

2004 Final Legislative Report

Fifty-eighth Washington State Legislature

**2003 Third Special Session
2004 Regular Session**





Above (and background) photo shows thin layers of graded sediments whose intervals depict one year's deposition of glacial outwash, Ferry County.

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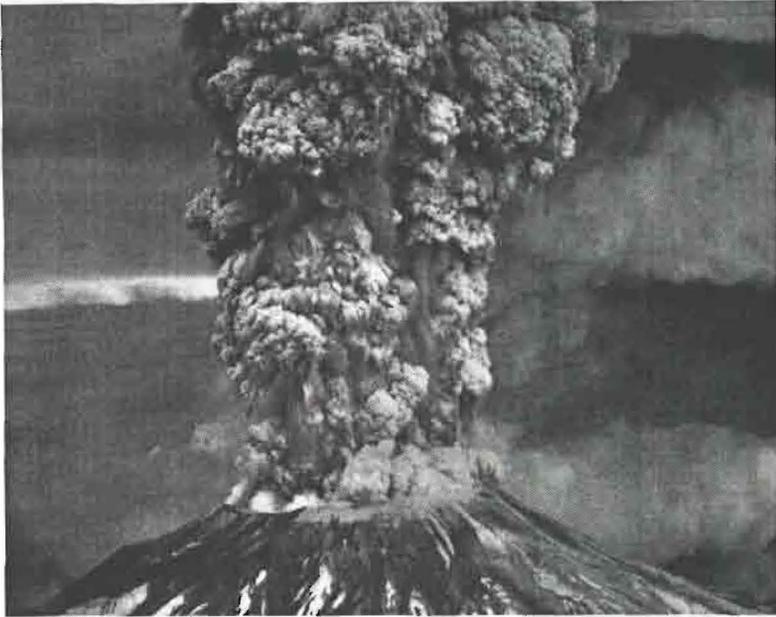
For more detailed information regarding 2004 legislation contact the:

House Office of Program Research
230 John L. O'Brien Building
PO Box 40600
Olympia, WA 98504-0600
(360) 786-7100

Senate Committee Services
200 John A. Cherberg Building
PO Box 40466
Olympia, WA 98504-0466
(360) 786-7400

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On May 18, 1980, Mount St. Helens exploded, reducing the summit by more than 1,000 ft.

Fifty-eighth Washington State Legislature

2003 Third Special Session
2004 Regular Session

The Geology of Washington

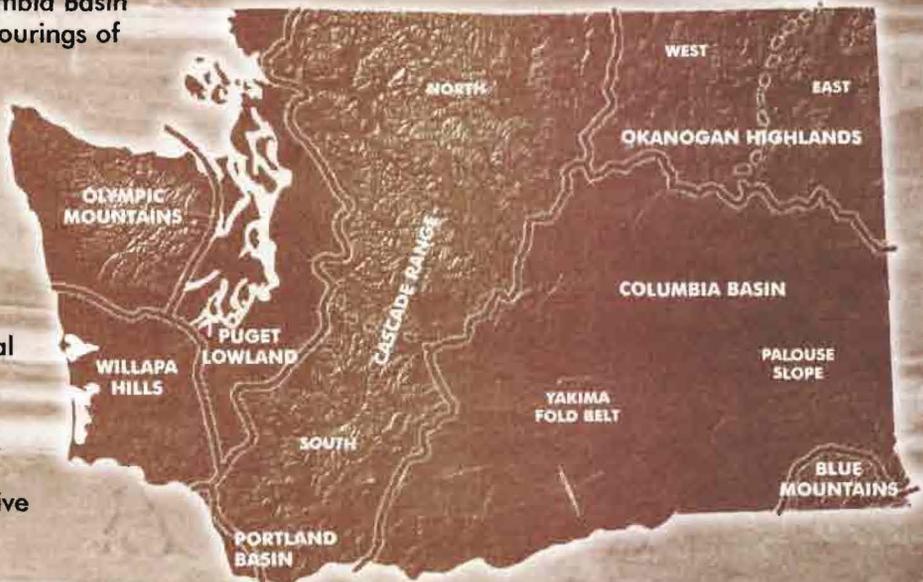
The geology of the state of Washington is unique and highly diverse. The major crustal features of the surrounding areas, namely Oregon, Idaho, and British Columbia, all terminate in Washington.

A wide variety of geologic events have occurred in this state, including continental collisions, metamorphism, volcanism, mountain building, erosion and flooding. Two major geologic conditions further enhance the state's uniqueness. One is the impact of crustal tectonics as the North American continent slides over the oceanic Juan de Fuca plate in a process referred to as subduction. The subducted rocks heat up creating upwellings of magma that surface as volcanoes. The other is the Columbia Basin being subjected to one of the greatest outpourings of basalt known in the geologic record.

Ancient rocks predating the Cambrian Period as well as those from every geologic period from the Cambrian through Quaternary are represented in the state. Such diversity has a big impact on soil productivity, locations of mineral deposits, the scenery and also the climate.

In an effort to more easily understand these events, the state is divided into several physiographic provinces as depicted in the map to the right.

The section pages throughout this book feature some of the geological wonders of provinces not featured in the 2003 Legislative Report.



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Pacific Ocean at Ocean Park, Pacific County.

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Willapa Hills

The Willapa Hills are located between the Olympic Mountains and the Columbia River and rise to slightly over 3,000 ft. above sea level. This geological province includes the Black Hills, Doty Hills and wide valleys which open to the Pacific Ocean. Beaches run along the coastline fronting estuaries such as Grays Harbor and Willapa Bay.

Columbia River Basalt Group flows traveled down the ancestral Columbia River and reached the Pacific Ocean at the mouth of the river. They also flowed into Willapa Bay and Grays Harbor. These flows entered depositional basins containing semiconsolidated sediments and tended to burrow into these sediments.

These rounded hills are not dramatically deformed like the Olympic Mountains as they were not subject to subduction tectonism.

Coastal estuaries show evidence of repeated sudden submergence attributed to earthquakes. The last occurrence of this has been determined by radio carbon dating techniques to have happened about 1670 A.D. and affected about 60 miles of coastline.

During the glacial-age Pleistocene era, a primary river ran through the present day valley of the Chehalis River directing runoff from the Cascade Range foothills toward the Pacific Ocean.

The only mineral resources from the Willapa Hills being utilized are sand, gravel and rock.



Statistical Summary

2003 Third Special Session and 2004 Regular Session of the 58th Legislature

Bills Before Legislature	Introduced	Passed Legislature	Vetoed	Partially Vetoed	Enacted
<i>2003 Third Special Session (December 5)</i>					
House	1	1	0	0	1
Senate	0	0	0	0	0
<i>2004 Regular Session (January 12 - March 11)</i>					
House	918	135	1	9	134
Senate	649	146	3	9	143
TOTALS	1,567	281	4	18	277

Initiatives, Joint Memorials, Joint Resolutions and Concurrent Resolutions Before Legislature	Introduced	Filed with the Secretary of State
<i>2004 Regular Session (January 12 - March 11)</i>		
House	34	6
Senate	46	5
TOTALS	80	11
Initiatives	1	1

Gubernatorial Appointments	Referred	Confirmed
<i>2004 Regular Session (January 12 - March 11)</i>	110	2



Volcanic breccia.

Section I

Legislation Passed

Numerical List

Initiative

House Bill Reports and Veto Messages

House Memorials and Resolutions

Senate Bill Reports and Veto Messages

Senate Memorials and Resolutions

Sunset Legislation

Portland Basin

The Portland Basin is located south of the Puget Lowland geological province and southwest of the southern Cascade Range. It marks the northern boundary of the Willamette Lowland of Oregon. The northern part of the Portland Basin is located in Washington, and features a low topographic relief.

There are exposures of Columbia River Basalt on the edge of the basin. In the basin itself the basalt layer is about 1,000 ft. below the surface and filled with sediments from the ancestral Columbia River. In general these deposits consist of a lower gravel section and an upper section containing volcanic glass sands and are referred to as the Troutdale Formation. The sands were created when Cascade Range volcanics explosively cooled as they flowed into the Columbia River. A volcanic breccia subunit of this formation representing a lahar has been mapped near Woodland, Washington. Breccia is made up of jagged particles of sedimentary rock more than 2 millimeters in diameter.

Most recently, water from the cataclysmic flooding of the Columbia River Gorge caused by glacial Lake Missoula 12,000 to 15,000 years ago formed ponds in the basin. These backwaters deposited well-sorted sand, clay, and gravel.



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I 841
C 1 L 04

Ergonomics regulations.

By People of the State of Washington.

Background: Ergonomics is the study of designing jobs, selecting tools, and modifying work methods to better fit workers' capabilities and prevent injuries. It is particularly concerned with work-related musculoskeletal disorders (WMSD), such as carpal tunnel, tendinitis, and back injuries.

