4.3 percent) in corrections spending from the 2009-11 biennium and savings of \$137.3 million (7.6 percent) from the 2011-13 maintenance level.

The budget provides \$6 million for prison safety enhancements, including: a study to standardize a body alarm or proximity card system statewide; pilot projects for a body alarm system and a proximity card system; upgrades to the radio system to add panic buttons; expanded use of pepper spray; development and implementation of training for supervisors on enhanced security awareness; additional staff counselor positions; and the addition of custody staff at the Monroe Correctional Complex and the Washington State Penitentiary who are responsible for monitoring the whereabouts of all prison employees.

Funding is reduced by \$53.6 million General Fund-State to reflect savings from continuing reductions begun in fiscal year 2011 as a result of the Governor's across-the-board reductions and enactment of Chapter 1, Laws of 2010, 2nd sp.s. (HB 3225). These continued savings include: eliminating staff positions (\$18.6 million); reducing administrative costs (\$2.8 million); changing agency staffing structure (\$7.2 million); holding positions vacant (\$7.9 million); reducing Drug Offender Sentencing Alternative bed utilization (\$3.4 million); and achieving additional program savings (\$7.8 million).

Funding is reduced to reflect net savings of \$18.3 million General Fund-State in the 2011-13 biennium from the closure of the McNeil Island Corrections Center (MICC) on April 1, 2011, consistent with the policy included in HB 3225. The savings from the closure of MICC are partially offset by the opening of a unit at the Larch Correctional Center in Yacolt.

The budget assumes savings of \$9.4 million General Fund-State due to changes in community supervision consistent with the following policy changes included in Chapter 40, Laws of 2011, 1st sp.s. (ESSB 5891):

- Elimination of supervision for certain offenders from jail, saving \$1.9 million. Excluded from this group are sex offenders, offenders in treatment programs, offenders with a high-risk profile, and certain offenders with a conviction of a domestic violence offense.
- Elimination of "tolling" or pausing the term of community custody while an offender is confined for violating a sentencing condition, saving \$5.2 million. The length of an offender's supervision will run continuously regardless of whether an offender is incarcerated for violating the terms of their supervision. The practice of tolling will continue for sex offenders.
- Reduction in the length of community supervision for offenders on the First Time Offender Waiver program from 24 and 12 months to 12 and 6 months, saving \$2.3 million.

The budget assumes savings of \$15.5 million General Fund-State related to costs for housing community supervision violators. DOC will negotiate lower contract amounts for housing offenders in local and tribal government jails. The rate must not exceed \$85 per day per offender, saving \$7 million. In addition, the budget assumes a lower demand for violator beds attributable to the reduction in the number of offenders on supervision and the elimination of tolling, saving \$8.5 million.

Funding is reduced by \$4.0 million General Fund-State to reflect savings from early deportation of certain non-citizen drug and property offenders, consistent with Chapter 206, Laws of 2011, Partial Veto (ESHB 1547). The

reduction assumes that qualifying non-citizen offenders are deported and that qualifying newly-sentenced non-citizen offenders are processed for deportation upon arrival to the state prison system.

Criminal Justice Training Commission

The budget provides \$30.3 million from General Fund-State to the Criminal Justice Training Commission (CJTC) for training and certification of local law enforcement and corrections officers and pass-through funds to the Washington Association of Sheriffs and Police Chiefs (WASPC). This funding level is an 11.1 percent reduction from General Fund-State expenditures in the 2009-11 biennium.

Major items include:

- Funding is reduced by \$1.3 million to reflect a 25 percent partial reimbursement of the basic law enforcement academy costs by law enforcement agencies that send cadets for training. The budget assumes total funding of \$5.2 million for eight basic law enforcement academies in fiscal year 2011 and nine academies in fiscal year 2012.
- Funding is reduced by \$2.5 million for pass-through programs administered by WASPC. The reduction is partially backfilled with \$1.7 million in funding from the Washington Auto Theft Prevention Account, for a net reduction of \$803,000.
- \$2.0 million is provided for grants to counties historically underserved by federally-funded narcotics task forces.

Department of Health

The Department of Health (DOH) has a total budget of \$1.1 billion to provide educational and health care services, administer a variety of health care licensure programs, regulate drinking water and commercial shellfish production, respond to infectious disease outbreaks, support local public health jurisdictions, and operate the state's public health laboratory.

In 2007, the Legislature increased funding to local public health jurisdictions by \$20 million based on the recommendation of the Blue Ribbon Commission on Health Care. The funding was accompanied by a mandate to define core public health functions and for local public health jurisdictions to report on outcomes. This program is reduced by \$10 million in the 2011-13 biennium. Local public health jurisdictions will receive a total of \$73.2 million in discretionary funding from DOH for the 2011-13 biennium.

DOH provides family planning funding to a network of local providers throughout the state. These funds can be used for a variety of family planning activities and serve clients who earn 250 percent or less of the federal poverty level. Funding for these grants is reduced by 11.25 percent (\$2.3 million Near General Fund-State).

Employment Security Department

The Employment Security Department has a total budget of \$715 million to administer Washington's unemployment insurance system, operate the WorkSource system, operate the Washington Service Corps program, and conduct labor market and economic analysis.

Savings of \$33.2 million in state general fund are achieved by delaying the implementation of the Family Leave Insurance Program by three years until October 2015, pursuant to Chapter 25, Laws of 2011, 1st sp.s. (ESSB 5091).

A total of \$35.6 million in federal funds is provided for implementing the second phase of the new unemployment insurance tax information computer system, which will replace the current system that was originally implemented in 1984.

2011-13 Operating Budget Overview

Labor and Industries

The Department of Labor and Industries has a total budget of \$638 million to administer Washington's workers' compensation system, manage the occupational health and safety program, operate the crime victims' compensation program, and license and enforce safe building practices.

Savings of \$1.6 million in state general fund are achieved by eliminating payment awards provided as permanent partial disability benefits and benefits for home and vehicle modifications given to victims of criminal acts pursuant to Chapter 346, Laws of 2011, Partial Veto (SSB 5691).

A total of \$26.9 million in state industrial insurance funds are provided for implementing changes to the workers' compensation program pursuant to Chapter 37, Laws of 2011, 1st sp.s. (EHB 2123). The legislation makes a number of changes including authorizing claim resolution structured settlement agreements for workers age 55 or older with a phase-in to younger workers over time. Savings of \$600 million in industrial insurance trust funds are assumed as well as \$6 million in state general fund from reduced workers compensation charges to the state.

Department of Veterans' Affairs

A total of \$114.8 million total funds is provided for veterans' services for soldiers and their families. The appropriated amount reflects a General Fund-State reduction of \$245,000 to headquarters administration and a General Fund-State increase of \$85,000 for updating information technology systems. The budget assumes an additional \$660,000 in revenue generated by the implementation of Chapter 352, Laws of 2011 (SB 5806 - Veteran Lottery Raffle). Proceeds from a newly-created annual raffle will be used to provide support, including emergency financial assistance, for returning combat veterans through the Veterans' Innovation Program.

Natural Resources

Water Resources and Watershed Protection

Puget Sound Cleanup and Restoration

The sum of \$18.0 million in federal funds are provided for the Washington Department of Fish and Wildlife (WDFW) to enter into an agreement with the U.S. Environmental Protection Agency (U.S. EPA) to protect and restore marine and nearshore habitats of Puget Sound. Funding provided by the U.S. EPA will be distributed to state and local partners through a competitive process to fund projects that improve the effectiveness of existing regulatory and stewardship programs, implement protection and restoration projects, prevent or reduce the threats posed by invasive species and oil spills, and address ecosystem problems.

Additionally, the Puget Sound Partnership is provided \$1.9 million in federal expenditure authority for new grant awards. Specific work to be completed with these grants includes: tracking progress in implementing the Puget Sound Action Agenda; completing the 2011-13 Biennial Science Work Plan and the 2012 Puget Sound Science Update; implementing the Puget Sound Monitoring Program; and providing grants to local organizations to carry out the Puget Sound Action Agenda at the local level.

Furthermore, the Department of Ecology (DOE) partners with local governments to help businesses correct practices related to hazardous waste management, spill prevention, storm water pollution, and other environmental regulations. Approximately \$2.0 million in state funds are provided to manage DOE's portion of these activities to support efforts to decrease toxins that enter Puget Sound. Within the amount provided, ongoing grant funding of \$1 million is provided from the Local Toxics Control Account to support local government staff in conducting hazardous waste and storm water technical assistance visits.

Shoreline Master Program Updates

Pursuant to a negotiated legal settlement in 2003, DOE and local governments are in the process of updating local shoreline master programs. Base operating funding is insufficient to complete Shoreline Master Program updates in time to meet statutory and legal settlement deadlines. DOE is provided \$3.6 million in state funding to speed up completion of Shoreline Master Program updates during the 2011-13 biennium.

Watershed Planning and Water Resources Reduction

Approximately \$6.0 million in funding is reduced for watershed planning technical assistance and grants to local governments in DOE's Shorelands and Environmental Assistance Program. This reduction represents nearly a 50 percent reduction to the Watershed Planning Program and will affect technical assistance and grants to local partners conducting work on the state's Watershed Inventory Resource Areas.

The sum of \$2.5 million is reduced from DOE's Water Resources Program (WRP). Additionally, budget language directs \$2.15 million of the state general fund appropriation for WRP to process the backlog of pending water right permit applications.

The biennial statutory transfer of \$4 million General Fund-State to the Flood Control Assistance Account is reduced by one-half. DOE will provide fewer grants to cities and counties for local flood control planning and maintenance.

2011-13 Operating Budget Overview

Pollution Mitigation and Abatement

The sum of \$1.5 million in state and federal funding is provided for DOE to reduce air pollution in areas at risk of becoming out of compliance with the U.S. EPA's air quality standards. U.S. EPA is expected to adopt tougher air quality standards during the 2011-13 biennium. DOE anticipates that several areas of the state will be at risk for violating the new standards, including the greater Puget Sound area, Yakima, Darrington, and potentially Spokane and Clark counties. Ongoing funding and staff are provided for DOE to identify sources that contribute to each community's pollution levels and develop and implement strategies that will keep these areas in compliance with federal law.

One-time state funding of \$500,000 is provided for continuing Attorney General services and expert-witness costs associated with the Pakootas et al. v. Teck Cominco, Ltd. case concerning a toxic cleanup site on the Upper Columbia River. DOE and the Confederated Tribes of the Colville Reservation are co-plaintiffs in this litigation. The case addresses the liability under federal law for cleanup and natural resource restoration costs at a smelter complex located in British Columbia, Canada.

The sum of \$463,000 in state funding is provided to implement Chapter 122, Laws of 2011 (E2SHB 1186), which requires DOE to engage in rulemaking to establish additional contingency planning and enhanced requirements to prevent oil spills from large ships, as well as to develop the formation of a vessels of opportunity system to be used as a volunteer coordination structure to enhance the state's ability to respond to an oil spill in navigable waters. Natural resource damages are increased for vessels discharging 1,000 or more gallons of oil. The legislation also provides for state notification of vessel emergencies resulting in the discharge of oil or the threat of oil discharge.

Land and Species Management

Recreational Land Access Passes (Discover Pass and Day-Use Permits)

Chapter 320, Laws of 2011 (2SSB 5622), creates the annual Discover Pass and Day-Use Permit and requires these permits to be visible in any vehicle located at state recreational sites or recreation lands managed by the State Parks and Recreation Commission (Parks), WDFW, and the Department of Natural Resources (DNR). Proceeds from fees are expected to raise approximately \$68 million per biennium to support the maintenance and operation of state recreational lands. This legislation was associated with state general fund savings of approximately \$48 million due to the provision of \$20 million to Parks to assist in the transition to reliance on fees from the sale of the Discover Pass and Day-Use Permits during the 2011-13 biennium.

Hunting and Fishing License Fees

Pursuant to Chapter 339, Laws of 2011 (SSB 5385), revenue in the State Wildlife Account is increased by making a variety of changes to licenses and endorsement fee schedules. The revenue generated in this legislation, primarily by adjusting fishing and hunting fees, is estimated to increase revenue to the State Wildlife Account by \$18 million and mitigate a projected shortfall of \$10.5 million in the State Wildlife Account largely related to the expiration of a 10 percent surcharge on fishing and hunting licenses enacted during the 2009-11 biennium.

Fire Suppression Funding

Fire Suppression funding is reduced by \$1.6 million General Fund-State. DNR will reduce discretionary fire training, freeze wages for exempt firefighters, and reorganize administrative support positions in its fire control program.

Other Reductions and Efficiencies

The Waste Reduction, Recycling, and Litter Control Account funds litter prevention and pickup activity within DOE. Appropriation authority in this Account is reduced by \$7.0 million during the 2011-13 biennium, and this amount is transferred to the state general fund on a one-time basis. Remaining resources of approximately

\$6.3 million will allow DOE to operate a scaled-back litter pickup program, maximizing the use of correctional crews.

Savings of \$3.0 million General Fund-State are realized by reductions to regulatory programs in DNR and WDFW: \$2.0 million is reduced for DNR's Forest Practices Program, which provides regulatory information and permits for the harvest of timber; and \$1.0 million is decreased for WDFW's Hydraulic Project Approval Program, which provides regulatory information and permits for construction activity that will use, divert, obstruct, or change the natural flow or bed of state waters.

Approximately \$2.7 million state general fund savings are achieved via the consolidation of administration activities, the assumption of collocation savings and efficiencies, and reductions to executive management positions. These reductions affect the following natural resource agencies: DOE, Parks, WDFW, DNR, and the Washington State Department of Agriculture (WSDA).

The sum of \$1.5 million General Fund-State is reduced from the State Conservation Commission's budget: \$400,000 for grants to conservation districts; and the remaining \$1.1 million of this reduction will be achieved through savings related to vacant positions, service delivery to conservation districts, and reductions in information technology expenditures. In addition, existing staff will take one temporary layoff day each month for the 2011-13 biennium.

Funding is eliminated for the WSDA's Domestic Marketing Program, saving \$911,000 General Fund-State. The Program assists farmers and food producers in identifying and accessing new markets within the state and nation.

Funding is reduced by 50 percent (\$880,000) for the Climate Policy Group (CPG) in DOE. CPG works on the state integrated climate change response strategy, maintaining scientific and technical information on the impacts of climate change in the state, developing greenhouse gas emission reduction strategies, and collaborating with national and regional organizations to address issues related to climate change.

Transportation

The majority of the funding for transportation services is included in the transportation budget, not the omnibus appropriations act. For additional information on funding for these agencies and other transportation funding, see the Transportation section of the Legislative Budget Notes. The omnibus appropriations act only includes a portion of the total funding for the Washington State Patrol (WSP) and the Department of Licensing.

Washington State Patrol

The budget reduces the general fund appropriation by \$5.8 million. The savings are achieved through reductions in agency administration and staffing, reductions in funding for the Methamphetamine Response program and Special Weapons and Tactics program, among others.

A total of \$8 million state general fund is provided to WSP for costs related to fighting wildfires.

An increase of \$1.06 million in state funding is provided to WSP for increased costs of DNA analysis kits and testing.

Department of Licensing

Pursuant to Chapter 298, Laws of 2011 (SHB 2017), the administration of the Master License Service Program is transferred from the Department of Licensing to the Department of Revenue (see Business Licensing Transfer under the Governmental Operations section for details).