The Department of Labor and Industries (L&I) began developing rules relating to ergonomics in October 1998 and released final rules in May 2000. The rules focus on "caution zone jobs" that involve awkward positions, high hand force, repeated impact or repetitive motions, and require employers to find and fix ergonomic hazards in the workplace.

These rules apply to all industries and were originally to be phased-in over five years, starting in July 2002 with larger employers (those with 50 or more FTEs) in industries deemed to have the highest risk of WMSD. In March 2002, Governor Locke directed L&I to delay imposition of citations and penalties for two years, pushing back the start of implementation of the rules to July 2004.

At the federal level, the Occupational Safety and Health Administration (OSHA) published a final ergonomics rule in November 2000. In March 2001, Congress invoked the Congressional Review of Agency Rulemaking Act to rescind the rule and prohibit OSHA from imposing "substantially the same" requirements.

Summary: State ergonomics regulations are defined as the rules addressing musculoskeletal disorders adopted May 26, 2000 by the director of L&I. These rules are repealed. The L&I director shall not adopt any new or amended rules dealing with musculoskeletal disorders, or that deal with the same or similar activities as the rules being repealed, until and to the extent required by Congress or the federal Occupational Safety and Health Administration.

Effective: December 4, 2003

SHB 1322
C 236 L 04

Exempting from taxation certain property belonging to any federally recognized Indian tribe located in the state.

By House Committee on Finance (originally sponsored by Representatives G. Simpson, Cairnes, McCoy and Roach).

House Committee on Finance

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. Property owned by the United States, the State of Washington, counties, cities, and other local governments is exempted from property tax by the State Constitution. The Legislature may exempt other property by statute and has enacted a number of exemptions for property owned by various nonprofit organizations.

The question of whether property owned by an Indian tribe is exempt from tax can be a complicated legal matter. Often, tribal property is held in trust for the tribe by the United States and is therefore exempt from tax. Other property owned by a tribe might not qualify as trust land and might not be exempt.

Summary: Property owned by a federally recognized Indian tribe, and used for essential government services, is exempt from property tax.

Votes on Final Passage:

House	67	28
Senate	40	8

Effective: June 10, 2004

SHB 1328
C 174 L 04

Modifying the tax treatment of boarding homes.

By House Committee on Finance (originally sponsored by Representatives Fromhold, Cairnes, Sullivan, Veloria, Skinner, Alexander, Morris, Moeller, Benson, Darneille, Linville, Jarrett, Miloscia, Clibborn, Cox, Pettigrew, Clements, McCoy, Campbell, Romero, O'Brien, Talcott, Ahern, Schindler, Hinkle, Hunt, Rockefeller, Wallace, Quall, Conway, Flannigan, Chase, Blake, G. Simpson, Upthegrove, Kenney, Newhouse, Buck, Woods and Bush).

House Committee on Finance

Senate Committee on Ways & Means

Background: A licensed boarding home is a facility that provides board and domiciliary care to seven or more residents. Domiciliary care includes assisting with the activities of daily living and assuming general responsibility for the safety and well-being of the resident. Some boarding homes offer limited nursing

services and others specialize in serving people with mental health problems, developmental disabilities, or dementia.

Washington's major business tax is the business and occupation (B&O) tax. The B&O tax is imposed on the gross receipts of business activities conducted within the state, without any deduction for the costs of doing business. The tax is imposed on the gross receipts from all business activities conducted within the state. Although there are several different rates, the most common rates are 0.471 percent for retailing, 0.484 percent for wholesaling, and 1.5 percent for service activity. Businesses that are involved in more than one kind of business activity are required to segregate their income and report under the appropriate tax classification based on the nature of the specific activity.

The income derived from the rental of real estate is exempt from the B&O tax. Until recently the Department of Revenue (Department) allowed boarding homes with sufficient supporting documentation to separate the charges for renting rooms from the charges for personal and professional services and meals. The Department has now concluded that the primary purpose of assisted living facilities is to provide daily living assistance and care, not the rental of real estate. This means that boarding homes may no longer separate their charges and must pay B&O tax at the service rate (1.5 percent) on their entire fee. This makes the tax treatment of boarding homes the same as that for nursing homes.

There are some B&O deductions and exemptions that apply in this area. Nonprofit health and social welfare organizations are allowed a deduction from the B&O tax for payments from governmental entities for health or social services. Adult family homes are exempt from B&O taxes.

Summary: Licensed boarding homes providing room and domiciliary care to residents pay B&O taxes at a rate of 0.275 percent. Amounts received from the Department of Social and Health Services (DSHS) for adult residential care, enhanced adult residential care, or assisted living services for medicaid recipients are deducted from income before B&O taxes are determined.

Votes on Final Passage:

House 97 0
Senate 47 0

Effective: July 1, 2004

Designating highways of statewide significance.

By Representatives Cooper, Pearson, Lovick and Kristiansen.

House Committee on Transportation
Senate Committee on Highways & Transportation

Background: In 1998 the Legislature directed the Transportation Commission (Commission) to designate highways of statewide significance. At a minimum, this designation was to include interstate highways and other statewide principal arterials needed to connect major communities across the state and support the state's economy.

The Commission refined the criteria and designated certain highways as highways of statewide significance. For a highway to be designated as a highway of statewide significance the highway must be a state highway, a principal arterial that is part of the national highway system, and a rural route serving statewide travel or an urban route with certain connectivity characteristics or freight volumes.

In 2002 the regional transportation investment district legislation empowered the Legislature to also designate state highways of statewide significance and made that designation of a portion of State Route 509. The legislation also required that 90 percent of investment district revenues be expended along highways of statewide significance corridors.

Designation of a highway route as a highway of statewide significance means the improvements along the route are higher priority. It also means that improvements are essential public facilities under Growth Management Act (GMA) plans, GMA concurrency requirements do not apply, and the state is responsible for establishing level of service standards.

Summary: The Legislature designates as highways of statewide significance those designated by Transportation Commission Resolution Number 660 as adopted on January 21, 2004.

Votes on Final Passage:

House 95 0
Senate 48 0 (Senate amended)
House 97 0 (House concurred)

Effective: June 10, 2004

HB 1572
C 70 L 04

Increasing small claims judgments upon failure to pay.

By Representatives Kirby, Newhouse, Moeller, Campbell, Fromhold, Hinkle and Condotta.

House Committee on Judiciary
Senate Committee on Judiciary

Background: Small claims court is a department within the district court. The small claims court has jurisdiction over cases if the amount in controversy does not exceed \$4,000. Proceedings in small claims court are informal. The judge may consult witnesses, investigate the controversy, and give judgment or issue orders that the judge finds equitable.

If a monetary judgment is entered in small claims court, the debtor must pay the prevailing party either at the time the judgment is entered or order a court-approved payment plan. If the losing party fails to pay the judgment within 30 days or within the period of the payment plan, the prevailing party may request the court to certify the judgment and enter it on the district court docket so that it may be enforced like any other judgment from district court. The court must increase the judgment by the cost of certifying the judgment and the filing fee.

Summary: When the losing party in small claims court fails to pay the judgment within 30 days or the time allowed by the court, the court must increase the judgment by the costs incurred by the prevailing party to enforce the judgment, including reasonable attorney fees. This is in addition to the costs to certify and file the judgment.

Votes on Final Passage:

House	97	0
Senate	47	0

Effective: June 10, 2004

HB 1580
C 71 L 04

Revising provisions of the personality rights act.

By Representatives Lantz, Carrell, Flannigan, Campbell, Morris and Pettigrew.

House Committee on Judiciary
Senate Committee on Judiciary

Background: In 1998 the Legislature enacted the Personality Rights Act (Act), which established that every person has a property right in the use of his or her name, voice, signature, photograph, or likeness.

The property right is exclusive to the individual or personality during his or her lifetime. It may be assigned or licensed while the individual or personality is alive or

may descend through a will or under the laws governing distribution of property if there is no will. The property right exists whether or not an individual or personality made commercial use of it while alive.

The extent of the property right depends upon whether the person's name, voice, signature, photograph, or likeness has commercial value. If it has commercial value, he or she is considered a "personality." For personalities, the property right exists for 75 years after death. For individuals, the property right continues for 10 years after the individual dies.

Any person who uses an individual's or personality's name, voice, signature, photograph, or likeness without prior consent infringes on this property right and is liable in an action for damages for the greater of \$1,500 or actual damages, plus any profits attributable to the infringement.

The Act provides several exceptions to the use of a person's name, voice, signature, photograph, or likeness. For example, it is not an infringement if the use is:

- in connection with matters of cultural, historical, political, religious, educational, newsworthy, or public interest;
- for purposes of commentary, criticism, satire, or parody;
- in single original works of fine art that are not published in more than five copies;
- in literary, theatrical, or musical work and any advertisements for those works;
- in a film, radio, television, or online program, or magazines articles; or
- an insignificant or incidental use.

When the Act was first introduced in the Legislature, it contained a provision specifying how a person may sue when the person was photographed as part of a "definable group," such as a crowd at a sporting event. The provision was eventually removed from the bill, but the term "definable group" remains in the definitions.

Summary: The definition of "definable group" is removed.

A parent of a minor child may exercise the minor child's individual or personality rights granted under the Act.

The Act does not apply to the distribution, promotion, transfer, or license of a photograph or other material containing a person's name, voice, signature, photograph, or likeness to a third party for lawful use or to the third party's further distribution, promotion, transfer, or license for lawful use.

Votes on Final Passage:

House	93	0
Senate	49	0

Effective: June 10, 2004

HB 1589
C 109 L 04

Allowing annual permits for oversize towing operations.

By Representatives Murray and Woods.

House Committee on Transportation
Senate Committee on Highways & Transportation

Background: Operators of overweight or oversized vehicles must obtain a special permit from the Washington State Department of Transportation (WSDOT) to travel on the state highway system. Permits issued may be valid anywhere from one day to one year, although there are no long-term permit categories for tow trucks.

If a tow truck is hired to tow an oversized or overweight vehicle, the tow truck operator must obtain a permit, valid for that single tow operation from the WSDOT. The WSDOT charges according to the weight of the tow vehicle and the number of miles the vehicle will be towed. Fees for this type of permit range from \$14 to several hundred dollars.

Before July 1, 2004, if there was an emergency requiring an oversized/overweight vehicle to be towed outside regular business hours, the tow truck company could obtain the permit from the Washington State Patrol (WSP). However, the WSP discontinued this service as of July 1, 2003, which means that tow truck companies must obtain the necessary permits in advance of a tow or wait until the WSDOT offices are open for business.

Summary: Two new overweight/oversize permit categories are created for class C and class B tow trucks that perform emergency and nonemergency tows of oversize or overweight vehicles. Permits are valid for one year. The permit fee for class C tow trucks is \$150 per year and \$75 per year for class B tow trucks.

Votes on Final Passage:

House 95 0
Senate 48 0

Effective: June 10, 2004

2EHB 1645
C 17 L 04

Addressing protection of victims of domestic violence, sexual assault, or stalking in the rental of housing.

By Representatives Kessler, Skinner, Edwards, Lantz, Moeller, Kirby, Kenney, Lovick, O'Brien, Kagi, G. Simpson, McCoy, Cody, Ruderman, Flannigan, Uptegrove, Pettigrew, Clibborn, McDermott, Dickerson, Hudgins, Schual-Berke, Santos, Conway, Sullivan, Morrell and Darneille.

House Committee on Judiciary
Senate Committee on Financial Services, Insurance & Housing

Background: The Residential Landlord-Tenant Act (RLTA) regulates the relationship between tenants and landlords. The RLTA provides requirements, duties, rights, and remedies with respect to the landlord and tenant relationship.

Generally, a rental agreement will establish a tenancy for a specified period of time or a periodic tenancy (e.g., month to month). A tenancy for a specified time is terminated at the end of the period specified. A periodic tenancy is automatically renewed for another period until terminated by either the landlord or the tenant by giving at least 20 days notice prior to the end of the period.

The RLTA specifies certain circumstances under which a landlord or tenant may terminate a tenancy without further obligation under the agreement. One of these circumstances allows a tenant who is a victim of domestic violence to terminate a rental agreement if the tenant has a valid domestic violence protection order, the person restrained by the order has violated the order, the tenant has notified law enforcement of the violation, and a copy of the order is available for the landlord. This applies only to protection orders issued under the Domestic Violence Prevention Act. The tenant is discharged from the payment of rent for any period following the quitting date and is entitled to a pro rata refund of any prepaid rent.

Summary: The RLTA is amended to establish new requirements for the termination of a tenancy by a domestic violence victim, to allow a victim of sexual assault or stalking to terminate a tenancy, and to prohibit a landlord from discriminating against a victim of domestic violence, sexual assault, or stalking.

A tenant may terminate a rental agreement without further obligation under the agreement if the tenant or a household member is a victim of a crime of domestic violence, sexual assault, or stalking and if:

- the tenant or household member has a valid order of protection or has reported the domestic violence, sexual assault, or stalking to a "qualified third party" who has provided a written record of the report; and
- the request to terminate was made within 90 days of the reported act or event that led to the protection order or report to a qualified third party.

"Qualified third party" means law enforcement, health professionals, court employees, licensed mental health professionals or counselors, trained advocates for crime victim/witness programs, or clergy.

A written record that a report was made to a qualified third party may be made by a document signed by the third party that includes specified information. In addition, the record of the report may be made by completion of a form that substantially complies with the form set out in the Act. The name of the alleged perpetrator must be provided to the qualified third party, but the perpetrator's name may not be included on the record of the report that is provided to the tenant or household

member. However, the qualified third party must retain a copy of the record of a report and must note the name of the alleged perpetrator on the retained copy. Providing a record of a report to a qualified third party does not waive the confidential or privileged nature of the communication to the third party.

A tenant who terminates a rental agreement is liable for payment of rent for the month in which he or she quits the premises but is not responsible for the payment of rent for any future months. In addition, the tenant is entitled to a full refund of the deposit, subject to the conditions in the lease agreement for retaining any portion of the deposit.

A landlord may not terminate a tenancy, fail to renew a tenancy, or refuse to enter into a rental agreement with a person based on that person's or a household member's status as a victim of domestic violence, sexual assault, or stalking or based on the person having previously terminated a rental agreement. A landlord who refuses to enter into a rental agreement under these circumstances may be liable to the tenant in a civil action for damages.

If a tenant provides a landlord with a copy of a court order granting possession of a dwelling unit to the tenant to the exclusion of one or more co-tenants, the landlord must replace or reconfigure the locks on the dwelling if requested by the tenant. The tenant is responsible for the cost of the lock change. The landlord is not liable for any damages that result from the lock change.

Votes on Final Passage:

House	95	0	
Senate	46	0	(Senate amended)
House	94	0	(House concurred)

Effective: March 15, 2004

EHB 1677
FULL VETO

Authorizing a county to exempt certain property used in agriculture from taxation.

By Representatives Shabro, Newhouse, Bailey, Roach, Bush, Boldt, Chandler, Linville, Quall and McDermott.

House Committee on Agriculture & Natural Resources
House Committee on Finance
Senate Committee on Agriculture
Senate Committee on Ways & Means

Background: All property in Washington is subject to an assessment and taxation for state, county, and other taxing district purposes. Machinery and equipment that is owned by farmers as personal property is exempt from state property taxes if the machinery and equipment is used exclusively for growing and producing agricultural products.

A farmer's personal property is not exempt from the tax levied by a county or other special taxing district.

Summary: Machinery and equipment owned by a farmer as personal property is exempt from county property taxes if the farmer does not live in a rural county. To qualify for the exemption, the personal property must be used exclusively for the growing and production of agricultural products.

Votes on Final Passage:

House	92	0
Senate	36	12

VETO MESSAGE ON HB 1677

March 31, 2004

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, Engrossed House Bill No. 1677 entitled:

“AN ACT Relating to authorizing a county to exempt certain property used in agriculture from taxation;”

This legislation would have exempted all machinery and equipment owned by a farmer that is personal property from property taxes levied for any county purpose. However, the exemption would have only applied in the seven counties that currently do not satisfy the definition of a "rural county" under RCW 82.14.370.

In 2001, all machinery and equipment owned by a farmer that is personal property was exempted from the state property tax levy. The state exemption applies throughout the state and applies to property taxes levied for any state purpose. This bill would have singled out only county levies of the many local levies for the exemption, and in only seven counties. Property tax exemptions historically have been applied uniformly across the state with very few exceptions. This legislation would, for the first time, provide an exemption from a few locally imposed levies - the county levies - and not all locally imposed levies. This would complicate the property tax levy setting process and encourage other industries and interest groups to pursue special exemptions that will fractionalize the property tax base and the levy system.

For these reasons, I have vetoed Engrossed House Bill No. 1677 in its entirety.

Respectfully submitted,



Gary Locke
Governor

SHB 1691

C 65 L 04

Authorizing advanced registered nurse practitioners to examine, diagnose, and treat injured workers covered by industrial insurance.

By House Committee on Commerce & Labor (originally sponsored by Representatives Grant, Conway, Campbell, Wood, Kenney, Morrell, Crouse, Rockefeller, Holmquist, McCoy and Pflug).