Public Schools

Summary Statistics on Total and Percentage Changes in the K-12 Budget

	2009-11 2nd Supp Enacted Operating Budget	2011-13 Enacted Operating Budget**	Difference	Percent Change
NGF-S*	\$12,994,104,000	\$13,783,417,000	\$789,313,000	6.1%
NGF-S Per Pupil Funding	\$6,559	\$6,862	\$303	4.6%

* *Near-General Fund-State: General Fund, Education Legacy Trust Account, and Pension Funding Stabilization Account.*

** *Total budgeted figures include a 1-day delay in a portion of the June general apportionment payment to school districts. This delay has the effect of reducing the budget by \$128 million in fiscal year 2011, and increasing the budget by the same amount in fiscal year 2012.*

Maintenance & Carryforward Level Changes

Enrollment, Workload, and Inflation

State funding in the amount of \$687 million is provided for pension rate increases, student enrollment increases, inflation of non-employee related costs, school bus replacement costs, and other workload adjustments projected for the 2011-13 biennium. Included in this cost is \$428 million for the cost of adopting the pension rates recommended by the Pension Funding Council, \$36 million for projected increases in school bus replacement costs, \$16 million to cover reduced revenue offsets to general apportionment due to the anticipated non-renewal of the federal Secure Rural Schools Act funding, \$31 million for projected increases in teachers earning certification from the National Board for Professional Teaching Standards, among other small changes. Additional costs are incurred at maintenance level to cover the rising scoring and contractor costs of the state's assessment system (\$53 million). As compared to the 2010-11 school year enrollment, the number of full-time equivalent (FTE) students is expected to increase by 6,455 in the 2011-12 school year and 16,722 in the 2012-13 school year.

In addition to maintenance-level changes, net increases of \$276 million are funded for technical carryforward level adjustments. These changes include funding both years of ongoing increases that were made in 2009-11, increasing funding for enrollment and workload, and providing an additional \$78 million for levy equalization for the increase in the base local levy lid from 24 percent to 28 percent enacted by the 2010 Legislature.

I-732 Cost-of-Living Adjustments (COLA)

Initiative 732 (I-732) requires an annual COLA increase for school employees based on the Seattle Consumer Price Index (CPI) for the prior calendar year. Based on the most recent CPI data, these COLA increases are estimated at 0.3 percent for the 2011-12 school year and 2.5 percent for the 2012-13 school year. Additionally, statute requires a catch-up COLA increase resulting from the I-732 suspension during the 2009-11 biennium. This requirement adds an additional 1.2 percent in each school year. Total maintenance-level costs associated with these requirements are \$283 million for the 2011-13 biennium. These requirements are suspended in the final 2011-13 enacted budget.

2011 Uniform Budget

I-728 Student Achievement Fund Allocations

Initiative 728 (I-728), approved by voters in 2000 and later amended by the Legislature, allocates a per-student dollar amount to districts to be used for class-size reduction, extended learning opportunities, early-learning programs, or professional development. If not suspended, per-student allocations would have been approximately \$477 per student for the 2011-12 school year and \$484 per student for the 2012-13 school year. The maintenance-level budget includes approximately \$861 million to fulfill these requirements. These requirements are suspended in the final 2011-13 enacted budget.

Policy Level Reductions

Suspend I-728 Student Achievement Program Allocations

I-728, approved by voters in 2000, allocates a per-student dollar amount to districts to be used for class size reduction, extended learning opportunities, early learning programs, or professional development. I-728 allocations to school districts are suspended for the 2011-13 biennium, resulting in General Fund-state budget reductions of \$861 million.

Plan 1 Uniform COLA Changes

Public Employees' and Teachers' Retirement Systems Plan 1 (PERS Plan 1 and TRS Plan 1) members benefits are no longer increased through the Uniform COLA above the amount in effect on July 1, 2010, unless a retiree qualifies for the basic minimum benefit. Members of PERS Plan 1 and TRS Plan 1 that qualify for the minimum benefit formulas in the plans will continue to receive the Uniform COLA. Within the K-12 budget, the change decreases spending by \$275 million.

Suspend I-732 COLA

I-732 requires an annual COLA increase for school employees based on the Seattle CPI for the prior calendar year. The I-732 COLAs are suspended for the 2011-13 biennium. In addition, the provision is eliminated that required catch-up funding from fiscal year 2012 through fiscal year 2015 for the 2009-11 COLA suspension, resulting in total state budget reductions of \$266 million.

1.9 Percent Salary Reductions for Certificated Instructional & Classified Staff, and 3 Percent Reductions for Administrative Staff

Allocations to school districts for K-12 employee salaries are reduced by 1.9 percent for certificated instructional and classified staff and 3.0 percent for administrative staff in the 2011-12 and 2012-13 school years, or a total state reduction of \$179 million.

Eliminate K-4 Class-Size Reduction

Continuing the policy in Chapter 5, Laws of 2011, Partial Veto (ESHB 1086), funding for the K-4 class size reduction is eliminated for the 2011-12 and 2012-13 school years. The formula for allocating funding to districts is adjusted to reflect the following changes in average class sizes: grades Kindergarten through Grade 3 will become 25.23, up from 23.11; and Grade 4 will become 27, up from 26.15. This reflects minimum statutory funding levels in grades K-4 for general education students and reduces General Fund-state funding by \$170 million. Separately, partial class-size reduction funding is restored for high-poverty schools (see below).

National Board Bonus Changes

Two changes are made to the National Board for Professional Teaching Standards (NBPTS) bonus program. Beginning in the 2011-12 school year, the Office of Superintendent of Public Instruction (OSPI) must pay bonuses on July 1 of each school year, achieving a one-time savings in fiscal year 2012 of approximately \$58 million. Additionally, first-year national board bonuses will be prorated by a factor of 60 percent (a 40 percent reduction); to reflect the percentage of the school year newly NBPTS-certified teachers are certified. The proration produces a first year base bonus amount of \$3,054, and a first year high-poverty school bonus of \$3,000.

With the exception of the first year proration, the \$5,090 base bonus and \$5,000 high-poverty school bonus are fully funded in the 2011-13 biennium. National Board bonus changes result in General Fund-state savings of \$61 million.

Assessment System Changes

State funding for student assessments is reduced by \$51 million to reflect several changes: the implementation of modified graduation requirements in math and science, reductions to assessment staffing, reductions in collections-of-evidence costs, and a shifting of diagnostic testing costs from state to federal sources.

Chapter 22, Laws of 2011, 1st sp.s. (ESHB 1410), requires students, starting with the class of 2015 rather than 2013, to meet the state standard on the high school science assessment to earn a Certificate of Academic Achievement (CAA), which is required for graduation. It also establishes the Biology end-of-course (EOC) assessment as the high school science assessment. Chapter 25, Laws of 2011 (HB 1412), allows students in the classes of 2013 and 2014 to pass one math EOC assessment (rather than two) for purposes of high school graduation and also specifies that retakes of the math assessment will be based on an EOC test, not a comprehensive math test.

In addition to the savings resulting from ESHB 1410 and HB 1412, which total \$37.3 million, the reductions also include \$1.4 million in assessment staff reductions, \$6.4 million in assessment contract cost savings, and \$4.4 million from eliminating state allocations for diagnostic assessments funding. Included in the savings estimate for ESHB 1410 and HB 1412 are reductions to the per-test rates paid for collections-of-evidence (COE), as well the impact of limiting the state subsidy to one COE per student in each subject area. An additional savings of approximately \$1 million is assumed by restricting payment for collections, which do not meet minimum submission requirements.

Alternative Learning Experience (ALE) Changes

Funding is adjusted downward by \$41 million to reflect the changes to ALE programs in Chapter 34, Laws of 2011, 1st sp.s. (ESHB 2065). The ALE programs include online learning programs, as well as parent partnership and contract programs where most education occurs outside the traditional school setting in a more flexible, non-seat time based learning program. Funding is reduced, in aggregate, by 15 percent for ALE programs. OSPI is tasked with determining the methodology for achieving the savings based on specific criteria established by ESHB 2065 and requires that no particular ALE program take less than a 10 percent reduction or more than a 20 percent reduction.

Eliminate Maintenance, Supplies, and Operating Costs (MSOC) from K-4 Class-Size Reduction Funding

Continuing the policy in Chapter 5, Laws of 2011, Partial Veto (ESHB 1086), funding is adjusted to eliminate that portion of MSOC funding for the 2011-12 and 2012-13 school years that is an enhancement above levels required by statute. The new K-12 funding formula adopted pursuant to Chapter 236, Laws of 2010, Partial Veto (SHB 2776), changed the allocation methodology for non-salary related items. In the prior formula, funding was allocated on a per-certificated staff unit basis. Beginning September 1, 2011, non-salary funding is allocated on a per-student basis. As a result of the new formula, \$24 million of the funding for MSOC for 2011-13 is considered an enhancement to basic education, because it was previously allocated on the basis of non-basic education staff units, and is eliminated in the enacted budget.

Reduce Food Service Funding

Continuing the policy in Chapter 5, Laws of 2011, Partial Veto (ESHB 1086), \$6 million in state funds for the National School Lunch Program previously used to meet state matching requirements for federal funding are eliminated. School food-service programs in the education reform budget are transferred to the school food-services budget for the purpose of meeting the federal match requirements.

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Running Start

Running Start is a dual-credit program that allows high school juniors and seniors to attend class at institutions of higher education and earn high school and postsecondary credits simultaneously. The enrollment and funding rules for the Running Start Program are adjusted to establish a combined enrollment cap of 1.2 FTEs. Currently, students can participate in running start programs up to a combined enrollment cap of 2.0 FTEs, allowing full-time enrollment in running start programs, as well as full-time high school enrollment. The budgeted savings of \$6 million, General Fund-state, assumes an overall enrollment reduction of 680 student FTEs per year.

Policy Level Enhancements

K-3 Class Size in High Poverty Schools

Funding is provided for lower class sizes in grades K-3 in high-poverty schools. The funding amount of \$34 million assumes class sizes of 24.1 in grades K-3 in schools that have free and reduced-price lunch eligible student populations exceeding 50 percent in the most recently completed school year.

Implement New Funding Formula

Implementation of the new prototypical school model has established new funding formulas for a number of programs, including General Apportionment, the Learning Assistance Program, the Highly Capable Program, and the Transitional Bilingual Program. State funding of \$25 million is provided to hold districts harmless, in total, to per-student funding amounts resulting from these formula changes, after adjustments for staff mix, and other caseload factors. The policy calculates the hold harmless amount *before* considering new funding provided through inflationary increases to maintenance, supplies, and other operating costs, but *after* considering new funding provided through the K-3 class size enhancement in high poverty schools. Because of the high correlation of districts with large high-poverty school populations and districts receiving hold harmless funding, the K-3 class size funding for high-poverty schools reduces hold harmless funding at approximately a 2:1 ratio.

Full-Day Kindergarten Phase-In

A total of \$5 million, General Fund-state, is provided to continue phasing in full-day kindergarten programs in high-poverty schools. The funding supports approximately 21 percent of kindergarten enrollment in the 2011-12 school year, and 22 percent of kindergarten enrollment in the 2012-13 school year. This is calculated to add 265 total FTE students in the 2011-12 school year, and 835 students in the 2012-13 school year. The Office of the Superintendent of Public Instruction will phase in new schools within the limits of these additional student FTEs.

Implement Transportation Cost Model Formula

Chapter 236, Laws of 2010, Partial Veto (SHB 2776), implements a new state formula to allocate funding to districts for pupil transportation to and from school. Pupil transportation allocations are converted to the new formula, and base funding levels are enhanced by \$5 million, in addition to maintenance-level increases for student enrollment and staff pension costs.

Additionally, Chapter 27, Laws of 2011, 1st sp.s., Partial Veto (ESSB 5919), modifies the pupil transportation funding formula to: include only statistically significant cost factors in the funding formula utilizing regression analysis; utilize state allocations for compensation rather than district actual expenditures; and clarify that the indirect cost rate referenced in the formula is the federal restricted indirect rate.

Information Technology K-12 Academy

Funding of is provided for an Information Technology (IT) Academy Program, which provides free educational software, as well as IT certification and software training opportunities for students and staff in public schools. The academy provides access to software licenses, and Web-based e-Learning and course materials. Topics range from computer basics to high-level programming, along with information and communications technology management. Students, as well as teachers and administration personnel, can use the training to get certified in a wide variety of IT areas, including Microsoft Office (which includes Word, Excel, PowerPoint and Access) as

well as advanced technical topics including programming, network administration, web development, and database development. The funding amount of \$4 million represents the state match requirement for the program, which is the product of a public-private partnership.

Pay for Actual Student Success (PASS) Act Program

Funding in the amount of \$3 million is provided to implement the PASS Program established in Chapter 288, Laws of 2011, Partial Veto (E2SHB 1599). The PASS Program establishes performance metrics for measuring extended graduation rates and promotes investment in four dropout prevention and intervention programs.

Teacher and Principal Performance-Based Evaluation Pilots

Funding in the amount of \$3 million is provided to support district participation in the development and implementation of improved teacher and principal evaluation systems under reforms initiated in Chapter 235, Laws of 2010 (E2SSB 6696).

Other

June 2011 Apportionment

The 2011-13 operating budget delays \$128 million of the June 2011 apportionment payments to school districts from the last business day of June 2011 to the first business day of July 2011. Additionally, the 2011 supplemental budget also provides \$13 million in financial contingency funding for districts that meet specific financial hardship criteria resulting from the June 2011 apportionment shift. The 2011-13 biennial budget assumes repayment of this funding during fiscal year 2012. The net increase for the 2011-13 budget, combining the apportionment delay with the repayment of contingency funds, is \$115 million.

Various Reductions

A total of \$64 million in additional savings are realized through a variety of other budget reductions. The largest of these reductions and adjustments include continuation of policy reductions (such as elimination of K-4 class size enhancements) made in the 2010-11 school year for July and August of the 2012 fiscal year (\$20.9 million), adjusting full day kindergarten allocations for reduced pension and salary rates, increased class size, and other general apportionment factors (\$8.4 million), projected savings from a teacher retirement incentive program offering \$250 monthly stipends for health benefit costs (\$7.2 million), elimination of math and science professional development grants (\$3.9 million), reductions to the alternative route program (\$3.2 million), and elimination of state funding for the focused assistance program (\$3.0 million), among other smaller changes.