House Committee on Commerce & Labor
Senate Committee on Commerce & Trade

Background: The Industrial Insurance Act (Act) provides that an injured worker is entitled to proper and necessary medical care from a physician of the worker's choice. The Act contains many provisions specifying the roles and responsibilities of physicians. For example, a physician who fails to provide necessary assistance to injured workers or file required reports is subject to civil penalties. Also, a physician may be required to testify as to an injured worker's examination or treatment before the Department of Labor and Industries or the Board of Industrial Insurance Appeals.

The Department of Labor and Industries' rules define "physician" as a person licensed to practice medicine and surgery or osteopathic medicine and surgery. The rules also define "doctor" to include persons licensed to practice medicine and surgery, osteopathic medicine and surgery, chiropractic, naturopathic physician, podiatry, dentistry, and optometry. Doctors may sign accident report forms for injured workers and time loss authorizations.

The Department of Health's rules provide that an "advanced registered nurse practitioner" (ARNP) is a registered nurse prepared to assume primary responsibility for management of a broad range of patient care. According to the rules, their practice "incorporates the use of independent judgment as well as collaborative interaction with other health care professionals." The Department of Labor and Industries' rules permit ARNPs to provide nursing care for injured workers. The rules require that ARNPs be recognized as ARNPs and have a system of obtaining physician consultations. ARNPs may not sign accident report forms or time loss authorizations.

Summary: The health services available to injured workers include health services provided by advanced registered nurse practitioners within their scope of practice. ARNPs are recognized as independent practitioners. Other provisions give ARNPs the same roles and responsibilities as physicians, except that ARNPs may not conduct special medical examinations. These provisions expire June 30, 2007.

The Department of Labor and Industries must report to the Senate Commerce and Trade Committee and the

House Commerce and Labor Committee by December 1, 2006, on the implementation of these provisions, including the effects on injured worker outcomes, claim costs, and disputed claims.

Votes on Final Passage:

House	95	0
Senate	44	0

Effective: July 1, 2004

EHB 1777

C 278 L 04

Implementing the collective bargaining agreement between the home care quality authority and individual home care providers.

By Representatives Morrell, DeBolt, Cody, Benson, Sullivan, Woods, Pettigrew, McDonald, Wallace, Priest, Simpson, G, Roach, Grant, Hinkle, Santos, Jarrett, Hunt, Blake, Dunshee, Conway, Kirby, Hankins, Clibborn, Linville, Kagi, Kessler, Kenney, Schual-Berke, Darneille, Rockefeller, Wood, Lovick, Campbell, McDermott, Hudgins and Edwards.

House Committee on Appropriations
Senate Committee on Ways & Means

Background: The state contracts with agency and individual home care workers to provide long-term care services for elderly and disabled clients who are eligible for publicly funded services through the Department of Social and Health Services' (DSHS) Aging and Adult Services and Developmental Disabilities programs. Home care workers provide DSHS clients with personal care assistance with various tasks such as toileting, bathing, dressing, ambulating, meal preparation, and household chores. Although these home care workers are paid by the DSHS, they are hired and fired by the client and are not considered "state employees."

In November 2001 the voters enacted Initiative Measure No. 775 (I-775). The initiative provides individual home care workers with collective bargaining rights under the Public Employees' Collective Bargaining Act. The measure also established the Home Care Quality Authority (HCQA) as an agency of state government to provide oversight of home care services and, solely for the purposes of collective bargaining, to function as the "employer" of approximately 25,000 individual home care workers. The initiative specifically applies to individual providers and does not include those home care workers employed by agency providers.

In August 2002 individual home care workers voted to unionize. Subsequently, in January 2003, an initial \$192.8 million collective bargaining agreement that included raises, workers' compensation coverage, and expanded health care benefits for individual home care workers was submitted to the Legislature. This contract

for individual home care workers was rejected by the 2003 Legislature in the 2003-05 Operating Budget. Although, the agreement was rejected, both individual and agency home care workers received a \$0.75 per hour wage increase in the budget at a cost of \$67.7 million.

In accordance with the 2003-05 Operating Budget enacted by the 2003 Legislature, the state pays these individual home care workers \$8.43 per hour; pays the employer share of social security, medicare, and unemployment insurance taxes; and for those workers with incomes below 200 percent of the federal poverty level, pays all but \$17 of the monthly premium for workers who choose to enroll in the state's Basic Health Plan (BHP).

The HCQA and the exclusive bargaining representative of individual home care providers have agreed on a renegotiated contract that increases the wages of individual home care workers from \$8.43 per hour to \$8.93 per hour on October 1, 2004; provides worker's compensation benefits effective October 1, 2004; and provides contributions of \$400 per month for health care benefits through a Taft-Hartley trust for eligible individual home care providers, effective January 1, 2005.

"Taft-Hartley" benefit trusts are formed and operated according to the federal law originally called the Labor Management Relations Act of 1947. Taft-Hartley benefit trusts are typically formed through agreements between multiple collective bargaining units and employers. Pension benefits are most often provided by Taft-Hartley plans, but they also may provide health, occupational, unemployment, training, and other benefit programs. The trusts must be governed by a board of trustees with equal employee and employer representation. Collective bargaining agreements typically provide that employers contribute a specific amount to the trust fund for their bargaining unit employees, rather than provide the employees with specific benefits. The Taft-Hartley trustees then carry out the terms of the trust to provide members with benefits from the fund.

In accordance with I-775, the Governor must submit a request to the Legislature for funds and any legislative changes necessary to implement the collective bargaining agreement within 10 days of ratification. The Governor's 2004 Supplemental Operating Budget proposal includes \$48.8 million in state and federal resources to implement the renegotiated collective bargaining agreement between the HCQA and the exclusive bargaining representative of individual home care workers.

The Legislature may only approve or reject the submission of the request for funds as a whole. If the Legislature rejects or fails to act on the submission, the collective bargaining agreement would be reopened solely for the purpose of renegotiating the funds necessary to implement the agreement.

Summary: A total of \$44,367,000 in state and federal funds is appropriated to the Department of Social and

Health Services' Children and Family Services, Developmental Disabilities, and Aging and Adult Services Programs to implement the compensation-related provisions of the collective bargaining agreement between the Home Care Quality Authority and the exclusive bargaining representative of individual providers of home care services.

A total of \$1,370,000 in state funds is appropriated to the Home Care Quality Authority for administrative and employer relations costs associated with implementing the terms of the collective bargaining agreement.

A total of \$65,000 in state funds is appropriated to the Office of Financial Management for administrative and employer relations costs associated with implementing Substitute House Bill 2933, which transfers responsibility for bargaining with individual home care workers from the Home Care Quality Authority to the Governor.

Votes on Final Passage:

House	57	40	
Senate	47	0	(Senate amended)
House	95	0	(House concurred)

Effective: April 1, 2004

SHB 1867
C 74 L 04

Establishing replevin procedures.

By House Committee on Judiciary (originally sponsored by Representatives Lantz, Carrell and Rockefeller).

House Committee on Judiciary
Senate Committee on Judiciary

Background: Replevin is a judicial action that allows a party to recover possession of property that is wrongfully taken or wrongfully retained by a third party. At the time of instituting a replevin action, the plaintiff may apply to the court for an order to show cause, which directs the defendant to appear and show cause why the court should not issue an order giving the plaintiff possession of the property. A hearing on the order to show cause must be set within the period of 10 to 25 days after the issuance of the order to show cause. The defendant must be served with a copy of the order to show cause within five days of the hearing.

The court may enter an order awarding possession of the property to the plaintiff pending a final disposition of the case only if the plaintiff posts a bond in an amount determined by the court. The purpose of the plaintiff's bond is to ensure that the plaintiff will prosecute the case without delay and that if the case is wrongfully brought, the plaintiff will pay all costs and damages suffered by the defendant.

A defendant may post a re-delivery bond to retain possession of the property, or to regain possession of the property from the sheriff prior to it being turned over to

the plaintiff, pending a final disposition of the case. The purpose of the re-delivery bond is to ensure that the defendant will turn over the property to the plaintiff and pay any sums ordered if judgment in the action is for the plaintiff. The re-delivery bond must be in the same amount as the plaintiff's bond.

A court order awarding possession of the property to the plaintiff directs the sheriff to take possession of the property and deliver it to the plaintiff. If the defendant refuses to turn over the property, the sheriff may break into any building where the property is located to regain possession. The sheriff must serve copies of the bond and order awarding possession on the defendant at the time he or she takes possession of the property.

Contempt of court is disorderly conduct towards a judge, disobedience of a court order or decree, or refusal of a person to appear as a witness or produce a record for the court. A court may sanction contempt of court with either a remedial sanction to coerce performance or a punitive sanction to punish the past contempt of court.