2011 Session Bills

The 2011-13 budget includes funding for the following bills (see table starting on the next page):

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2011 Session Bills Funded in Omnibus Appropriation Act			
Bill Number	Chapter Law	Funding in Millions	Description
2SHB 1163	Chapter 185, Laws of 2011	0.112	Creates a workgroup on school bullying and harassment prevention to develop, recommend, and implement strategies to improve the school climate and create respectful learning environments. The bill also requires suicide prevention education to be included in health and fitness classes.
ESSB 5919	Chapter 27, Laws of 2011, 1 st sp.s., PV	-3.1	Makes several changes to K-12 funding formulas and amends requirements for two statewide programs. Clarifies that increases in instructional-hour minimum requirements will not occur prior to the 2014-15 school year. Makes changes or clarifications to the pupil transportation funding formula including requiring: the use of budgeted rather than actual salary and benefit growth in formula calculations; exclusion of statistically non-significant factors in the funding formula; the use of the federal restricted indirect rate as the designated indirect cost rate; and exclusion of in-lieu bus depreciation payments from prior year expenditures for contracting districts. Additionally, the bill amends bilingual funding formulas so the size of the per-student allocation may be scaled based on fluency level and need, with the intent of maintaining the overall program funding level. Finally, the bill provides that SPI is responsible for staffing Career & Technical Education (CTE) student organizations only to the extent that funds are available and sets the expiration date of the special services pilot program for March 1, 2011, instead of June 30, 2011. Savings include \$284,000 by assuming that, in school year 2012-13, every bilingual student will be tested for proficiency and historical exit rates will apply; \$2.7 million from expiration of the special services pilot; and \$194,000 in staffing cost reductions for support of CTE student organizations.
ESHB 1410	Chapter 22, Laws of 2011 1 st sp.s.	-20.5	Requires students starting with the class of 2015, rather than 2013, to meet the state standard on the high school science assessment to earn a Certificate of Academic Achievement (CAA), which is required for graduation. Establishes the Biology end-of-course assessment (EOC) as the high school science assessment. Funding reduction primarily reflects reduction in test scoring costs and collections-of-evidence costs.
HB 1412	Chapter 25, Laws of 2011	-16.8	Allows students in the classes of 2013 and 2014 to pass one math end-of-course assessment (rather than two) for purposes of high school graduation. Provides that retakes of the math assessment will be based on an EOC, not a comprehensive math test. Funding reduction primarily reflects reduction in test scoring costs and collections-of-evidence costs.
SHB 1431	Chapter 192, Laws of 2011	0.166	Directs OSPI to convene the Educational Service Districts (ESDs) to conduct an analysis and recommend a clear legal framework and process for dissolution of a school district on the basis of financial insolvency.
E2SHB 1599	Chapter 288, Laws of 2011, PV	3.0	Creates the PASS Program to invest in proven prevention programs and provide a financial award for high schools that demonstrate improvement in dropout reduction indicators. Directs OSPI to create a metric to measure improvement and assign a dropout prevention score. Specifies four programs for investment in dropout prevention and intervention, subject to funding. Partial Veto: the intent section was vetoed. Proviso language in budget prohibits use of funding in 2011-13 for funding awards based on dropout prevention.
2SSB 5427	Chapter 340, Laws of 2011	0.900	Beginning 2012-13, to the extent funds are available, requires state-funded full-day kindergarten programs to use the WAKIDS kindergarten readiness assessment. Authorizes OSPI to make the assessment available on a voluntary basis in 2011-12. Directs OSPI and the Department of Early Learning to ensure a fairness and bias review has been conducted. Adds a waiver process for school districts. Funding amount assumes availability of private and federal funding.
HB 1131	Chapter 17, Laws of 2011, 1 st sp.s.	-861	Suspends allocations to the Student Achievement Program during the 2011-13 biennium. Eliminates "catch up" provision that required additional allocations to make up for prior program suspensions.
2SHB 1132	Chapter 18, Laws of 2011, 1 st sp.s.	-265	Suspends cost of living salary adjustments to school districts for school district employees and certain higher education employees, as well as "make-up" adjustments from prior biennia. Suspends requirements for COLA for bonuses paid to staff earning certification from the NBPTS, among other smaller adjustments.

2011 Session Bills Funded in Omnibus Appropriation Act			
Bill Number	Chapter Law	Funding in Millions	Description
ESHB 2065	Chapter 34, Laws of 2011, 1 st sp.s.	-41	Reduces funding for ALE programs by 15 percent, overall. OSPI is tasked with determining the methodology for achieving the savings and requires that no particular ALE program take less than a 10 percent reduction or more than a 20 percent reduction. Makes a variety of other programmatic changes.
SHB 2021	Chapter 362, Laws of 2011	-275	PERS Plan 1 and TRS Plan 1 member benefits are no longer increased through the Uniform COLA above the amount in effect on July 1, 2010, unless a retiree qualifies for the basic minimum benefit. Note: This legislation is not limited to the K-12 budget and is additionally summarized in the compensation section of the budget notes, along with other global budget items.
ESHB 1354	Chapter 4, Laws of 2011, 1 st sp.s.	-128	Enables a one-day delay in a portion of the June school apportionment funding payment to school districts. This has the effect of reducing fiscal year 2011 expenditures by \$128 million and increasing fiscal year 2012 expenditures by the same amount.

Higher Education

Overview

Overall, 2011-13 biennial state appropriations to the public colleges and universities are \$658.5 million (23.6 percent) below the level appropriated in the 2009-11 biennium. Approximately \$376.4 million of this reduction will be offset by tuition increases. Revenue from tuition increases are assumed to be 16 percent per year at the University of Washington (UW), Washington State University (WSU), and Western Washington University (WWU); 14 percent each year at Central Washington University (CWU) and The Evergreen State College (TESC); 11 percent each year at Eastern Washington University (EWU); and 12 percent each year at the community and technical colleges.

State supported four-year institutions were also provided full tuition setting authority beginning in the 2011-13 biennium through the 2017-19 biennium pursuant to Chapter 10, Laws of 2011, 1st sp.s., Partial Veto (E2SHB 1795 – Higher Education Opportunity Act). In addition to resident undergraduate tuition setting authority, this legislation requires institutions to negotiate a performance plan with the Office of Financial Management that, at a minimum, includes expected outcomes for time and credits to degree; retention and success of students from low-income, diverse, or underrepresented communities; baccalaureate degree production of resident students; and degree production in high-demand fields of study. Additionally, any four-year institution that increases tuition beyond the levels assumed in the omnibus appropriations act will be required to mitigate any additional tuition increase, as prescribed in the legislation, for those students with incomes below 125 percent of the median family income.

Major Increases

Maintain Financial Aid Policy

Funding of \$124.4 million is provided for the State Need Grant and State Work Study programs to offset the cost to recipients of resident undergraduate tuition increases of 16 percent each year at UW, WSU, and WWU; 14 percent each year at CWU and TESC; 11 percent at EWU; and 12 percent each year at the community and technical colleges.

Worker Retraining

A total of \$9.0 million in funding is provided for an additional 970 worker retraining slots each year at community and technical colleges. Worker retraining programs provide financial aid and other support services to jobless workers who need to change careers in order to re-enter the workforce.

Opportunity Scholarships

Pursuant to Chapter 13, Laws of 2011, 1st sp.s (ESHB 2088 – Opportunity Scholarship Board), a total of \$5.0 million in state matching funds are provided to match private contributions to the Opportunity Scholarship Program, which provides scholarships to low- and middle-income students who pursue a four-year degree in a high-demand field of study.

Washington/Wyoming/Alaska/Montana/Idaho (WWAMI) Medical Education Program

A total of \$900,000 is provided for development of integrated medical curriculum for the WWAMI Medical Education Program at UW and for expansion of the program at WSU.

Aerospace Training Scholarships and Loans

A total of \$500,000 is provided to implement a loan program for students in certain aerospace training or educational programs pursuant to Chapter 8, Laws of 2011 (ESHB 1846 – Aerospace Student Loans).

Institutional Reductions

A total of \$535.5 million in savings will be achieved with general reductions to the institutions and an additional \$82.1 million in savings will be realized as a result of a 3 percent salary reduction. These reductions will be partially offset by tuition increases of \$376.4 million, for an overall net reduction of 5.1 percent. For additional information on the salary reductions, please see the Special Appropriations Section of this document.

Financial Aid Reductions

State Work Study

A total of \$31.0 million in funding for the State Work Study program is reduced by: 1) making permanent changes made during fiscal year 2011, including increasing the required employer share of wages and discontinuing non-resident student eligibility for the program; and 2) adjusting employer match rates and revising distribution methods to institutions by taking into consideration other factors such as off-campus job development, historical utilization trends, and student need.

State Need Grant

A total of \$16.7 million in funding for the State Need Grant program is reduced by: 1) aligning increases in awards given to private institutions with their average annual tuition increase experience of 3.5 percent each year, as opposed to increasing private institution award amounts at the same rate as for public institutions; and 2) reducing the awards given to for-profit institutions by 50 percent, although students currently receiving these awards will be held harmless for the length of their program.

Additional Financial Aid Reductions

State funds are reduced by \$18.8 million for a variety of smaller financial aid programs administered by the Higher Education Coordinating Board (HECB), including suspending new awards in the Washington Scholars and Washington Award for Vocational Excellence (WAVE) programs; suspension of new awards from the health professionals and future teacher conditional scholarship programs; elimination of the funds for the Educational Opportunity Grants pursuant to Chapter 215, Laws of 2009, Partial Veto (E2SHB 2021), which placed the eligibility of this program into the State Need Grant; and suspension of Community Scholarship Matching Grant Program, the Foster Care Endowed Scholarship, and student support fees provided via the Western Interstate Commission for Higher Education. Students who are currently receiving awards through Washington Scholars, WAVE, the health professionals' conditional scholarship program, or the future teacher conditional scholarship program will not be impacted by this reduction.

Other Reductions

Community and Technical Colleges Efficiencies

General fund savings of \$7.5 million are achieved from various efficiencies implemented in the community and technical college system including: consolidation of college districts; consolidation of administrative and governance functions including, but not limited to, human resources, budget and accounting services, and president's offices; consolidation of student service functions including, but not limited to, financial aid services, student advising, and libraries; compensation reductions; and other administrative efficiencies including, but not limited to, greater use of telephone and video conferencing and reduced travel costs.

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Elimination of the Higher Education Coordinating Board

Pursuant to Chapter 11, Laws of 2011, 1st sp.s., Partial Veto (E2SSB 5182 – Student Financial Assistance), in fiscal year 2013, the HECB is eliminated and replaced with two state agencies: the Council for Higher Education and the Office of Student Financial Assistance. Savings of \$2.6 million in general fund are achieved as a result of eliminating, or shifting to other entities, a number of policy, planning, coordination, and research activities previously conducted by HECB.

Life Transitions Program

Funding is eliminated for the Displaced Homemaker program, also known as the Life Transitions Program, for a total savings of \$824,000. This program is administered by the State Board for Community and Technical Colleges and assists individuals who are dealing with the challenges of re-entering the workforce after a divorce or the death or disability of a spouse or partner.

Other Education

Department of Early Learning

Savings of \$3.0 million state general fund are achieved through the elimination of the Career and Wage Ladder program. The program contracted with approximately 55 childcare centers in the state to provide increases in pay for employees, based on education and longevity.

Funding for the Early Childhood Education and Assistance Program (ECEAP) is increased by \$2.3 million. The increased funding is a result of a greater award in the federal Child Care and Development Fund Block Grant.

Funding for home visiting services is increased by \$3.9 million total funds (\$1.3 million General Fund-State) is provided in the 2011-13 biennium. Funds are directed for deposit into the Home Visiting Services Account.

The Medicaid Treatment Child Care program is transferred to the Department of Early Learning from the Department of Social and Health Services Children's Administration. This is a transfer of \$9.4 million (\$5.0 million General Fund-State).

Arts and Heritage Agencies Funding Shift

All Near General Fund-State support for the operating expenses of the Arts Commission, the Washington State Historical Society, and the Eastern Washington State Historical Society are eliminated and supplanted with funds from the Washington State Heritage Center Account. Over \$9.4 million in operating expenses for these agencies are supported by the fee revenue previously collected for the Heritage Center project, a facility in the planning stages of construction on the Capitol Campus that would house the State Library and Archives. The redistribution of funds is one-time and ongoing fee revenue remains dedicated to the Heritage Center project.

Special Appropriations

Employee compensation related changes are displayed in individual agency budgets, including the Office of the Superintendent of Public Instruction and the institutions of higher education.

Special Appropriations (Non-Compensation Related Items)

Central Services Efficiencies

The Department of Enterprise Services, created in Chapter 43, Laws of 2011, 1st sp.s. Partial Veto (ESSB 5931), will achieve \$1.9 million in state general fund savings by more efficiently delivering services. Savings may be generated from eliminating under-utilized services, reviewing rates charged to agencies, eliminating or merging duplicated services, procuring services differently, including contracting for services, and other efficiency measures.

Workers Compensation

Savings of \$6 million state general fund are achieved pursuant to Chapter 37, Laws of 2011, 1st sp.s. (EHB 2123). The legislation makes a number of changes including authorizing claim resolution structured settlement agreements for workers age 55 or older with a phase in to younger workers over time. The state general fund savings are from reduced workers compensation charges to the state.

Special Appropriations (Compensation Related Items)

Health Care Authority

K-12 Health Benefits Consolidated Purchasing Implementation Plan

Funding of \$1.2 million is provided to the Health Care Authority (HCA). HCA must develop a plan to implement a consolidated health benefits system for K-12 employees for the 2013-14 school year. HCA is required to deliver a report to the Legislature by December 15, 2011, that sets forth the implementation plan. The report prepared by HCA shall include a comparison of the costs and benefits, both long and short term, of the current K-12 health benefits system, the creation of a new K-12 employee benefits pool, and the prospect of enrolling K-12 employees into the health benefits pool for state employees.

State Employee Compensation

Average Final Salary Adjustments for Retiring Employees

Funding of \$0.7 million state general fund and \$0.6 million in other funds is provided for the pension rate impacts from adjusting Average Final Compensation for state or local government employee members of the state retirement systems who have reduced compensation during the 2011-13 biennium due to reduced work hours, mandatory leave without pay, temporary layoffs, or salary reductions that affect pension benefit calculations and would otherwise have reduced benefits, pursuant to Chapter 5, Laws of 2011, 1st sp.s. (HB 2070). Additional funding for the impact on state-funded employees in the K-12 system is included in school district allocations.

Eliminate Future Plan 1 Annual Increases

Savings are assumed from changes pursuant to Chapter 362, Laws of 2011 (SHB 2021). The Public Employees' Retirement System Plan 1 and the Teachers' Retirement System Plan 1 (PERS and TRS Plans 1) annual increase amount, commonly referred to as the "Uniform COLA" was created in 1995 and is an automatic, annual, service-based adjustment paid every July 1.

The annual increase amount is payable on the first calendar year in which the recipient turns age 66 and has been retired for one year. The annual increase amount is not a percentage increase but instead is a fixed dollar amount multiplied by the member's total years of service. The dollar amount of the annual increase is currently \$1.88 and increases by 3 percent every year on July 1. For a member with 30 years of service, this would have most recently increased the member's benefit by \$56.40 per month.

Statute specifies that members and retirees do not have a contractual right to future annual increases.

Savings are achieved by ending future automatic benefit increases in the PERS and TRS Plans 1 consistent with the passage of Chapter 362, Laws of 2011 (SHB 2021). The basic minimum benefit amount in the plans continues to be increased by the annual increase amount, and the alternative minimum benefit is raised to \$1,500 per month. The unfunded accrued actuarial liability in PERS and TRS Plans 1 is reduced by about \$4 billion.

3 Percent Salary Reduction for State Employees

Savings of \$175.8 million state general fund and \$85.4 million in other funds are achieved as a result of a 3 percent cost savings in employee salaries, excluding several groups of employees including: those earning less than \$2,500 per month; certain employees of the Washington State Patrol and the Washington State Department of Transportation; and others, consistent with Chapter 39, Laws of 2011, 1st sp.s. (ESSB 5860). The reduction is temporary through the 2011-13 biennium only.

The reductions will be implemented consistent with collective bargaining agreements ratified for the 2011-13 biennium, or for represented groups that are considered for fiscal year 2012 to be in the "tail" or continuing year of a 2009-11 collective bargaining agreement, the reduction will be implemented according to the terms and conditions of the 2009-11 agreements. Employees subject to the 3.0 percent reduction in salary and otherwise eligible for leave will receive temporary salary reduction leave of up to 5.2 hours per month.

For fiscal year 2013, funding levels in agency budgets are reduced to reflect a 3.0 percent temporary reduction for all salary expenditures not exempted by ESSB 5860. State institutions of higher education are similarly required to implement compensation reductions equivalent to the 3 percent reduction amounts referenced in the omnibus appropriations act.

Management Efficiencies

Savings of \$14.2 million state general fund are achieved based on management efficiencies. Agencies are required to implement management and administrative reforms, such as de-layering and streamlining of support functions that will result in increased efficiency and reduce agency expenditures. For most agencies, management reductions of 7 to 10 percent are expected to be achieved over the course of the biennium. State agencies can anticipate continuous legislative policy and fiscal committee examination of the architecture and cost of the state's career and executive workforce and shall be prepared to provide relevant information in hearings and work sessions.