The court may initiate a proceeding to impose a remedial sanction on its own motion or on the motion of a person aggrieved by a contempt of court. Remedial sanctions include imprisonment, a fine, or an order designed to ensure compliance. An action to impose a punitive sanction must be filed by a prosecuting attorney or city attorney on his or her own initiative or at the request of an aggrieved person or judge. The court may impose a punitive sanction of either a fine of not more than \$5,000 or imprisonment in the county jail for not more than one year, or both.

Summary: The replevin statute is amended to alter time limitations, bond requirements, and enforcement mechanisms.

The requirement that a hearing on the order to show cause be set within 10 to 25 days of the order is removed. The defendant must still be served with a copy of the order to show cause within five days of the hearing.

An exception is provided to the requirement that the plaintiff post a bond when property is awarded to the plaintiff pending final disposition. The plaintiff does not have to post a bond if the defendant was properly served with the order to show cause and the defendant either fails to appear or appears but does not contest the order. If the court waives the bond requirement, the court must set the amount of bond that would have been required, and that amount is to be used by the court in determining the amount of any re-delivery bond.

A defendant who fails to turn over property to the plaintiff or sheriff after the court has awarded the property to the plaintiff may be held in contempt of court. A notice of this potential contempt sanction must be included in the initial order to show cause and the order awarding possession of the property to the plaintiff.

If the property is located in a county other than the county where the action was commenced, the sheriff of

the original county, or the sheriff of the county where the property is found, may execute the order in any county of the state where the property is found. Duplicate copies of the order awarding possession may be made and served as the original if necessary in following property moved across county lines.

Votes on Final Passage:

House	87	0
Senate	45	0

Effective: June 10, 2004

SHB 1995

C 45 L 04

Changing the allowed disposition of proceeds from the lease, rental, or occasional use of school district real property.

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

House Committee on Education
Senate Committee on Education

Background: School districts may rent or lease surplus district property and may sell any real property of the district that is no longer required for school purposes.

Revenues derived from the rental or sale of the district real property must first be deposited in the district's general fund to recover any costs associated with the rental or sale of that property. Any additional revenue must then be deposited in either the district's debt service fund and/or the district's capital projects fund.

Summary: After evaluating whether a school district's capital projects fund has enough money to meet the district's demand for new construction and improvements, a school district may deposit any additional revenues from the rental or lease of surplus real property into the district's general fund. The money may be used exclusively for nonrecurring costs related to the operation of school facilities, including, but not limited to, maintenance.

Votes on Final Passage:

House	95	0	
Senate	48	0	(Senate amended)
House	94	0	(House concurred)

Effective: June 10, 2004

HB 2014
C 112 L 04

Preventing denial of insurance coverage for injuries caused by narcotic or alcohol use.

By Representatives Flannigan, Delvin, Kirby, Moeller, Lovick, Lantz, G. Simpson, Shabro, Edwards and Kagi.

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

Background: Disability Insurance. The Insurance Commissioner is responsible for licensing and regulating insurance companies, including health carriers, in Washington. Health carriers include disability insurers, health care service contractors, or health maintenance organizations. Disability insurers may offer health coverage to individuals or groups, which is typically a "fee for service" type of health coverage.

Treatment for Traumatic Injuries. Individuals involved in traumatic accidents are transported to hospital emergency rooms where they are admitted and screened to determine a course of treatment for their injuries. Payment for care may be coordinated with the responsible insurer or health carrier.

During the initial screening, emergency room personnel may determine if a patient is under the influence of narcotics or alcohol and may provide treatment. According to a 2000 study by the National Highway Traffic Safety Administration, between 25 and 40 percent of trauma patients also experience chronic alcoholism. In addition, the study provides the following:

- Alcoholism results in repeated episodes of trauma, drunk driving, and alcohol related crashes.
- Trauma patients with alcohol problems are more than twice as likely to be readmitted with injuries in the two years following their initial injury than patients without alcoholism.
- Brief interventions are effective in decreasing problem drinking and lowering subsequent health care use.

A disability insurer is permitted by law to deny payment for the treatment of injuries resulting from alcohol or narcotics use, unless the alcohol or narcotics were administered under the advice of a physician. There are no statutory provisions with respect to other types of health insurance.

Summary: All health carriers are explicitly prohibited from denying coverage for the treatment of an injury solely because the injury resulted from the use of alcohol or narcotics.

The law allowing individual disability insurers to deny payment for the treatment of injuries resulting from the use of alcohol or narcotics is repealed.

These provisions apply to all contracts issued or renewed on or after the act's effective date.

Votes on Final Passage:

House	74	21
Senate	48	0

Effective: June 10, 2004

SHB 2055
C 76 L 04

Modifying the taxation of telephone services.

By House Committee on Technology, Telecommunications & Energy (originally sponsored by Representatives Morris, Crouse and Bush).

House Committee on Technology, Telecommunications & Energy

House Committee on Finance

Senate Committee on Technology & Communications

Background: In an effort to provide one-stop-shopping for customers, some telecommunications companies are "bundling" or packaging different services into one bill at a set price. Some of these services, such as residential local service for land-line customers, are not subject to the retail sales tax. But other services, such as long distance, are subject to the retail sales tax.

Under the federal Mobile Sourcing Act, wireless services that are nontaxable when bundled with taxable services remain nontaxable if the provider can reasonably identify the nontaxable charges using its regular business records. Land-line services are treated differently. When taxable and nontaxable land-line services are bundled, the entire package is generally taxable.

Summary: Telephone services that are not taxable continue to be nontaxable when bundled with taxable services if the provider can identify, using its books and records kept in the ordinary course of business, that portion of the charge attributable to the nontaxable services.

Votes on Final Passage:

House	97	0
Senate	49	0

Effective: June 10, 2004

3ESHB 2195
C 19 L 04

Regarding state assessment standards.

By House Committee on Education (originally sponsored by Representatives McDermott, Talcott, Quall, Tom and Haigh).

House Committee on Education
House Committee on Appropriations
Senate Committee on Education

Background: Washington Assessment of Student Learning–High School Graduation Requirements. By law, sometime in the future, students will be required to obtain a Certificate of Mastery in order to graduate from high school. The achievement of the certificate will be based on the successful completion of the high school Washington Assessment of Student Learning (WASL). The WASL, when fully implemented, will include a number of content areas: reading, writing, communications (listening), mathematics, social studies, the arts, and health and fitness. The State Board of Education (SBE) is required to determine whether the high school assessment system has been implemented and whether it is sufficiently reliable and valid. Once the SBE makes that determination, successful completion of the high school WASL will lead to a Certificate of Mastery.

On January 12, 2000, the SBE adopted a rule that requires students in the graduating class of 2008 to successfully complete the WASL in reading, writing, communications, and mathematics in order to receive a high school diploma. Passage of the science WASL will be required for the graduating class of 2010.

The SBE delayed any decisions on requiring successful completion of the social studies, arts, and health and fitness assessments for graduation. The SBE has indicated that passage of the social studies WASL may be required for graduation or may lead to an endorsement on the student's transcript. The SBE has also indicated that passage of the arts and the health and fitness WASLs may lead to an endorsement on the student's transcript.

The SBE will continue to monitor the implementation of the WASL in order to determine its reliability and validity. It may delay its requirements if it finds that the system does not meet the SBE's interpretation of the legal, policy, or technical definitions of validity and reliability.

State Board of Education–High School Graduation Requirements. By law, the SBE is responsible for determining the state's minimum high school graduation requirements. The SBE adopted new graduation requirements in October 2000. The requirements will take effect for the graduating class of 2008.

Under the new requirements, each student must earn at least 19 academic credits. Any subject for which essential academic learning requirements (EALRs) have

been adopted must include material on those requirements plus any additional material beyond the standards that was developed by the district. In addition to the credit requirements, two new non-credit requirements are established. Each student will complete a culminating project that allows the student to demonstrate competency in goals Three and Four of education reform. In addition, students must have an education plan for high school and the year following graduation.

Washington Assessment of Student Learning–Implementation Responsibilities. The Office of Superintendent of Public Instruction (OSPI) is responsible for creating, updating, and reporting on the EALRs and the WASL. The Academic Achievement and Accountability Commission (A+ Commission) is responsible for determining the score that students must achieve to successfully complete the assessment.

Summary: Certificate of Academic Achievement. Beginning with the graduating class of 2008, public school students who pass the high school WASL in reading, writing, and mathematics will receive a Certificate of Academic Achievement, formerly called the Certificate of Mastery. Science is added to the certificate in 2010. Students may achieve a Certificate of Academic Achievement through success on the tenth grade WASL, through success on a retake of the content areas in which a student was initially unsuccessful, or through an approved alternative means.

Beginning with the graduating class of 2008, the Certificate of Academic Achievement will be required for graduation from a public high school. The requirement does not apply to some special education students, students enrolled in private schools, or students who are home-schooled.

Special education students for whom the high school WASL is inappropriate, even with accommodations, may complete other measures included in the students' individualized instruction plans and earn a Certificate of Individual Achievement.