Washington State Omnibus Operating Budget

2011 Supplemental Budget

TOTAL STATE

(Dollars in Thousands)

	Near General Fund-State			Total All Funds		
	2009-11	2011 Supp *	Rev 2009-11	2009-11	2011 Supp *	Rev 2009-11
Legislative	153,900	-4,081	149,819	158,277	-4,081	154,196
Judicial	228,493	-4,670	223,823	273,554	-6,669	266,885
Governmental Operations	464,535	-15,372	449,163	3,921,845	-57,729	3,864,116
Other Human Services	2,214,952	-110,601	2,104,351	5,187,799	-87,654	5,100,145
DSHS	8,761,093	-33,083	8,728,010	21,262,641	-264,759	20,997,882
Natural Resources	372,107	-13,820	358,287	1,494,562	-12,627	1,481,935
Transportation	77,996	-3,396	74,600	195,202	-3,396	191,806
Public Schools	13,442,302	-448,198	12,994,104	15,909,596	3,832	15,913,428
Higher Education	3,094,912	-76,276	3,018,636	9,453,410	-76,174	9,377,236
Other Education	125,446	-3,550	121,896	496,323	-2,575	493,748
Special Appropriations	2,035,286	16,355	2,051,641	2,229,691	11,439	2,241,130
Statewide Total	30,971,022	-696,692	30,274,330	60,582,900	-500,393	60,082,507

* Includes Omnibus Operating Budget appropriations enacted in December 2010 and from the 2011 legislative session -- Chapter 1, Laws of 2010, 2nd sp.s. (HB 3225 - December 2010 Early Action Savings Bill), Chapter 5, Laws of 2011, Partial Veto (ESHB 1086 - February 2011 Early Action Savings Bill), and Chapter 50, Laws of 2011, 1st sp.s., Partial Veto (2ESHB 1087 - Supplemental Budget Bill).

2011 Supplemental Operating Budget

Washington State Omnibus Operating Budget

2011 Supplemental Budget

LEGISLATIVE AND JUDICIAL

(Dollars in Thousands)

	Near General Fund-State			Total All Funds		
	2009-11	2011 Supp *	Rev 2009-11	2009-11	2011 Supp *	Rev 2009-11
House of Representatives	65,651	-1,228	64,423	65,651	-1,228	64,423
Senate	50,591	-1,623	48,968	50,591	-1,623	48,968
Jt Leg Audit & Review Committee	6,026	-198	5,828	6,026	-198	5,828
LEAP Committee	3,664	-120	3,544	3,664	-120	3,544
Office of the State Actuary	220	-1	219	3,525	-1	3,524
Joint Legislative Systems Comm	17,158	-535	16,623	17,158	-535	16,623
Statute Law Committee	9,475	-306	9,169	10,547	-306	10,241
Redistricting Commission	1,115	-70	1,045	1,115	-70	1,045
Total Legislative	153,900	-4,081	149,819	158,277	-4,081	154,196
Supreme Court	13,860	-24	13,836	13,860	-24	13,836
State Law Library	3,584	-63	3,521	3,584	-63	3,521
Court of Appeals	31,601	-376	31,225	31,601	-376	31,225
Commission on Judicial Conduct	2,107	0	2,107	2,107	0	2,107
Administrative Office of the Courts	105,206	-3,366	101,840	146,189	-5,365	140,824
Office of Public Defense	49,976	-303	49,673	52,899	-303	52,596
Office of Civil Legal Aid	22,159	-538	21,621	23,314	-538	22,776
Total Judicial	228,493	-4,670	223,823	273,554	-6,669	266,885
Total Legislative/Judicial	382,393	-8,751	373,642	431,831	-10,750	421,081

2011 Supplemental Operating Budget

Washington State Omnibus Operating Budget

2011 Supplemental Budget

GOVERNMENTAL OPERATIONS

(Dollars in Thousands)

	Near General Fund-State			Total All Funds		
	2009-11	2011 Supp *	Rev 2009-11	2009-11	2011 Supp *	Rev 2009-11
Office of the Governor	11,541	-359	11,182	13,041	-359	12,682
Office of the Lieutenant Governor	1,517	-83	1,434	1,612	-83	1,529
Public Disclosure Commission	4,461	-245	4,216	4,461	-245	4,216
Office of the Secretary of State	36,134	-142	35,992	107,694	-142	107,552
Governor's Office of Indian Affairs	537	-29	508	537	-29	508
Asian-Pacific-American Affrs	452	-15	437	452	-15	437
Office of the State Treasurer	0	0	0	14,686	0	14,686
Office of the State Auditor	1,439	-79	1,360	73,243	-79	73,164
Comm Salaries for Elected Officials	374	-13	361	374	-13	361
Office of the Attorney General	11,580	-580	11,000	241,946	4,421	246,367
Caseload Forecast Council	1,508	-84	1,424	1,508	-84	1,424
Dept of Financial Institutions	0	0	0	44,476	0	44,476
Department of Commerce	90,147	-3,767	86,380	578,327	-1,529	576,798
Economic & Revenue Forecast Council	1,483	-49	1,434	1,483	-49	1,434
Office of Financial Management	41,634	-2,549	39,085	138,540	-2,549	135,991
Office of Administrative Hearings	0	0	0	34,028	827	34,855
Department of Personnel	0	0	0	61,624	0	61,624
State Lottery Commission	0	0	0	900,705	0	900,705
Washington State Gambling Comm	0	0	0	33,755	0	33,755
WA State Comm on Hispanic Affairs	505	-29	476	505	-29	476
African-American Affairs Comm	479	-15	464	479	-15	464
Department of Retirement Systems	0	0	0	52,916	0	52,916
State Investment Board	0	0	0	29,352	0	29,352
Public Printer	0	0	0	19,859	0	19,859
Department of Revenue	221,791	-5,150	216,641	240,877	-5,650	235,227
Board of Tax Appeals	2,664	-124	2,540	2,664	-124	2,540
Municipal Research Council	0	0	0	2,729	0	2,729
Minority & Women's Business Enterp	0	0	0	3,674	0	3,674
Dept of General Administration	4,778	-439	4,339	190,642	-345	190,297
Department of Information Services	2,166	-68	2,098	260,358	-68	260,290
Office of Insurance Commissioner	0	0	0	50,391	0	50,391
State Board of Accountancy	0	0	0	3,649	0	3,649
Forensic Investigations Council	0	0	0	280	0	280
Washington Horse Racing Commission	0	0	0	10,321	0	10,321
WA State Liquor Control Board	0	0	0	244,701	-17	244,684
Utilities and Transportation Comm	0	0	0	41,719	0	41,719
Board for Volunteer Firefighters	0	0	0	1,052	0	1,052
Military Department	18,224	-984	17,240	377,096	-984	376,112
Public Employment Relations Comm	5,302	-291	5,011	8,815	-291	8,524
LEOFF 2 Retirement Board	0	0	0	2,027	0	2,027
Archaeology & Historic Preservation	2,753	-185	2,568	5,360	-185	5,175
Growth Management Hearings Board	3,066	-93	2,973	3,066	-93	2,973
State Convention and Trade Center	0	0	0	116,821	-50,000	66,821
Total Governmental Operations	464,535	-15,372	449,163	3,921,845	-57,729	3,864,116

Washington State Omnibus Operating Budget

2011 Supplemental Budget

HUMAN SERVICES

(Dollars in Thousands)

	Near General Fund-State			Total All Funds		
	2009-11	2011 Supp *	Rev 2009-11	2009-11	2011 Supp *	Rev 2009-11
WA State Health Care Authority	365,069	-47,915	317,154	642,472	-41,720	600,752
Human Rights Commission	5,149	-161	4,988	6,733	-161	6,572
Bd of Industrial Insurance Appeals	0	0	0	36,298	0	36,298
Criminal Justice Training Comm	35,116	-1,040	34,076	43,014	-373	42,641
Department of Labor and Industries	44,311	-1,460	42,851	626,212	-252	625,960
Indeterminate Sentence Review Board	3,746	-207	3,539	3,746	-207	3,539
Home Care Quality Authority	1,229	0	1,229	1,229	0	1,229
Department of Health	180,149	-9,466	170,683	1,142,820	-8,785	1,134,035
Department of Veterans' Affairs	19,316	-2,481	16,835	113,266	733	113,999
Department of Corrections	1,546,956	-46,700	1,500,256	1,779,452	-46,699	1,732,753
Dept of Services for the Blind	4,894	-232	4,662	24,905	118	25,023
Sentencing Guidelines Commission	1,910	-105	1,805	1,910	-105	1,805
Employment Security Department	7,107	-834	6,273	765,742	9,797	775,539
Total Other Human Services	2,214,952	-110,601	2,104,351	5,187,799	-87,654	5,100,145

2011 Supplemental Operating Budget

Washington State Omnibus Operating Budget

2011 Supplemental Budget

DEPARTMENT OF SOCIAL & HEALTH SERVICES

(Dollars in Thousands)

	Near General Fund-State			Total All Funds		
	2009-11	2011 Supp *	Rev 2009-11	2009-11	2011 Supp *	Rev 2009-11
Children and Family Services	622,674	-21,605	601,069	1,143,579	-34,881	1,108,698
Juvenile Rehabilitation	201,198	-8,634	192,564	216,471	-8,583	207,888
Mental Health	806,672	-19,116	787,556	1,573,678	-23,676	1,550,002
Developmental Disabilities	775,340	-7,629	767,711	1,922,104	-49,808	1,872,296
Long-Term Care	1,255,372	16,020	1,271,392	3,230,810	-21,937	3,208,873
Economic Services Administration	1,145,701	-13,776	1,131,925	2,425,685	38,924	2,464,609
Alcohol & Substance Abuse	164,375	-4,575	159,800	334,326	10	334,336
Medical Assistance Payments	3,487,176	25,012	3,512,188	9,890,632	-164,219	9,726,413
Vocational Rehabilitation	20,404	-639	19,765	134,341	-672	133,669
Administration/Support Svcs	62,986	-4,099	58,887	115,248	-5,624	109,624
Special Commitment Center	95,749	2,209	97,958	95,749	2,209	97,958
Payments to Other Agencies	123,446	3,749	127,195	180,018	3,498	183,516
Total DSHS	8,761,093	-33,083	8,728,010	21,262,641	-264,759	20,997,882
Total Human Services	10,976,045	-143,684	10,832,361	26,450,440	-352,413	26,098,027

Washington State Omnibus Operating Budget

2011 Supplemental Budget

NATURAL RESOURCES

(Dollars in Thousands)

	Near General Fund-State			Total All Funds		
	2009-11	2011 Supp *	Rev 2009-11	2009-11	2011 Supp *	Rev 2009-11
Columbia River Gorge Commission	881	-28	853	1,756	-56	1,700
Department of Ecology	111,277	-6,333	104,944	446,022	-7,409	438,613
WA Pollution Liab Insurance Program	0	0	0	1,639	0	1,639
State Parks and Recreation Comm	43,487	-2,036	41,451	151,172	-2,573	148,599
Rec and Conservation Funding Board	2,966	-169	2,797	17,887	-26	17,861
Environmental Hearings Office	2,212	-70	2,142	2,212	-70	2,142
State Conservation Commission	14,803	-497	14,306	15,981	-497	15,484
Dept of Fish and Wildlife	75,600	-3,284	72,316	326,828	-164	326,664
Puget Sound Partnership	6,007	-339	5,668	14,508	543	15,051
Department of Natural Resources	86,335	-211	86,124	375,203	-1,287	373,916
Department of Agriculture	28,539	-853	27,686	141,354	-1,088	140,266
Total Natural Resources	372,107	-13,820	358,287	1,494,562	-12,627	1,481,935

2011 Supplemental Operating Budget

Washington State Omnibus Operating Budget

2011 Supplemental Budget

TRANSPORTATION

(Dollars in Thousands)

	Near General Fund-State			Total All Funds		
	<u>2009-11</u>	<u>2011 Supp *</u>	<u>Rev 2009-11</u>	<u>2009-11</u>	<u>2011 Supp *</u>	<u>Rev 2009-11</u>
Washington State Patrol	75,036	-3,192	71,844	138,963	-3,192	135,771
Department of Licensing	<u>2,960</u>	<u>-204</u>	<u>2,756</u>	<u>56,239</u>	<u>-204</u>	<u>56,035</u>
Total Transportation	77,996	-3,396	74,600	195,202	-3,396	191,806

Washington State Omnibus Operating Budget

2011 Supplemental Budget

PUBLIC SCHOOLS

(Dollars in Thousands)

	Near General Fund-State			Total All Funds		
	2009-11	2011 Supp *	Rev 2009-11	2009-11	2011 Supp *	Rev 2009-11
OSPI & Statewide Programs	68,775	-3,224	65,551	160,469	-3,224	157,245
General Apportionment	10,285,778	-411,070	9,874,708	10,285,778	-202,972	10,082,806
Pupil Transportation	613,863	646	614,509	613,863	646	614,509
School Food Services	6,318	3,952	10,270	543,318	117,152	660,470
Special Education	1,283,748	-23,540	1,260,208	1,948,349	-12,523	1,935,826
Educational Service Districts	16,713	-832	15,881	16,713	-832	15,881
Levy Equalization	380,052	-931	379,121	537,095	-931	536,164
Elementary/Secondary School Improv	0	0	0	43,886	0	43,886
Institutional Education	37,065	1,057	38,122	37,065	1,057	38,122
Ed of Highly Capable Students	18,377	-51	18,326	18,377	-51	18,326
Student Achievement Program	25,749	-313	25,436	226,044	-313	225,731
Education Reform	295,836	-20,327	275,509	449,424	72,888	522,312
Transitional Bilingual Instruction	154,091	2,240	156,331	219,354	2,240	221,594
Learning Assistance Program (LAP)	262,157	3,928	266,085	816,082	30,428	846,510
Compensation Adjustments	-6,220	267	-5,953	-6,221	267	-5,954
Total Public Schools	13,442,302	-448,198	12,994,104	15,909,596	3,832	15,913,428

2011 Supplemental Operating Budget

Washington State Omnibus Operating Budget

2011 Supplemental Budget

EDUCATION

(Dollars in Thousands)

	Near General Fund-State			Total All Funds		
	2009-11	2011 Supp *	Rev 2009-11	2009-11	2011 Supp *	Rev 2009-11
Higher Education Coordinating Board	438,573	-25,607	412,966	552,201	-25,505	526,696
University of Washington	595,197	-11,386	583,811	4,295,994	-11,386	4,284,608
Washington State University	382,080	-7,484	374,596	1,158,581	-7,484	1,151,097
Eastern Washington University	87,396	-1,540	85,856	231,779	-1,540	230,239
Central Washington University	83,104	-1,420	81,684	258,088	-1,420	256,668
The Evergreen State College	44,436	-777	43,659	107,119	-777	106,342
Spokane Intercollegiate & Tech Inst	3,088	-163	2,925	5,366	-163	5,203
Western Washington University	104,454	-2,032	102,422	332,324	-2,032	330,292
Community/Technical College System	1,356,584	-25,867	1,330,717	2,511,958	-25,867	2,486,091
Total Higher Education	3,094,912	-76,276	3,018,636	9,453,410	-76,174	9,377,236
State School for the Blind	11,887	-479	11,408	13,829	-479	13,350
Childhood Deafness & Hearing Loss	17,375	-556	16,819	17,901	-556	17,345
Workforce Training & Education Coord Board	2,909	-86	2,823	57,432	-84	57,348
Department of Early Learning	81,641	-1,939	79,702	386,946	-1,240	385,706
Washington State Arts Commission	3,191	-119	3,072	6,187	44	6,231
Washington State Historical Society	5,199	-228	4,971	7,698	-228	7,470
East Wash State Historical Society	3,244	-143	3,101	6,330	-32	6,298
Total Other Education	125,446	-3,550	121,896	496,323	-2,575	493,748
Total Education	16,662,660	-528,024	16,134,636	25,859,329	-74,917	25,784,412

Washington State Omnibus Operating Budget

2011 Supplemental Budget

SPECIAL APPROPRIATIONS

(Dollars in Thousands)

	Near General Fund-State			Total All Funds		
	2009-11	2011 Supp *	Rev 2009-11	2009-11	2011 Supp *	Rev 2009-11
Bond Retirement and Interest	1,793,797	-15,948	1,777,849	1,977,277	-20,864	1,956,413
Special Approps to the Governor	111,268	31,957	143,225	122,193	31,957	154,150
Sundry Claims	891	346	1,237	891	346	1,237
Contributions to Retirement Systems	129,330	0	129,330	129,330	0	129,330
Total Special Appropriations	2,035,286	16,355	2,051,641	2,229,691	11,439	2,241,130

2011-13 Washington State Transportation Budget

Agency Summary

TOTAL OPERATING AND CAPITAL BUDGET

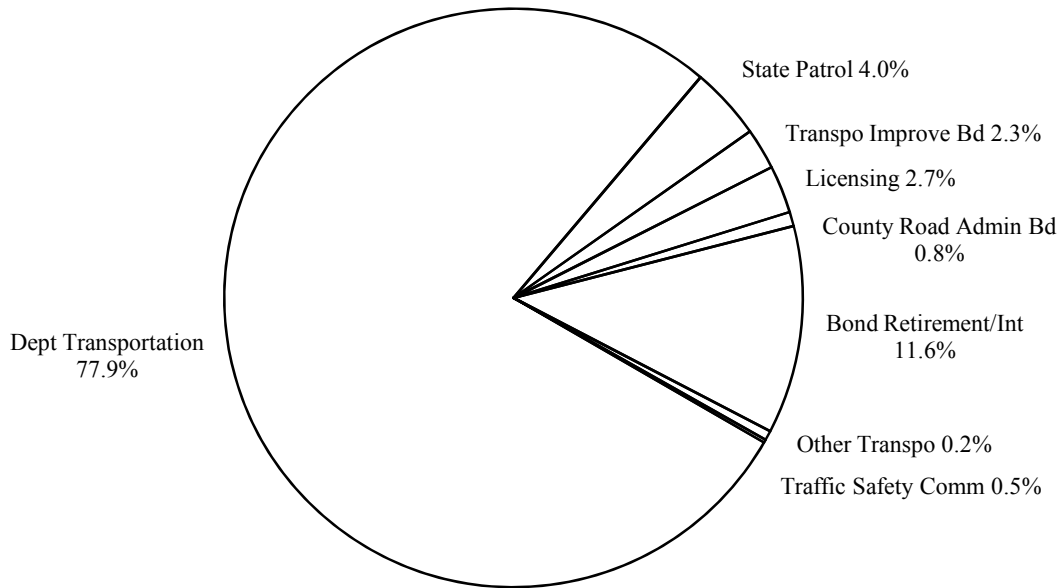
Total Appropriated Funds

(Dollars in Thousands)

	Enacted
Department of Transportation	7,028,561
Pgm B - Toll Op & Maint-Op	57,072
Pgm C - Information Technology	70,580
Pgm D - Facilities-Operating	25,420
Pgm D - Facilities-Capital	5,433
Pgm F - Aviation	8,146
Pgm H - Pgm Delivery Mgmt & Suppt	46,443
Pgm I - Hwy Const/Improvements	4,034,328
Pgm K - Public/Private Part-Op	711
Pgm M - Highway Maintenance	378,435
Pgm P - Hwy Const/Preservation	753,714
Pgm Q - Traffic Operations	50,774
Pgm Q - Traffic Operations - Cap	12,039
Pgm S - Transportation Management	28,311
Pgm T - Transpo Plan, Data & Resch	48,226
Pgm U - Charges from Other Agys	88,929
Pgm V - Public Transportation	111,466
Pgm W - WA State Ferries-Cap	283,341
Pgm X - WA State Ferries-Op	463,606
Pgm Y - Rail - Op	29,912
Pgm Y - Rail - Cap	426,444
Pgm Z - Local Programs-Operating	11,062
Pgm Z - Local Programs-Capital	94,169
Washington State Patrol	364,759
Department of Licensing	239,909
Joint Transportation Committee	2,034
LEAP Committee	494
Office of Financial Management	6,811
Utilities and Transportation Comm	504
WA Traffic Safety Commission	48,893
Archaeology & Historic Preservation	417
County Road Administration Board	72,090
Transportation Improvement Board	208,481
Transportation Commission	2,213
Freight Mobility Strategic Invest	686
State Parks and Recreation Comm	986
Department of Agriculture	1,185
Total Appropriation	7,978,023
Bond Retirement and Interest	1,049,389
Total	9,027,412

2011-13 Transportation Budget
Chapter 367, Laws of 2011, Partial Veto (ESHB 1175)
Total Appropriated Funds
(Dollars in Thousands)

MAJOR COMPONENTS BY AGENCY
Total Operating and Capital Budget



Major Transportation Agencies	
Department of Transportation	7,028,561
Washington State Patrol	364,759
Transportation Improvement Board	208,481
Department of Licensing	239,909
County Road Administration Board	72,090
Bond Retirement and Interest	1,049,389
Washington Traffic Safety Commission	48,893
Other Transportation	15,330
Total	9,027,412

2011-13 Transportation Budget

Budget Summary

- The transportation budget appropriates \$9.0 billion for transportation operations and capital needs for the upcoming biennium.
- Of the 421 projects paid for by the 2003 Transportation (Nickel) and Transportation Partnership Account (TPA) revenue, almost 300 have been completed. The sum of \$4.1 billion is provided in the 2011-13 biennial budget for all highway improvements, including the continued implementation of these projects started by the 2003 and 2005 Legislatures.
- Additionally, substantial investments are made to preserve and maintain the state's highway system (\$1.1 billion).
- The transportation budget also makes significant investments in passenger rail (\$426 million), ferry terminal and vessel projects (\$283 million), freight mobility and rail projects (\$38 million), and transit and bike/pedestrian grant programs (\$110 million).
- Transportation revenue sources have continued to grow more slowly than expected, with projected revenues for the 2011-13 biennium \$100 million less than what was assumed a year ago (a roughly 2 percent decrease).
- For the 10-year outlook, the revenue forecast changes resulted in a downward correction of about \$860 million (about 4 percent) over a 10-year period with respect to state revenues. In combination with changes in assumptions about the utilization of federal funding, the cost to deliver Nickel and TPA projects, and the need to issue bonds, the forecast changes increased the gap over a 10-year period between expected resources and outlays by another \$600 million (on top of the known \$1.1 billion at the end of the 2010 session) to a total gap of about \$1.7 billion.

Accountability Measures

With the completion of the Nickel and TPA construction programs in sight and the continuing erosion of underlying transportation revenues, the transportation budget emphasizes accountability and efficiency measures. State transportation agencies are directed to reduce administrative and overhead costs and seek new means of partnering with the private sector to deliver public services. The state will need to demonstrate that current resources are well managed before new revenues may be raised for future investments.

Increased Partnerships with the Private Sector

The transportation budget directs the Department of Transportation (DOT) to transition to a smaller, more efficient technical and engineering workforce. DOT will reduce its workforce levels by 400 full-time equivalent (FTE) employees by the end of the 2011-13 biennium, with an eventual reduction of 800 FTEs.

The Joint Transportation Committee will conduct a study to evaluate the potential for financing state transportation projects using innovative financing methods, including public private partnerships. The study will evaluate whether public private partnerships are in the public interest, including the effects of private versus public financing on the state's bonding capacity.

Ferry System Accountability

At the bargaining table, Washington State Ferries (WSF) management and labor successfully reached an agreement to bring marine employee benefits more in line with represented general government employee benefits. These efforts are estimated to save \$10 million per year. In addition, labor representatives have committed to starting these savings during the 2009-11 biennium, saving the system an additional estimated \$500,000. Reductions in headquarters and administrative activities will save an additional \$4.1 million. All in

all, savings in the ferry system budget total almost \$25 million but are not sufficient to balance the operating account for the next biennium. As a result, \$90 million will have to be transferred from other transportation accounts to ensure continuous, sustainable service.

In addition to the WSF budget changes, the Marine Employees Commission will be consolidated into the Public Employee Relations Commission resulting in \$400,000 savings to the transportation budget.

Reductions in Transportation Budgets

To help close the transportation deficit, transportation agencies are asked to trim ongoing daily operations. This initiative will achieve \$25.8 million in biennial budget savings.

Efficiencies in contracted services for Tacoma Narrows Bridge tolling operations will save an estimated \$4.5 million. Effective February 2011, a new statewide Customer Service Center (CSC) opened to replace the existing CSC. Costs for this contract will be allocated among the Tacoma Narrows Bridge (TNB), State Route (SR) 167, and the SR 520 Bridge.

Consistent with policies enacted in the Omnibus Appropriations Act, a temporary 3 percent reduction in salaries is expected to save \$17.9 million for the 2011-13 biennium, and \$13.6 million will be saved by suspending the cost-of-living allowances for members of the Plan 1 retirement systems.

The Amtrak Cascades passenger rail service, a service sponsored by the state, expects \$7.5 million in Amtrak credit savings during the 2011-13 biennium.

Operating Investments in Transportation in the 2011-13 Biennium

The transportation operating budget for the 2011-13 biennium includes expenditure authority of \$3.2 billion, an increase of about \$300 million from the enacted 2009-11 biennial budget as amended in 2010.

Investments in Information Technology and Equipment

The amount of \$7.4 million is provided through short-term financing (certificates of participation [COPs]) for an online fuel tax collection system. The Department of Licensing collects fuel tax revenue of over \$1.2 billion a year. The current system requires labor-intensive manual processes and results in an estimated loss of revenue of \$3 million to \$6 million a year. In addition to increased revenue, a new system will provide customer benefits such as electronic filing and improved quality and availability of information. The elimination of paperwork processing is expected to eliminate the need for 10 FTEs and provide savings in processing costs beginning in fiscal year 2014.

The \$10.8 million Enterprise Time Keeping system will support WSF's ability to manage employee time, leave, and benefit usage, an important tool in the effort to respond to criticism of the ferry system's ability to manage its own employees. The system will replace existing personnel and payroll systems at DOT.

The Washington State Patrol's (WSP) Mobile Office Platform is funded at \$7.3 million through COPs. When fully implemented, all highway system troopers will have computer access in their patrol cars, allowing queries to the electronic driver and vehicle databases. The troopers will also have access to digital cameras to record video evidence. These tools will increase officer efficiency and data accuracy, officer and public safety, and liability mitigation.

For WSP, the transportation budget fully funds the equipment, infrastructure, and systems integration costs related to complying with the Federal Communications Commission's narrowbanding requirements. The investment will allow WSP to maintain continuity of radio coverage upon the change on January 1, 2013. In all, \$40.1 million is provided through COPs.

2011-13 Transportation Budget Overview

The above four projects will be completed during the 2011-13 timeframe.

Multimodal Investments

The transportation budget includes continued support of the Regional Mobility Grant program at \$40 million. The Regional Mobility Grant program supports local efforts to improve transit mobility and reduce congestion on our most heavily traveled roadways. Eligible agencies include transit agencies (including Sound Transit), cities, and counties. The next cycle of these grants will focus on construction projects that achieve the interconnectivity goals of the state program.

Rural Mobility grants are continued at \$17 million. Half of this funding is distributed to transit systems to address sales tax collections disparity. The other half is awarded on a competitive basis to providers of rural mobility service in areas not served or underserved by transit agencies.

For 2011-13, the vanpool program will receive \$6 million to purchase 288 vans, of which 20 will be dedicated for use in the Joint Base Lewis-McChord corridor. During its first six years, the statewide vanpool program has doubled the number of vanpools in our state. With the economic downturn, the focus of the program is turning to replacement vans.

For the Safe Routes to School and Pedestrian/Bike Safety grant programs, \$11 million in state funding is provided for new projects. Washington's Safe Routes to School program provides technical assistance and resources to cities, counties, schools, school districts, and state agencies for improvements that get more children walking and bicycling to school safely. The Pedestrian and Bicycle Safety program objective is to improve the transportation system to enhance safety and mobility for people who choose to walk or bike.

Other Investment Priorities

The budget provides direction to restore ferry service that has been proposed for reduction. The restoration, expected in the next supplemental budget, would occur through a shift of funds that would otherwise be used to begin work on a second 144-car class vessel.

To address the emerging issue of congestion in the region of the Joint Base Lewis-McChord, the transportation budget includes \$630,000 for a couple of initiatives in addition to the aforementioned vanpools. First, DOT will collaborate with the affected transportation planning organizations and transit agencies to develop a plan to reduce vehicle demand and increase public transportation options. Also, to reduce collisions and travel delays, DOT will complete the ramp-metering project at on-ramps in the northbound direction of Interstate 5 in the Joint Base area.

For stormwater permit compliance, the transportation budget provides \$10.2 million. DOT's February 2009 National Pollutant Discharge Elimination System permit expands coverage to more than 100 cities and counties across the state, increasing the number of regulated state highway centerline miles by 40 percent from 1,140 to 1,600. The new permit establishes 51 specific performance indicators and 396 specific compliance actions.

An additional \$6.9 million is invested in the highway maintenance backlog, building on the previous biennium's commitment to the stewardship of the state's roadways, for a total of \$22.7 million. The backlog was estimated in 2008 to be approximately \$85 million.

Almost \$64 million is provided for increased fuel costs at WSP, the ferry system, and for the maintenance program at DOT. The ferry system is exempted from bio-fuel usage for the 2011-13 biennium.

Capital Construction Investments in Transportation in the 2011-13 Biennium

During the 2011-13 biennium, the transportation budget will invest \$5.9 billion in transportation capital construction (highways, rail, and ferries). Within this amount, just over \$2 billion is provided to address the safety issues posed by the SR 520 Bridge and the SR 99 Alaskan Way Viaduct. The remaining funds will ensure busy 2011 and 2012 summer construction seasons all around the state.

Higher Speed Rail

Washington State continues to attract federal funds for its higher speed rail program. In addition to the \$590 million in federal funds awarded in 2010, Washington State won \$145 million from funds given back by Ohio and Wisconsin. With these funds, the Amtrak Cascades program will be able to add service, reduce delays, and increase on-time performance by improving track quality and reliability. These investments come at a time when rail ridership is at its highest levels in the 16 years the program has been in existence.

Freight Mobility and Rail Investments

The transportation budget continues support of the strategic investments in projects identified by the Freight Mobility and Strategic Investment Board (FMSIB). About \$38 million is provided for this purpose.

For the 2011-13 biennium, the transportation budget continues support of the Freight Rail Investment Bank Loan program (\$5.8 million) and the Freight Rail Assistance grant program (\$2.75 million). Both programs seek to improve the freight rail system in the state, and projects must benefit the state's interests.

Ferries

The transportation budget provides sufficient funding to begin construction of a 144-car vessel with \$124 million in 2011-13. In addition, WSF will take delivery of the last of three new Kwa-di Tabil class ferries, the MV Kennewick, in January 2012. The sum of \$32 million is included in the transportation budget for the completion of this vessel.