Limited English proficient students will have the same opportunities to obtain a certificate as other high school students. In addition, the OSPI and the State Board for Community and Technical Colleges (SBCTC) will develop a plan to provide these students with continuing education options in the community colleges when college is more of an age-appropriate option than remaining in high school.

Each fifth grade and eighth through twelfth grade student who fails to successfully complete the WASL in one or more of the content areas included in the certificate will have a plan that includes the steps the student needs to take to stay on track for graduation. The plan will be shared with parents.

Students who are subject to the requirement will have at least four opportunities in high school to retake the WASL in the content areas in which they were

unsuccessful. Students in high school completion programs in the community and technical colleges will also have access to four retake opportunities. In addition to retakes, students who have been unsuccessful in a required area may use an approved alternative means, developed by the OSPI, to demonstrate achievement of the state standards. The evidence students use for the alternative means must be comparable in rigor to the WASL and must be approved by the Legislature prior to implementation.

Students may retain and use the highest result they get for each content area of the high school WASL. Students who are successful but who wish to retake the WASL to improve their results must pay for the test, using a uniform cost developed by OSPI. Students who are unsuccessful may retake the WASL in that content area without charge up to four times in high school and four times in a community or technical college high school completion program.

Beginning with the graduating class of 2006, the highest level and score that a student achieves in each content area will be displayed on the student's transcript. In addition, a student will receive a scholar's recognition on the transcript if the student exceeds the state standards at level four. The award of a Certificate of Academic Achievement or Certificate of Individual Achievement will be also be acknowledged on the student's transcript. The transcript will also indicate if a student passed the WASL using an alternative means.

A series of actions and reports on various aspects of the high school assessment system are required of four state education agencies during 2004. The requirements include reports on alternative means, continuing education options for students with limited English proficiency, information on the validity and reliability of the high school assessment system, and the proficiency levels required of students for success on the high school WASL. In addition, by October 1, 2010, the OSPI will report to the Legislature and the A+ Commission on the effect of the certificate requirements on dropout rates.

Essential Academic Learning Requirements and Assessments. By September 1, 2004, the OSPI will report to the legislative education committees with assessment options and other strategies to ensure continued support and attention to the essential academic learning requirements in social studies, the arts, and health and fitness.

By the end of the 2008-09 school year, school districts will have in place assessments or other strategies to ensure that students have an opportunity to learn the essential academic learning requirements (EALRs) in social studies, the arts, and health and fitness in elementary, middle, and high school. The districts will annually submit implementation verification reports to the OSPI on the use of those assessments or strategies.

The OSPI will review and prioritize the EALRs and identify which EALRs and grade level content expectations will be included on the WASL and used for accountability purposes. The review will result in more focus, with an emphasis of depth over breadth. The content expectations will be sequenced, logical, build with increasing depth, and reflect the sequential nature of the discipline.

By September 2006, WASL results for reading and math will be reported in a way that allows parents and teachers to see the academic gain a student has made from one year to the next.

In order to help parents and teachers provide support to students, the OSPI will provide as much individual student information as possible within the constraints of the assessment system's item bank. The OSPI will also make available to teachers a collection of diagnostic tools that may be used to evaluate the academic status of individual students.

The OSPI will post on its website model assessments and lists of resources in social studies, the arts, and health and fitness.

Subject to available funding, the OSPI will report to the Governor, the SBE, and the legislative education committees with the results of an independent study of the alignment of the state standards and assessments in reading, writing, and science. The agency will also report on its review and revision of the state standards in each content area. A timeline for the reports is included.

The existing statute on EARLs and assessments is repealed and most of the operative language is included in the act. Timelines for mandatory assessments in reading, writing, mathematics, and science are included. Timelines for mandatory state level assessments in social studies, the arts, and health and fitness are not included, but a date is adopted by which assessments or other strategies must be in place for those subjects.

Votes on Final Passage:

House	95	2	
Senate	47	0	(Senate amended)
House	92	2	(House concurred)

Effective: March 18, 2004

E2SHB 2295

C 22 L 04

Providing for charter schools.

By House Committee on Appropriations (originally sponsored by Representatives Quall, Talcott, Rockefeller and Anderson).

House Committee on Education
House Committee on Appropriations

Background: In 1992, Minnesota became the first state to authorize public charter schools. Since then, 40 states

and the District of Columbia have adopted charter school enabling legislation, and approximately 3,000 charter schools currently are operating nationwide.

A charter school is a tuition-free public school open to all students, financed by public moneys, and governed by the terms of a charter between a charter sponsor and a charter applicant. The various states' laws define who is a sponsor and who is an applicant for chartering purposes. Typically, a public charter school is managed by an applicant's board of directors rather than by the local school board. The charter agreement between a school board and a charter board generally provides a greater degree of administrative flexibility than exists at other schools. The charter functions as a contract governing how the school will be organized and managed, what students will be taught and expected to achieve, and how success of the school will be measured. A typical charter agreement provides for closing a school that fails to satisfy the contract terms.

The last charter school proposals in Washington were Engrossed Senate Substitute Bill 5012 proposed in 2003, and House Bill 2415 and Initiative 729, both proposed in 2000. Engrossed Substitute Senate Bill 5012 advanced to second reading in the House, but was returned to the Senate at the end of the regular session without further House action. House Bill 2415 passed the House Education Committee but did not pass the House in 2000. In the November 2000 general election, I-729 failed 51.83 percent to 48.17 percent.

Under the Elementary and Secondary Education Act (ESEA) reauthorized in 2001, the United States Department of Education (USDOE) administers federal moneys to assist charter schools in start-up and in leveraging private and other nonfederal financing to help cover the costs of acquiring, constructing, or renovating charter school facilities. More than \$200 million in federal grant money was awarded in the fall of 2003 to expand charter schools and study charter school student achievement.

Summary: Description and Purpose of Charter Schools. A new chapter is added to Title 28A RCW authorizing charter schools for the primary purpose of providing more high quality learning environments to assist educationally disadvantaged students and other students in meeting state and federal academic standards. A charter school may serve one or a combination of grades K-12. It may not charge tuition, discriminate on the basis of any characteristic, or limit enrollment on any basis other than age and grade level. All students who submit a timely application must be admitted if capacity is sufficient. If capacity is insufficient to accommodate all requests for enrollment, students must be admitted through an equitable selection process such as a lottery.

Number of Charters Authorized. A charter school is labeled as either a conversion school or a new school. A conversion charter school is created by converting an existing public school in its entirety to a charter school

through an agreement with the local school board. All other charter schools are new schools. Over a six-year period beginning July 1, 2004, a statewide total of 45 new charter schools, five per year in the first three years and 10 per year for the last three years, may be established with approval from a local school board or with approval from the Superintendent of Public Instruction (SPI) under an appeals process. If the maximum number of charters is not approved one year, the remainder is added to the number available the next year.

A majority of new charters that may be approved each year is reserved until March 31 each year for schools established for the primary purpose of serving educationally disadvantaged students and located in geographic areas accessible to these students. In addition to new charter schools, local school boards may approve charters for the conversion of schools that have failed to make adequate yearly progress (AYP) for three consecutive years and schools eligible for school improvement assistance. Applications for both conversions and new charter schools may begin on the effective date of the act.

Charter Applicants, Sponsors, and Alternate Sponsors. A charter is a five-year contractual performance agreement between an applicant and a sponsor for the operation and management of the charter school. The applicant manages and operates the school if a charter is approved. The sponsor administers the charter and provides monitoring, oversight, and support. Only a public benefit nonprofit corporation qualifying for tax exempt status under federal law may be an applicant for charter approval. The nonprofit corporation may not be a religious or sectarian organization and must apply first to the local school board for approval of a charter to establish a new school or for converting an existing school. An applicant seeking to establish a new school may, after providing the local school board an opportunity to consider its application, file an appeal to the SPI for further review. The SPI will review the application and attempt to mediate a resolution with the school district and the applicant. If the school district rejects the application the SPI must approve an application if (1) it meets all qualifying criteria; (2) the annual limit on new schools has not been met; and (3) the proposed school is in the best interests of students. The SPI may permit an educational service district board to administer a charter and act as its sponsor after SPI approval. No appeals are available for charters proposing to establish a conversion charter school.

Applicable Laws and Regulations. A charter school is exempt from state laws and regulations except those laws expressly made applicable by the act, those incorporated in the terms of its charter, and those laws and regulations later enacted to apply to charter schools. At a minimum, each charter school must:

- implement a quality management system and conduct annual self-assessments;
- comply with state and federal health, safety, parents' rights, civil rights, and nondiscrimination laws to the same extent as school districts;
- participate in free and reduced-priced meal programs to the same extent as is required for other public schools;
- participate in the Washington Assessment of Student Learning (WASL), the Iowa Test of Basic Skills (ITBS), and the elementary, middle school, and high school standards, requirements, and assessment examinations as required by the Academic Achievement and Accountability Commission (A+ Commission);
- employ certificated instructional staff and comply with employee record check requirements;
- be subject to financial examinations and audits as determined by the State Auditor, including annual audits for legal and fiscal compliance;
- be subject to independent performance audits conducted by a qualified contractor selected jointly by the State Auditor and the Joint Legislative Audit Review Committee at least once every three years;
- comply with the A+ Commission annual performance report;
- follow the A+ Commission performance improvement goals and requirements;
- be subject to the accountability requirements in the No Child Left Behind Act of 2001 (NCLB), including Title I requirements;
- comply with and be subject to the requirements under the Individuals With Disabilities Education Act, as amended in 1997 (IDEA);
- report at least annually to the board of directors of the school district in which the charter school is located and to parents of children enrolled at the charter school on progress toward the student performance goals specified in the charter;
- comply with the Open Public Meetings Act and open public records requirements, including public disclosure requirements applicable to elected school boards; and
- be subject to and comply with later-enacted legislation governing the operation and management of charter schools.

Application and Approval Process. Upon receipt of an application, a school board must decide within 45 days whether to hold one or more public hearings. If the board intends to approve the application, it must hold at least one public hearing within 75 days of receiving the application, but the board is not required to hold a hearing in order to reject an application. Within 105 days of receipt of the application, the board must either approve or reject the application. Both parties may agree to extend the deadline for up to 30 days. If the board elects

not to hold a hearing, or rejects the application after one or more public hearings, it must provide written notice of the rejection, including the reasons for the rejection, to the applicant. An applicant seeking to establish a new school may file an appeal with the SPI after a school board has rejected an application.

Approval Criteria. A charter application may be approved only if the school board or the SPI finds, after exercising due diligence and good faith, that the applicant meets all eligibility requirements and other specified criteria. All charter applications must contain at least the following information:

- the identification and description of the nonprofit corporation submitting the application, including the names, descriptions, curriculum vitae, and qualifications of the individuals who will operate the school, all of which will be subject to verification and review;
- the nonprofit corporation's articles of incorporation, bylaws, and most recent financial statement and balance sheet;
- a mission statement for the proposed school, including a statement of whether the proposed charter school's primary purpose is to serve educationally disadvantaged students;
- a description of the school's educational program, curriculum, and instructional strategies, including but not limited to how the charter school will assist students in meeting the state's academic standards;
- a description of the school's admissions policy and marketing program, including its program for community outreach to families of educationally disadvantaged students;
- a description of the school's student performance standards and requirements that must meet or exceed A+ Commission standards, and be measured according to the A+ Commission system;
- a description of the school's plan for evaluating student performance and the procedures for taking corrective action in the event student performance at the charter school falls below standards established in its charter;
- a description of the financial plan for the school, including a proposed five-year budget of projected revenues and expenditures; a plan for starting the school; a five-year facilities plan; evidence supporting student enrollment projections of at least 20 students; and a description of major contracts planned for administration, management, equipment, and services, including consulting services, leases, improvements, purchases of real property, and insurance;
- a description of the proposed financial management procedures and administrative operations, which must meet or exceed generally accepted standards of management and public accounting;

- an assessment of the school's potential legal liability and a description of the types and limits of insurance coverage, including a required liability insurance policy of at least \$5 million;
- a description of the procedures to discipline, suspend, and expel students;
- a description of procedures to assure the health and safety of students, employees, and guests of the school and to comply with applicable federal and state health and safety laws and regulations;
- a description of the school's program for parent involvement in the charter school;
- documentation sufficient to demonstrate that the charter school will have the liquid assets available to operate the school on an ongoing and sound financial basis;
- a description of the quality management plan for the school, including its specific components; and
- supporting documentation for any additional requirements that are appropriate and reasonably related to the operation of a charter school that a sponsor or alternate sponsor may impose as a condition of approving the charter.

Charter School Management. A charter school board elected or appointed by the public benefit non-profit corporation manages and operates the school according to the terms of the charter. A local school board may appoint one of its directors to serve as a non-voting member of the charter school board.

A charter school board is authorized to:

- hire, manage, and discharge charter school employees;
- enter into contracts with school districts, or other public or private entities also empowered to enter into contracts, for any and all real property, equipment, goods, supplies, and services;
- rent, lease, or own property, but may not acquire property by eminent domain;
- issue secured and unsecured debt to manage cash flow, improve operations, or finance the acquisition of real property or equipment; and
- accept and administer for the benefit of the charter school and its students gifts, grants, and donations from other governmental and private entities, excluding sectarian or religious organizations.

A charter school may not:

- charge tuition, levy taxes, or issue tax-backed bonds, although it may charge fees for optional noncredit extracurricular events; or
- assign, delegate, or contract out the administration and management of a charter school to a for-profit entity.

Charter school sponsors and alternate sponsors are not liable for acts or omissions of a charter school or its charter school board, including but not limited to acts or omissions related to the application, the charter, the

operation, the performance, and the closure of the charter school.

Charter School Funding. A charter school receives state funding based on its actual full time equivalent (FTE) enrollment and on the statewide average staff mix ratio. Funding includes regular apportionment, special education, categorical, student achievement, and other non-basic education funds. Vocational education funding is provided to charter school serving grades nine through twelve. Charter schools, however, are not eligible for enhanced small school assistance moneys.

A charter school's eligibility for levy money is governed by whether the charter is sponsored by a school district and by whether the district-sponsored school was established before or after a levy was approved. New charter schools started before voters approved a levy and all conversion charter schools sponsored by a school district must receive levy allocations. New charter schools sponsored by a school district and established after a levy is approved do not receive levy money, but are included in all future levy planning and budgets. Charter schools not sponsored by a school district are not eligible for levy moneys. Allocations to these school are included in the levy base of the district in which the charter school is located. Charter schools ineligible for levy money may receive funding within available moneys the Legislature may appropriate for such purpose. A charter school sponsor may retain up to 3 percent of the charter school's state and local levy moneys, if applicable, for oversight and administration costs.

Charter Renewal and Revocation. After three years of operation, but no later than six months before the expiration of the charter, a charter school may apply to renew its charter. The renewal application must include specified information, including all audits information. A sponsor may not approve, and must reject, the application if the academic progress of the students in the charter school, as measured by the A+ Commission standards and assessments, is inferior to the average progress of students in the district in which the charter school is located when similar student populations are compared. A sponsor may reject the application if the charter school materially violated its contract, violated any laws for which a waiver was not obtained, or failed to meet generally accepted standards of fiscal management or if the charter school's students failed to meet performance standards. A sponsor must give written notice of its intent not to renew within three months of the request to renew in order to allow time for the school to correct any deficiencies.

A sponsor also may revoke a charter before it has expired for the same reasons a sponsor may reject a renewal request. A sponsor must provide written notice of an intent to revoke and must identify the specific violations alleged, hold a public hearing, and grant a reasonable opportunity for the school to correct any

deficiencies. In cases of emergency where the health or safety of children is at risk, the notice, public hearing, and opportunity for correction are not required. A sponsor must provide a process to appeal a revocation of a charter. A charter school planning to close or anticipating revocation or nonrenewal of its charter must provide a detailed plan to the sponsor setting forth a timeline and the responsible parties for disposition of students, student records, and the school's finances and obligations.

Charter School Employees and Collective Bargaining. A school district must grant a school district employee's written request for a leave of absence to work at a charter school for up to two years. If the employee returns to the school district within two years, the employee must be hired before the district hires anyone with fewer years of statewide service to fill a position for which the employee is qualified.

The bargaining units for certificated and classified employees at new charter schools must be separate from other units in the district for the first five years, after which the employees, by majority vote, may join the appropriate district bargaining unit. Employees at new charter schools will determine who represents them in bargaining with the charter school board. Certificated and classified employees at conversion charter schools must remain members of their district bargaining units. The school district board and the appropriate bargaining representatives are directed to negotiate regarding variances from the applicable collective bargaining agreement that would be specific to the operation and management of the school. If either party determines an impasse in negotiations has been reached, it may request mediation, and a mediator will be appointed by the Public Employment Relations Commission. Mediation shall continue for up to 10 days unless the parties agree otherwise.

Study of Charter Schools. The Washington State Institute for Public Policy (WSIPP) is directed to conduct a study of the implementation and effectiveness of charter schools, including whether and how charter schools have enhanced education reform efforts. The study also will discuss whether other public schools might benefit by a similar regulatory model. A preliminary report is due to the Legislature March 1, 2007, and a final report is due September 1, 2008.