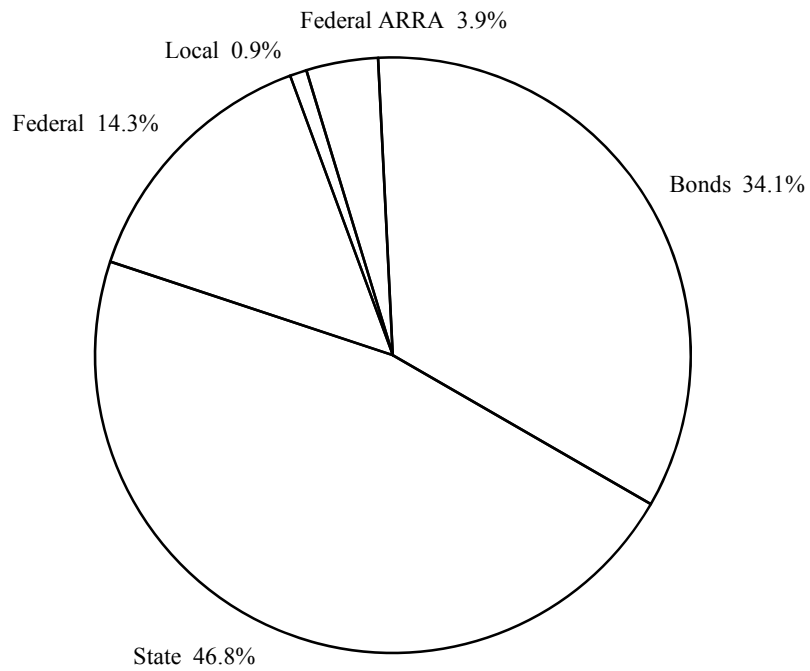
Highway Construction

The transportation budget reflects the apex of the construction of investments under the Nickel and TPA packages enacted in 2003 and 2005, respectively. On the improvements side, over \$4.1 billion is provided, addressing both minor and major investment priorities, such as the Alaskan Way Viaduct replacement and the North Spokane Corridor development. For preservation activities, the transportation budget includes over \$750 million. These include asphalt and chip seal road overlays, bridge repair to address seismic and scour issues, concrete roadways preservation, spot intersection improvements to address safety issues, emergency slides and floods, guardrail retrofit, and many other aspects of necessary, ongoing preservation work.

2011-13 Transportation Budget
Chapter 367, Laws of 2011, Partial Veto (ESHB 1175)
Total Appropriated Funds

(Dollars in Thousands)

COMPONENTS BY FUND TYPE
Total Operating and Capital Budget

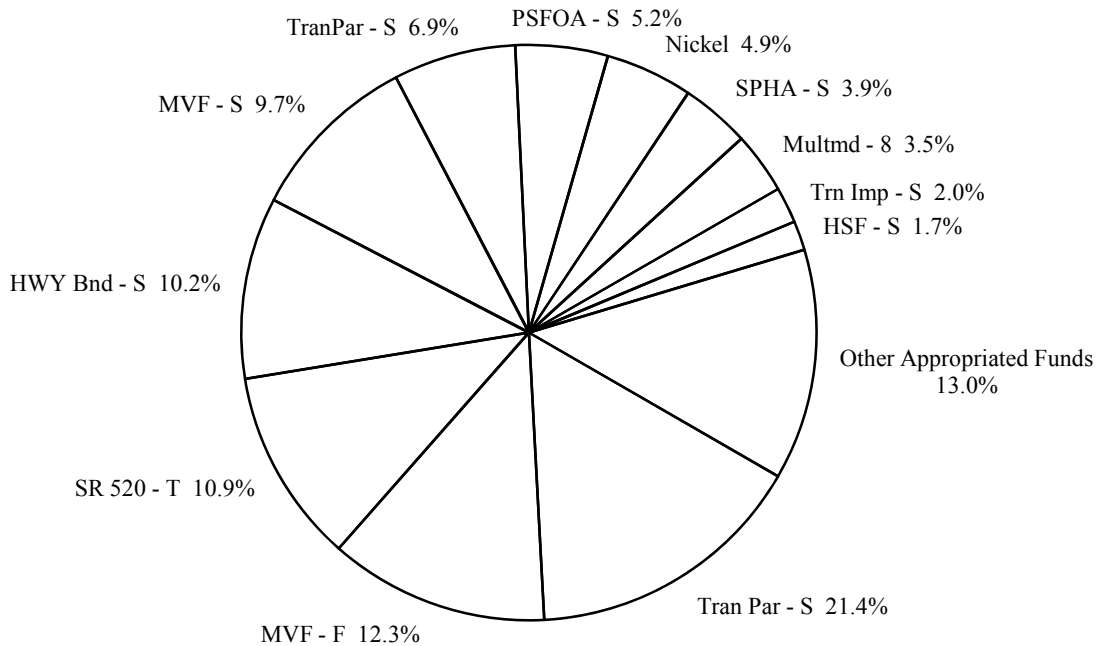


Fund Type	
State	4,221,020
Federal	1,290,947
Local	82,169
Federal ARRA	353,081
Bonds	<u>3,080,195</u>
Total	9,027,412

2011-13 Transportation Budget
Chapter 367, Laws of 2011, Partial Veto (ESHB 1175)
Total Appropriated Funds

(Dollars in Thousands)

MAJOR COMPONENTS BY FUND SOURCE AND TYPE
Total Operating and Capital Budget



Major Fund Source	
Transportation Partnership Account - Bonds (TranPar - T)	1,427,696
Motor Vehicle Account - Federal (MVF - F)	1,113,832
SR 520 Corridor Account - Bonds (SR 520 - T)	987,717
Highway Bond Retirement Account - State (HWY Bnd - S)	920,560
Motor Vehicle Account - State (MVF - S)	878,432
Transportation Partnership Account - State (TranPar - S)	621,814
Puget Sound Ferry Operations Acct - State (PSFOA - S)	468,226
Transportation 2003 Acct (Nickel) - Bonds (Nickel - T)	443,148
State Patrol Highway Account - State (SPHA - S)	350,387
Multimodal Transportation Account (Multmd - 8)	311,845
Transportation Improvement Account - State (Trn Imp - S)	182,560
Highway Safety Account - State (HSF - S)	149,171
Other Appropriated Funds	1,172,024
Total	9,027,412

2011-13 Washington State Transportation Budget

Fund Summary

TOTAL OPERATING AND CAPITAL BUDGET

(Dollars in Thousands)

	MVF State *	P.S. Ferry Op Acct State	Nickel Acct State *	WSP Hwy Acct State	Transpo Partner State *	Multimod Acct State *	Other Approp *	Total Approp
Department of Transportation	872,165	463,606	555,492	0	2,045,760	190,472	2,901,066	7,028,561
Pgm B - Toll Op & Maint-Op	535	0	0	0	0	0	56,537	57,072
Pgm C - Information Technology	67,297	0	1,460	0	1,460	363	0	70,580
Pgm D - Facilities-Operating	25,420	0	0	0	0	0	0	25,420
Pgm D - Facilities-Capital	5,433	0	0	0	0	0	0	5,433
Pgm F - Aviation	0	0	0	0	0	0	8,146	8,146
Pgm H - Pgm Delivery Mgmt & Suppt	45,693	0	0	0	0	250	500	46,443
Pgm I - Hwy Const/Improvements	86,139	0	436,005	0	1,991,547	1	1,520,636	4,034,328
Pgm K - Public/Private Part-Op	601	0	0	0	0	110	0	711
Pgm M - Highway Maintenance	371,435	0	0	0	0	0	7,000	378,435
Pgm P - Hwy Const/Preservation	67,790	0	0	0	34,182	0	651,742	753,714
Pgm Q - Traffic Operations	48,597	0	0	0	0	0	2,177	50,774
Pgm Q - Traffic Operations - Cap	6,439	0	0	0	0	0	5,600	12,039
Pgm S - Transportation Management	27,308	0	0	0	0	973	30	28,311
Pgm T - Transpo Plan, Data & Resch	22,020	0	0	0	0	662	25,544	48,226
Pgm U - Charges from Other Agys	85,209	0	0	0	0	3,320	400	88,929
Pgm V - Public Transportation	0	0	0	0	0	41,463	70,003	111,466
Pgm W - WA State Ferries-Cap	0	0	118,027	0	12,536	43,265	109,513	283,341
Pgm X - WA State Ferries-Op	0	463,606	0	0	0	0	0	463,606
Pgm Y - Rail - Op	0	0	0	0	0	29,612	300	29,912
Pgm Y - Rail - Cap	0	0	0	0	0	52,000	374,444	426,444
Pgm Z - Local Programs-Operating	8,495	0	0	0	0	0	2,567	11,062
Pgm Z - Local Programs-Capital	3,754	0	0	0	6,035	18,453	65,927	94,169
Washington State Patrol	0	0	0	350,387	0	0	14,372	364,759
Department of Licensing	76,838	0	0	0	0	0	163,071	239,909
Joint Transportation Committee	2,034	0	0	0	0	0	0	2,034
LEAP Committee	494	0	0	0	0	0	0	494
Office of Financial Management	2,191	4,620	0	0	0	0	0	6,811
Utilities and Transportation Comm	0	0	0	0	0	0	504	504
WA Traffic Safety Commission	0	0	0	0	0	0	48,893	48,893
Archaeology & Historic Preservation	417	0	0	0	0	0	0	417
County Road Administration Board	2,967	0	0	0	0	0	69,123	72,090
Transportation Improvement Board	0	0	0	0	0	0	208,481	208,481
Transportation Commission	2,101	0	0	0	0	112	0	2,213
Freight Mobility Strategic Invest	686	0	0	0	0	0	0	686
State Parks and Recreation Comm	986	0	0	0	0	0	0	986
Department of Agriculture	1,185	0	0	0	0	0	0	1,185
Total Appropriation	962,064	468,226	555,492	350,387	2,045,760	190,584	3,405,510	7,978,023
Bond Retirement and Interest	393	0	1,359	0	3,750	164	1,043,723	1,049,389
Total	962,457	468,226	556,851	350,387	2,049,510	190,748	4,449,233	9,027,412

* Includes Bond amounts.

2009-11 Washington State Transportation Budget
TOTAL OPERATING AND CAPITAL BUDGET
Total Appropriated Funds
(Dollars in Thousands)

	2009-11 Approp Auth	2011 Supplemental	Revised 2009-11
Department of Transportation	6,755,715	-1,213,337	5,542,378
Pgm B - Toll Op & Maint-Op	60,100	-27,014	33,086
Pgm C - Information Technology	74,604	-1,604	73,000
Pgm D - Facilities-Operating	25,292	-653	24,639
Pgm D - Facilities-Capital	4,810	-187	4,623
Pgm F - Aviation	8,110	-199	7,911
Pgm H - Pgm Delivery Mgmt & Suppt	47,656	-1,687	45,969
Pgm I - Hwy Const/Improvements	3,368,839	-509,381	2,859,458
Pgm K - Public/Private Part-Op	873	-140	733
Pgm M - Highway Maintenance	360,442	4,333	364,775
Pgm P - Hwy Const/Preservation	760,626	-39,884	720,742
Pgm Q - Traffic Operations	53,305	-1,364	51,941
Pgm Q - Traffic Operations - Cap	26,368	-7,935	18,433
Pgm S - Transportation Management	29,733	-500	29,233
Pgm T - Transpo Plan, Data & Resch	52,433	-571	51,862
Pgm U - Charges from Other Agys	88,292	0	88,292
Pgm V - Public Transportation	134,539	-9,062	125,477
Pgm W - WA State Ferries-Cap	306,150	2,077	308,227
Pgm X - WA State Ferries-Op	425,922	21,039	446,961
Pgm Y - Rail - Op	37,371	0	37,371
Pgm Y - Rail - Cap	735,327	-592,109	143,218
Pgm Z - Local Programs-Operating	11,166	-3	11,163
Pgm Z - Local Programs-Capital	143,757	-48,493	95,264
Washington State Patrol	355,572	-7,497	348,075
Department of Licensing	236,082	0	236,082
Joint Transportation Committee	2,513	0	2,513
Jt Leg Audit & Review Committee	50	0	50
LEAP Committee	491	0	491
Office of Financial Management	3,624	0	3,624
Utilities and Transportation Comm	702	0	702
WA Traffic Safety Commission	40,552	0	40,552
Archaeology & Historic Preservation	413	0	413
County Road Administration Board	109,824	-2,500	107,324
Transportation Improvement Board	213,059	-3,190	209,869
Marine Employees' Commission	440	0	440
Transportation Commission	2,440	-172	2,268
Freight Mobility Strategic Invest	688	0	688
State Parks and Recreation Comm	985	0	985
Department of Agriculture	1,493	0	1,493
State Employee Compensation Adjust	7,654	0	7,654
Total Appropriation	7,732,297	-1,226,696	6,505,601
Bond Retirement and Interest	824,465	-18,572	805,893
Total	8,556,762	-1,245,268	7,311,494

2011-13 Capital Budget Highlights

The 2011-13 and 2011 Supplemental Capital Budgets were enacted as Chapter 48, Laws of 2011, 1st sp.s., Partial Veto (ESHB 1497), and Chapter 49, Laws of 2011, 1st sp.s. (ESHB 2020). ESHB 1497 appropriated \$1.7 billion to support new capital projects from sources other than bond proceeds. ESHB 2020 appropriated \$1.1 billion in new state general obligation bonds and authorized the State Finance Committee to issue general obligation bonds to support the new bond appropriations. Net reductions in the 2011 Supplemental Budget totaled \$33.5 million for 2009-11 new appropriations and \$16.7 million for reappropriations for prior biennia.

General state revenues are increased due to passage of Chapter 334, Laws of 2011 (HB 2019). This bill eliminated the statutory dedication of the \$0.60 per pack cigarette tax that was previously deposited in the Education Legacy Trust Account. Beginning on July 1, 2010, revenues from the cigarette tax are deposited in the state general fund, resulting in an increase to general state revenues. In addition, general state revenues in fiscal year 2011 only are increased by the amount of Public Works Assistance Account tax revenue that was transferred to the state general fund in the 2009-11 Operating Budget. These changes expand debt capacity but do not affect the operating budget near general fund balance sheet.

The Legislature assumed an 8.75 percent working debt limit to avoid the possibility of exceeding the 9 percent constitutional debt limit in the event that general state revenues decline or interest rates rise, and to leave capacity to address emergencies and unforeseen circumstances.

Public School Construction

A total of \$661.3 million is appropriated for K-12 School Construction Assistance grants from the following sources: \$345.8 million from state general obligation bonds and \$315.6 million from the Common School Construction Account (CSCA). CSCA receives revenue from a variety of sources. For the 2011-13 biennium, the following amounts are expected to be deposited into CSCA to support the 2011-13 appropriations: \$135.3 million from state trust land revenues; \$53.2 million from the Trust Land Transfer Program; and \$600,000 in federal revenue. Investment income from the common school permanent fund into the account is mostly offset by debt service payments on skills center bonds appropriated in prior biennia.

A total of \$39.9 million is appropriated for projects at the state's vocational skills centers including:

- \$28.5 million for the Yakima Valley Technical Skills Center;
- \$7.1 million for the Pierce County Skills Center;
- \$3 million for Skills Center minor works projects statewide;
- \$1.2 million for the Tri-Tech Skills Center in Walla Walla; and
- \$100,000 for the Clark County Skills Center addition.

Funding in the amount of \$20 million is provided for energy efficiency improvements in K-12 public schools. School districts may apply to the Office of the Superintendent of Public Instruction for energy efficiency project grants that lead to energy and operational cost savings. Additionally, \$5 million is provided for urgent school facility repair and renovation grants to address unforeseen health and safety needs.

Higher Education

The 2011-13 Capital Budget includes \$512.9 million in total funds for higher education, including \$290.7 million in state bonds. Of the state bond amount, \$149.5 million is provided for the community and technical college system, and \$141.1 for the four-year institutions. In addition, \$16.4 million in certificates of participation are authorized for projects at several community and technical colleges and Central Washington University.

Approximately \$148 million is provided specifically for preservation and minor works projects for higher education facilities, and \$67.8 million is provided for preventative facility maintenance. Preventative facility maintenance funds replace a state general fund reduction in the operating budget and are to maintain state-owned university facilities housing education and general programs for current occupants and to extend the useful life of buildings.

Funding is provided for a variety of major projects at community and technical colleges throughout the state, including:

- \$32.0 million for the replacement of Index Hall at Everett Community College;
- \$30.2 million for the Learning Resource Center at South Puget Sound Community College;
- \$20.7 million for the Allied Health Care Facility at Clover Park Technical College;
- \$18.6 million for the Science and Math Technology Building at Green River Community College; and
- \$17.6 million for campus classrooms at Spokane Falls Community College.

Funding is provided for a variety of major projects at four-year institutions, including:

- \$35.0 million for phase one of the Washington State University Riverpoint Biomedical/Health Services Building in Spokane, Washington;
- \$30.5 million for the second phase of the Patterson Hall remodel at Eastern Washington University;
- \$16.5 million for renovation of the Odegaard Undergraduate Learning Center at the University of Washington; and
- \$9.2 million for preservation and renovation of the Communications Laboratory Building at the Evergreen State College.

Prison Bed Expansion and Maple Lane School Closure

The Legislature appropriated \$42.5 million to construct two housing units and a kitchen expansion at the Washington State Penitentiary in Walla Walla and \$6.2 million to design a new Westside reception center.

The Department of Social and Health Services is appropriated \$1.34 million in the 2011 Supplemental Budget to complete design and planning to provide capacity as a result of the closure of Maple Lane School. The Department also receives authority to use a financing contract in the amount of \$15.8 million for the construction of required capacity in the 2011-13 Capital Budget.

Recreation, Conservation and Habitat Protection

The sum of \$42.0 million is provided for Washington Wildlife and Recreation Program grants to support habitat conservation, outdoor recreation, riparian protection, and farmland preservation projects statewide. Grants are awarded to projects based on rankings achieved through competitive application processes and statutory formulas. State funds of \$30.0 million and federal expenditure authority of \$60.0 million in federal funds are provided for recovery efforts for salmon and other species, including programs focused statewide and on the Puget Sound.

In addition, \$60.4 million is appropriated for the Trust Land Transfer Program within the Department of Natural Resources to transfer common school trust lands with low income-producing potential but high recreational and environmental value to other public agencies for use as natural or wildlife areas, parks, recreation, or open space.

The State Parks and Recreation Commission receives \$22.9 million for making capital improvements in state parks and trails.

2011-13 Capital Budget Overview

Toxics Clean-Up and Prevention

Hazardous substance tax revenue deposited in the Local and State Toxics Control Accounts are appropriated to several Department of Ecology (DOE) programs, including:

- \$28.6 million for Coordinated Prevention Grants for local government management of solid and hazardous wastes including waste reduction and recycling, disposal, and enforcement;
- \$63.8 million for the Remedial Action Grant program for clean-up of contaminated industrial sites statewide that the DOE has ranked in priority order on a “worst first” basis;
- \$26.1 million to fund clean-up of toxic sites in the Puget Sound, remediation of soils at schools in central Washington, and clean-up of contaminated sites in eastern Washington;
- \$30.0 million for storm water construction or design/construction projects statewide that result in improvements necessary to meet National Pollution Discharge Elimination System requirements; and
- \$3.0 million to reduce wood stove pollution.

In addition, \$20.6 million in ASARCO settlement funds are provided for continued cleanup of specific sites related to the operation of the smelter plant in Tacoma and mines in northwest and eastern Washington.

Water Quality and Quantity

Funding is provided for several programs to improve the quality and quantity of Washington State waters. The amount of \$218.3 million in state and federal funds are provided for grants and loans for projects that address the state's highest priority water quality needs through the Centennial Clean Water and the Water Pollution Control Revolving Fund Programs. The sum of \$47.0 million is provided to the Columbia River Basin Water Supply Development Program for its mandate to pursue development of water supplies to benefit in-stream and out-of-stream uses.

Private Forest and Agricultural Lands

Funding of \$1 million is provided for the Forest Riparian Easement Program, and \$17 million, primarily in federal funding, is provided to the Family Forest Fish Passage Program to continue to assist family forest landowners with the financial and regulatory impacts of Forest and Fish legislation enacted in 1999. The funds will be used, respectively, to purchase 50-year conservation easements along riparian areas from family forest landowners and to repair or remove fish passage barriers on forest road crossings over streams.

The sum of \$3.2 million is provided to the State Conservation Commission and conservation districts to assist agricultural landowners with installation and maintenance of riparian buffers under the Conservation Reserve Enhancement Program (CREP) and with planning and implementation of livestock nutrient management practices. These state dollars leverage federal investments; for example, the federal government pays for 90 percent of the project costs under CREP, and once the installation becomes established, compensates the landowner for 15 years for taking land out of production.

Local Government Infrastructure

Funding is provided to assist local governments in repairing and developing infrastructure systems. Funding of \$324.6 million is provided for loans through the Public Works Board (PWB) to finance the construction, repair, and rehabilitation of local infrastructure systems such as water, storm and sanitary sewers, roads, streets and bridges, and solid waste. This appropriation is specifically for projects approved by the Legislature on the 2012 Public Works Assistance Account Loan List. An additional \$97.9 million in state and federal funds is provided to PWB and the Department of Health to protect and improve the state's drinking water facilities. The Community Economic Revitalization Board also receives \$5.0 million for grants and loans to assist local governments and federally-recognized Indian tribes with financing public infrastructure improvements that encourage new business development and expansion in areas seeking economic growth.

Grants Benefitting Local Communities

Funding is provided for competitive grant programs managed by the Department of Commerce, the Washington State Historical Society, the Department of Agriculture, and the Department of Archeology and Historic Preservation including: Local and Community Projects (\$16.8 million), Building Communities Fund Program (\$12.3 million), Youth Recreational Facilities (\$4.3 million), Building for the Arts (\$2.5 million), Washington Heritage Program (\$1.2 million), Health and Safety Improvements at County Fairs (\$1 million), Historic Courthouse Rehabilitation (\$750,000), and Historic Barn Preservation (\$200,000).

Low-Income Housing Assistance and Weatherization

State funding in the amount of \$50.0 million is provided for loans and grants through the Housing Trust Fund Program to construct, acquire, and rehabilitate low-income housing and for weatherization. Specific funding is allocated for housing projects to serve homeless veterans, people with developmental disabilities, farmworkers, and under-served communities of concern. The amount of \$6 million is provided for weatherization administered through the Energy Matchmakers Program.

2011-13 Capital Budget Overview

2011-13 Capital Budget New Appropriations Project List

	Debt Limit Bonds	Total
NEW PROJECTS		
Governmental Operations		
Department of Commerce		
Building Communities Fund Grants	12,327	12,327
Building for the Arts Grants	2,462	2,462
Clean Energy Partnership	0	5,500
Community Economic Revitalization Board	0	5,000
Drinking Water State Revolving Fund Loan Program	0	48,000
Housing Assistance, Weatherization, Affordable Housing Trust Fund	50,000	50,000
Local and Community Projects	16,817	16,817
Public Works Assistance Account Program	0	324,585
Youth Recreational Facilities Grants	4,253	4,253
Total	85,859	468,944
Office of Financial Management		
Bid Savings Contingency Pool	6,500	6,500
Catastrophic Flood Relief	895	895
Emergency Repairs	8,183	8,183
Graving Dock Settlement	140	140
Oversight of State Facilities	1,400	1,400
Total	17,118	17,118
Department of General Administration		
Capitol Lake Dredging	0	200
Engineering and Architectural Services: Staffing	5,282	7,000
Facility Oversight Program: Staffing	520	520
Legislative Building Critical Exterior Repairs	956	956
Legislative Building Critical Hydronic Loop Repairs	0	1,179
Minor Works Preservation	2,334	2,334
Nat Resource Bldg Roof Replacement/Ext Foam Insulation Repairs	4,482	4,482
O'Brien Building Improvements *	0	6,000
Perry Street Child Care Site *	0	250
Reuse GA Bldg for Heritage Cntr., State Library & State Patrol	0	150
Total	13,574	23,071
Washington State Patrol		
Fire Training Academy Burn Building Predesign	0	100
Minor Works-Preservation	315	315
Total	315	415
Military Department		
Combined Support Maintenance Shop Design and Construction	0	20,264
Minor Works Preservation	1,198	4,799
Minor Works Program	0	9,958
Total	1,198	35,021
Department of Archaeology & Historic Preservation		
Courthouse Preservation	750	750
Heritage Barn Preservation Program	200	200
Total	950	950

* = Alternative Finance Project

2011-13 Capital Budget New Appropriations Project List

	Debt Limit Bonds	Total
Total Governmental Operations	119,014	545,519
Human Services		
WA State Criminal Justice Training Commission		
Fire Alarm Replacement New Upgrade	200	200
Department of Labor and Industries		
Labor and Industries Building Repairs and Renewal	0	567
Department of Social and Health Services		
Capacity to Replace Maple Lane School Design and Project Management *	0	15,850
Eastern State Hospital: Westlake Building Renovation	1,035	1,035
Francis Haddon Morgan Center Predesign	0	150
Hazards Abatement and Demolition	1,000	1,000
Minor Works Preservation: Facilities Preservation	4,861	6,075
Minor Works Preservation: Health, Safety & Code Requirements	3,500	3,500
Minor Works Preservation: Infrastructure Preservation	4,000	4,000
Yakima Valley School Predesign	0	150
Total	14,396	31,760
Department of Health		
Drinking Water Assistance Program	0	49,868
Drinking Water Grants: Tulalip Water Supply & Hanson Harbor	3,199	3,199
Minor Works - Facility Preservation	380	380
Total	3,579	53,447
Department of Veterans' Affairs		
Minor Works Facilities Preservation	0	2,722
Walla Walla Nursing Facility	2,400	2,400
Total	2,400	5,122
Department of Corrections		
Monroe Corrections Center: SOU Core Building and Wings Roofing	2,822	2,822
New Prison Reception Center	6,200	6,200
SW: Minor Works - Facility Preservation	2,500	2,500
SW: Minor Works - Health, Safety & Code	2,600	2,600
SW: Minor Works - Infrastructure Preservation	2,500	2,500
Washington State Penitentiary: Housing Units, Kitchen & Site Work	42,453	42,453
Total	59,075	59,075
Total Human Services	79,650	150,171
Natural Resources		
Department of Ecology		
ASARCO - Tacoma Smelter Plume and Mines	0	20,647
Burlington Northern Santa Fe Skykomish Restoration	0	284
Centennial Clean Water Program	0	34,100
Clean Up Toxics Sites - Puget Sound	0	16,400
Coastal Wetlands Federal Funds Administration	0	23,200
Columbia River Basin Water Supply Development Program	47,000	47,000

* = Alternative Finance Project

2011-13 Capital Budget Overview

2011-13 Capital Budget New Appropriations Project List

	Debt Limit Bonds	Total
Department of Ecology (continued)		
Coordinated Prevention Grants	0	28,610
Diesel Emissions Reduction	0	7,000
Eastern Washington Clean Sites Initiative	0	6,000
Green River Flood Levee Improvements	4,000	4,000
Hood Canal Regional Septic Repair Loan Program	750	3,250
Mount Vernon Flood Protection	700	700
Padilla Bay Boat Launch	0	320
Padilla Bay Federal Capital Projects	0	800
Remedial Action Grant Program	0	63,834
Safe Soils Remediation Program - Central Washington	0	3,711
Statewide Stormwater Projects	0	30,000
Swift Creek Natural Asbestos Cleanup	0	1,000
Waste Tire Pile Prevention and Cleanup	0	1,000
Water Irrigation Efficiencies	1,000	1,000
Water Pollution Control Revolving Fund Program	0	184,205
Watershed Plan Implementation and Flow Achievement	8,000	8,000
Wood Stove Pollution Reduction	0	3,000
Yakima Basin Integrated Water Management Plan Implementation	2,000	2,000
Total	63,450	490,061
State Parks and Recreation Commission		
Bay View Park Wide Wastewater Treatment System	1,250	1,250
Clean Vessel Boating Pumpout Grants	0	3,300
Facility and Infrastructure Backlog Reduction	1,300	1,300
Federal Grant Authority	0	750
Fish Barrier Removal	1,238	1,238
Fort Worden State Park: Building 202 Rehabilitation	2,377	2,377
Iron Horse Tunnel Hazard Repair	1,896	1,896
Local Grant Authority	0	750
Minor Works - Facilities and Infrastructure Preservation	3,000	3,000
Minor Works - Health and Safety	5,000	5,000
Parkland Account Authority	0	2,000
Total	16,061	22,861
Recreation and Conservation Funding Board		
Aquatic Lands Enhancement Account	0	6,806
Boating Facilities Program	0	8,000
Boating Improvement Grants	0	2,100
Family Forest Fish Passage Program	2,000	17,000
Firearms and Archery Range Recreation	0	365
Land and Water Conservation Fund	0	4,000
Nonhighway and Off-Road Vehicle Activities Program	0	5,500
Puget Sound Estuary and Salmon Restoration Program	5,000	5,000
Puget Sound Restoration	15,000	15,000
Recreational Trails Program	0	5,000
Salmon Recovery Funding Board Programs	10,000	70,062
Washington Wildlife Recreation Grants	42,000	42,000
Total	74,000	180,833

* = Alternative Finance Project

2011-13 Capital Budget New Appropriations Project List

	Debt Limit Bonds	Total
State Conservation Commission		
Conservation Reserve Enhancement Program	2,000	2,000
CREP - Practice Incentive Payment Loan Program	0	150
Livestock Nutrient Program	1,000	1,000
Total	3,000	3,150
Department of Fish and Wildlife		
Beebe Springs Development	1,891	1,891
Cherry Valley Fish Passage and Stream Restoration	1,451	1,451
Migratory Waterfowl Habitat	0	600
Minor Works - Access Areas Preservation	1,027	1,027
Minor Works - Dam and Dike	1,043	1,043
Minor Works - Facility Preservation	2,557	2,557
Minor Works - Fish Passage Barrier Corrections	1,280	1,280
Minor Works - Health Safety and Code Requirements	1,241	1,241
Minor Works - Infrastructure Preservation	2,530	2,530
Minor Works - Programmatic	150	150
Minor Works - Road Maintenance and Abandonment Plan	1,826	1,826
Mitigation Projects and Dedicated Funding	0	35,850
Skamania Hatchery Intake Replacement Design and Permit	3,446	3,446
Voights Creek Hatchery Phase 2	1,000	1,000
Total	19,442	55,892
Puget Sound Partnership		
Community Partnership Restoration Grants	0	3,950
Department of Natural Resources		
Fire Hazard Reductions	2,000	2,000
Forest Legacy	0	5,000
Forest Riparian Easement Program	1,000	1,000
Land Acquisition Grants	0	8,000
Land Bank	0	75,500
Minor Works-Preservation	0	920
Natural Areas Facilities Preservation and Access	1,500	1,500
Replacing State Forest Lands with Productive Forests	2,000	2,000
Sustainable Recreation	1,500	1,500
Trust Land Transfer	60,490	60,490
Total	68,490	157,910
Department of Agriculture		
Health and Safety Projects at County Fairs	1,000	1,000
Total Natural Resources	245,443	915,657
Higher Education		
University of Washington		
Anderson Hall Renovation	1,553	1,553
High Voltage Infrastructure Improvement Project	4,365	4,365
House of Knowledge Longhouse	2,700	2,700
Odegaard Undergraduate Learning Center	16,575	16,575
Preventive Facility Maintenance and Building System Repairs	0	25,825

* = Alternative Finance Project

2011-13 Capital Budget Overview

2011-13 Capital Budget New Appropriations Project List

	Debt Limit Bonds	Total
University of Washington (continued)		
UW Minor Capital Repairs	11,186	38,987
Total	36,379	90,005
Washington State University		
Clean Technology Laboratory	0	2,500
Minor Works - Preservation	0	24,315
Preventive Facility Maintenance and Building System Repairs	0	10,115
WSU Pullman - Agricultural Animal Health Research Facility	0	250
WSU Spokane - Riverpoint Biomedical and Health Sciences	31,230	35,000
Total	31,230	72,180
Eastern Washington University		
Minor Works - Preservation	4,895	14,100
Patterson Hall Remodel	30,500	30,500
Preventive Facility Maintenance and Building System Repairs	0	2,217
Total	35,395	46,817
Central Washington University		
Combined Utilities	4,000	4,000
COP Authority for Building Purchase *	0	2,500
Minor Works Preservation	0	7,000
Nutrition Science Predesign	300	300
Preventive Facility Maintenance and Building System Repairs	0	2,422
Samuelson Communication and Technology Center (SCTC)	5,000	5,000
Science Building Phase 2	2,000	2,000
Total	11,300	23,222
The Evergreen State College		
Communications Laboratory Building Preservation and Renovation	8,130	9,160
Lecture Hall Remodel	0	300
Preservation	0	6,935
Preventive Facility Maintenance and Building System Repairs	0	760
Science Center - Lab I, 2nd Floor Renovation	4,950	4,950
Total	13,080	22,105
Western Washington University		
Academic Services & Performing Arts Facility	0	350
Carver Academic Renovation	6,784	6,784
Classroom and Lab Upgrades	2,486	4,799
Fraser Hall Renovation	4,480	4,480
Minor Works - Preservation	0	8,264
Preventive Facility Maintenance and Building System Repairs	0	3,614
Total	13,750	28,291
Community & Technical College System		
Bellingham Technical College: Fisheries Program	2,000	2,000
Clover Park Technical College: Allied Health Care Facility	20,706	20,706
Columbia Basin College: COP authority to add space *	0	2,500
Everett Community College: Index Hall Replacement	31,988	31,988
Facility Repairs "A"	0	15,829
Green River Community College: Science Math Technology Building	18,562	18,562

* = Alternative Finance Project

2011-13 Capital Budget New Appropriations Project List

	Debt Limit Bonds	Total
Community & Technical College System (continued)		
Lower Columbia College: Myklebust Gymnasium	2,000	2,000
Minor Works - Preservation	0	16,001
Minor Works - Program	20,000	20,000
Peninsula College: Forks Satellite Building Renovation *	0	2,000
Peninsula College: Fort Worden Building 202	2,000	2,000
Peninsula College: Wellness Center *	0	800
Preventive Facility Maintenance and Building System Repairs	0	22,800
Roof Repairs "A"	0	9,125
Site Repairs "A"	1,983	5,045
South Puget Sound Community College: Learning Resource Center	30,196	30,196
Spokane Falls CC: Stadium & Athletic Fields	758	758
Spokane Falls Community College: Campus Classrooms	17,647	17,647
Walla Walla Community College Water and Environment Center *	0	1,000
Walla Walla Community College: Land Acquisition *	0	1,000
Wenatchee Valley College: Music and Arts Center *	1,689	4,389
Whatcom Community College: Auxiliary Service Building *	0	3,916
Total	149,529	230,262
Total Higher Education	290,663	512,882
Other Education		
Public Schools		
2011-13 School Construction Assistance Program	345,754	661,314
Aviation High School	1,000	1,000
Capital Program Administration Maintenance Level	0	3,851
Clark County Skills Center Addition	100	100
Energy Operational Savings Project Grants	20,000	20,000
Pierce County Skills Center	7,100	7,100
Pre-Disaster Mitigation Planning Grant	0	800
SEA-Tech Branch Campus of Tri-Tech Skills Center SEA-Tech (Walla Walla) Branch Campus	1,169	1,169
Skills Centers Minor Works-Facility Preservation	3,000	3,000
Urgent Repair Grant Program	5,000	5,000
Yakima Valley Technical Skills Center Phase II	28,461	28,461
Total	411,584	731,795
State School for the Blind		
General Campus Preservation	0	550
Center for Childhood Deafness & Hearing Loss		
Minor Public Works	0	536
Washington State Historical Society		
Building Preservation	800	800
Washington Heritage Grants	1,168	1,168
Total	1,968	1,968
Eastern Washington State Historical Society		
Minor Works - Facility Preservation	100	100

* = Alternative Finance Project

2011-13 Capital Budget Overview

2011-13 Capital Budget New Appropriations Project List

	<u>Debt Limit Bonds</u>	<u>Total</u>
Total Other Education	<u>413,652</u>	<u>734,949</u>
Projects Total	1,148,422	2,859,178
 GOVERNOR VETO		
Higher Education		
Central Washington University		
Combined Utilities	-273	-273
Governor Veto Total	-273	-273
<hr/>		
TOTALS		
Projects Total	1,148,422	2,859,178
Governor Veto Total	-273	-273
 Statewide Total	 1,148,149	 2,858,905
Bond Capacity Adjustments	<u>-3,000</u>	
 Total for Bond Capacity Purposes	 1,145,149	

* = Alternative Finance Project

2011 Supplemental Capital Budget

New Appropriations Project List

	<u>Debt Limit Bonds</u>	<u>Total</u>
Governmental Operations		
Department of Commerce		
2010 Local and Community Projects	380	380
Building Communities Fund Grants	-881	-881
Building for the Arts Grants	-525	-525
Energy Regional Innovation Cluster Match	0	-5,500
Job and Economic Development Grants	-2,579	-2,579
Job Development Fund Grants	-1,000	-1,000
Jobs Act for K-12 Public Schools & Higher Education Institutions	-5,191	-5,191
Local and Community Projects	-100	-100
Quillayute Valley Wood-Fire Boiler	-20	-20
Snohomish County Biodiesel	-81	-81
Temporary Public Works Grant Program	-2,257	-2,257
Youth Recreational Facilities Grants	-950	-950
Total	-13,204	-18,704
Office of Financial Management		
Risk Pool	-4,000	-4,000
Department of General Administration		
Engineering and Architectural Services: Staffing	-131	-131
Facility Oversight Program: Staffing	-35	-35
Pro Arts Building	-24	-24
Total	-190	-190
Washington State Patrol		
Fire Training Academy Burn Building Repairs	0	300
Total Governmental Operations	-17,394	-22,594
Human Services		
Department of Social and Health Services		
Capacity to Replace Maple Lane School	1,337	1,337
Western State Hospital: New Kitchen and Commissary Building	-110	-110
Western State Hospital: Traffic Study Implementation	-316	-316
Total	911	911
Department of Corrections		
Washington Corrections Center: Replace Fire Detection/Suppression	-200	-200
Washington Corrections Ctr for Women: Replace Fire Alarm	-964	-964
Washington Corrections Ctr for Women: Roof Replacement	-697	-697
Total	-1,861	-1,861
Total Human Services	-950	-950

**2011 Supplemental Capital Budget
New Appropriations Project List**

	<u>Debt Limit Bonds</u>	<u>Total</u>
Natural Resources		
Department of Ecology		
Diesel Emissions Reduction	0	353
Protect Communities from Flood and Drought	-25	-25
Safe Soils Remediation Program	<u>-1,711</u>	<u>-1,711</u>
Total	-1,736	-1,383
State Parks and Recreation Commission		
Cama Beach State Park Phase 2C Development	-1,150	-1,150
Flaming Geyser State Park: Parkwide Infrastructure Redevelopment Construction only	-2,400	-2,400
Minor Works - Preservation	<u>-130</u>	<u>-130</u>
Total	-3,680	-3,680
Recreation and Conservation Funding Board		
Washington Wildlife Recreation Grants	-555	-555
Department of Fish and Wildlife		
Beebe Springs Phase 3	-1,600	-1,600
Grays River Hatchery Intake Replacement Design and Permitting	-468	-468
Mitchell Act Federal Grant	0	3,000
Puget Sound Initiative - Nearshore Salmon Restoration	0	800
Skookumchuck Hatchery Renovation	-600	-600
Voights Creek Hatchery Phase 2	-8	-8
Washougal Hatchery Pond Renovation	<u>-150</u>	<u>-150</u>
Total	-2,826	974
Puget Sound Partnership		
Community Partnership Restoration Grants	0	500
Department of Natural Resources		
Blanchard Mountain	-973	-973
Natural Areas Facilities Preservation and Access	-35	-35
Recreation Capital Renovations	-225	-225
Road Maintenance & Abandonment Projects	<u>-50</u>	<u>-50</u>
Total	-1,283	-1,283
Total Natural Resources	<u>-10,080</u>	<u>-5,427</u>
Higher Education		
Central Washington University		
Science Building Phase 2	-22	-22
Community & Technical College System		
Bellingham Technical College: Fisheries Program	-2,000	-2,000
Construction Contingency Pool	-241	-241
Wenatchee Valley College: Music and Arts Center	<u>-1,689</u>	<u>-1,689</u>
Total	-3,930	-3,930
Total Higher Education	<u>-3,952</u>	<u>-3,952</u>

**2011 Supplemental Capital Budget
New Appropriations Project List**

	<u>Debt Limit Bonds</u>	<u>Total</u>
Other Education		
Public Schools		
Apple Awards	-3	-3
Energy Efficiency and Small Repair Grants	-111	-111
Total	-114	-114
Center for Childhood Deafness & Hearing Loss		
Well Replacement	264	264
Washington State Historical Society		
Vancouver National Historic Reserve Visitors Center	-750	-750
Total Other Education	<u>-600</u>	<u>-600</u>
Projects Total	-32,976	-33,523

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C 365 L 11		Emergency medical services levy	SB	5628
C 366 L 11		Long-term care services	ESSB	5708
C 367 L 11	PV	Transportation budget 2009-11/2011-13	ESHB	1175
C 368 L 11		Vehicle television viewers	SHB	1103
C 369 L 11		Express toll lanes/eastside.....	EHB	1382
C 370 L 11		Driver licenses, identicards	ESHB	1635
C 371 L 11	PV	Public transportation systems	ESHB	1967
C 372 L 11		Negligent driving	SSB	5326
C 373 L 11		Congestion reduction charge.....	ESSB	5457
C 374 L 11		Limousine carriers	SSB	5502
C 375 L 11		School bus safety cameras	SSB	5540
C 376 L 11		DOT surplus real property	SSB	5658
C 377 L 11	PV	Toll facilities	SSB	5700
C 378 L 11		Park and ride lots	SSB	5791
C 379 L 11		Public transportation facilities	SSB	5836
Full Veto		Juveniles with developmental disabilities.....	SHB	5097

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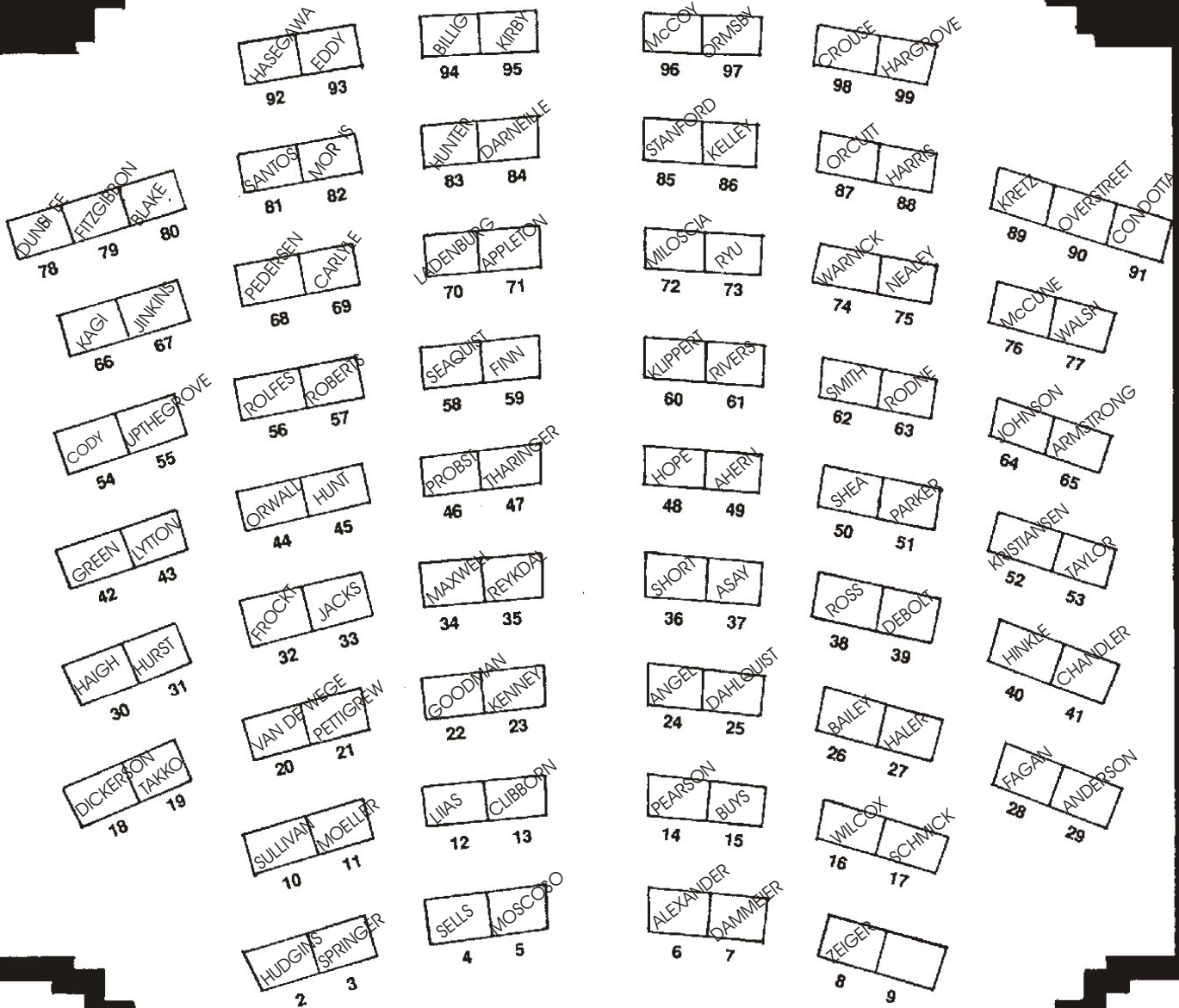
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Holmquist Newbry 13	Hill 45	Baumgartner 6	Fain 47	Shin 21	Sheldon 35	Keiser 33	
Becker 2	Erickson 42	Litzow 41	Hargrove 24	Kline 37	Hatfield 19		
Stevens 39	Parlette 12	Swecker 20	Rockefeller 23	Tom 48	Kohl-Welles 36		
Zarelli 18	Hewitt 16	Schoesler 9	Eide 30	White 46	Murray 43		
Roach 31	King 14	Pflug 5	Brown 3	Fraser 22	Kilmer 26		
Benton 17	Carrell 28	Baxter 4	Regala 27	McAuliffe 1	Haugen 10		
	Delvin 8	Morton 7	Chase 32	Prentice 11			

= District

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Senate Counsel Mike Hoover	President of the Senate Lieutenant Governor Brad Owen	Senate Counsel Keith Buchholz
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