Legislative Intent. The primary purpose for which charter schools are authorized is to assist educationally disadvantaged students and other students in meeting state and federal academic achievement standards. Charter schools are declared to be public schools within the State Constitution's meaning of common schools. The Legislature intends for charter schools to function as an integral element of the public school system maintained at public expense, free from discrimination, open to all students in the state, and subject to the same or greater academic performance outcomes as other public schools.

The Legislature intends to use the information obtained from independent performance audits and from the WSIPP study to demonstrate how charter schools can contribute to existing reform efforts. School districts are encouraged to consider using the chartering process as an optional tool for developing school improvement plans aimed at achieving state and federal accountability goals. Educational service district boards and the SPI are encouraged to assist school districts in which students persistently fail to meet state and federal academic achievement standards with completing the charter process. To the extent permitted under federal law by the restructuring and alternative governance provisions of the NCLB, the SPI may require the conversion of a persistently failing school to a charter school for the purpose of meeting state and federal student achievement and accountability requirements.

Votes on Final Passage:

House	51	46
Senate	27	22

Effective: June 10, 2004

HB 2297

C 1 L 03 E3

Canceling the presidential primary in 2004.

By Representatives Haigh, Armstrong, Kagi, Nixon, Santos, Hinkle, Shabro, Tom, Fromhold, Delvin, Dickerson, Alexander, McCoy, Ahern, Simpson, Woods, Clibborn, McDonald, Kenney, Miloscia, Chase, Lantz, Bailey, Schual-Berke, Hudgins, Flannigan, Dunshee, Ruderman, Darneille, Upthegrove, Linville, Blake, Hunter, Quall, Hunt, Morris, Wallace, Kessler, Veloria, Hankins, Lovick, Eickmeyer, Berkey, Romero, Rockefeller, Morrell and Sullivan; by request of Governor Locke.

Background: Political parties in Washington historically selected their nominee for President and allocated their delegates to the national nominating conventions through party caucuses. In 1989, the Legislature approved an Initiative to the Legislature which established the presidential primary. The Secretary of State must conduct a primary each presidential election year to allow citizens the opportunity to express their preferences as to the major political party candidates for President. Following the primary, the state and county committees of each major political party are provided lists of voters who participated in their party's presidential primary.

The original legislation required delegates to the party national conventions to be allocated to each candidate for President based on the results of the preference primary. Votes cast for a particular presidential candidate were considered votes cast for delegate positions

committed to that candidate. The selection of actual individuals as delegates remained a party function. In 1995, the Legislature amended the law to allow party delegates to be allocated in whole or in part based on the results of party precinct caucuses, rather than the preference primary. The 1995 legislation also requires the Office of the Secretary of State to amend its administrative rules to comply with the major political parties' national and state rules.

The 2004 presidential primary is scheduled to take place on March 2, 2004. There are currently nine major candidates seeking the Democratic Party's nomination for President, and only one major candidate seeking the Republican Party's nomination for President. The State Democratic Party decided in August 2003 to allocate all of its delegates to the 2004 Democratic National Convention based strictly on the results of party caucuses to be held February 7, 2004. The State Republican Party decided in September 2003 to allocate one third of its delegates to the Republican National Convention based on the results of the presidential primary, and two-thirds of its delegates based on the results of party caucuses to be held March 9, 2004. The estimated cost of the 2004 presidential primary is \$6 million.

Summary: The presidential primary is cancelled for the 2004 election. The presidential primary is reinstated at the end of 2004.

Votes on Final Passage:

Third Special Session

House	84	7
Senate	25	22

Effective: December 9, 2003

SHB 2299
C 233 L 04

Establishing a system of animal identification.

By House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Linville, Schoesler, Kenney, McDonald, Hunt, G. Simpson, Haigh, Shabro, Morrell, Clibborn, Newhouse, Clements, Hudgins and Benson; by request of Department of Agriculture).

House Committee on Agriculture & Natural Resources
Senate Committee on Agriculture

Background: The state's livestock identification program and laws are administered by the Washington State Department of Agriculture (WSDA). Legislation enacted in 2003 increased the fees charged to fund the program and identified the evidence of ownership that must accompany cattle or horses when they are moved. The 2003 legislation also directed the WSDA to form an advisory committee to: evaluate mechanisms that may need to be established by the public and the private

sectors to comply with federal country-of-origin labeling requirements, evaluate any requirements that may be placed on the meat products industry by federal food safety and traceability requirements as part of homeland security measures, and review the national identification work plan developed by a task force advising the U.S. Department of Agriculture (USDA). The WSDA must submit a written report of the findings and conclusion of the advisory committee by December 1, 2005.

On December 30, 2003, U.S. Secretary of Agriculture Ann M. Veneman announced that the USDA would begin the implementation of a verifiable system of national animal identification.

Summary: The Director of the WSDA (Director) may adopt rules: to support the agriculture industry in meeting federal requirements for the country-of-origin labeling of meat; and to implement federal requirements for animal identification needed to trace the source of livestock for disease control and response purposes. In doing so, the Director may cooperate with and enter into agreements with other states and agencies of the federal government.

The Director's rules regarding country-of-origin labeling must be substantially consistent with federal requirements and may not exceed federal requirements. The Director's rules for tracing the source of livestock for disease control and response purposes must be developed in consultation with the Livestock Identification Advisory Board.

Votes on Final Passage:

House	96	0	
Senate	49	0	(Senate amended)
House	96	0	(House concurred)

Effective: June 10, 2004

SHB 2300
C 100 L 04

Applying pesticides.

By House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Linville, Schoesler and McMorris; by request of Department of Agriculture).

House Committee on Agriculture & Natural Resources
Senate Committee on Agriculture

Background: The registration and use of pesticides is regulated at the national level by the Federal Insecticide, Fungicide, and Rodenticide Act. In general, a pesticide may not be sold or distributed within the United States unless it has been registered with the U.S. Environmental Protection Agency (EPA). The "pesticides" regulated in this manner encompass herbicides, insecticides, and similar chemicals that control pests. At the state level, pesticides sold or distributed within the state must be

registered under the Washington Pesticide Control Act. The use or application of pesticides in the state is regulated under the Washington Pesticide Application Act. These state laws are administered by the Washington State Department of Agriculture (WSDA).

A pilot project establishing licenses for certain limited applications of pesticides was authorized by legislation enacted in 1997. As expanded in 1999, the pilot project provided for limited private applicator and rancher private applicator licenses for applications of pesticides on certain lands in Ferry, Okanogan, Stevens, and Pend Oreille counties. The application of herbicides to aquatic sites is not permitted under these licenses, and continuing education requirements apply to these licenses. The pilot project is to expire December 31, 2004.

Summary: Licensing Categories. On January 1, 2005, the licensing categories of a limited private applicator and rancher private applicator no longer exist on just a pilot project basis, and they apply in all of eastern Washington.

A limited private applicator is one who uses or is in direct supervision of the use of any herbicide classified as a restricted use pesticide, for the sole purpose of controlling weeds on non-production agricultural land owned or rented by the applicator or the applicator's employer. (Non-production agricultural lands are pastures, rangeland, fence rows, and areas around farm buildings, but not aquatic sites.) Such an applicator may also use restricted use pesticides on timber areas, excluding aquatic sites, to control weeds designated for mandatory control under the state's noxious weed control or weed district laws or under state and local regulations adopted under those laws. A limited private applicator may apply restricted use herbicides to these types of land that belong to another person if the herbicides are applied without compensation other than trading of personal services between the applicator and the other person.

A rancher private applicator is one who uses or is in direct supervision of the use of any herbicide or any rodenticide classified as a restricted use pesticide for the purpose of controlling weeds and pest animals on non-production agricultural land and limited production agricultural land owned or rented by the applicator or the applicator's employer. (Limited production agricultural land is land, other than aquatic sites, used to grow hay and grain crops that are consumed by the livestock on the farm where produced. Not more than 10 percent of the hay and grain crops grown on limited production agricultural land may be sold each crop year.) Rancher private applicators may also use restricted use pesticides on timber areas, excluding aquatic sites, to control weeds designated for mandatory control under the state's noxious weed control or weed district laws or under state and local regulations adopted under those laws. A rancher

private applicator may apply restricted use herbicides and rodenticides to these types of land that belong to another person if they are applied without compensation other than trading of personal services between the applicator and the other person.

Applicants for licenses in the two licensing categories must be at least 16 years of age. The licenses expire on the last day of the fifth year after they are issued. Renewing a rancher private applicator license after its expiration is subject to a penalty of \$25; for a limited private applicator, it is equal to the licensing fee. The landscape application of pesticides does not include applications by limited private applicators or rancher private applicators.

Licensing Fees. The licensing fees for a limited private applicator and rancher private applicator under the pilot program are retained in statute for the permanent program. The exemptions from the fee requirement provided by statute for a private applicator also apply to the two new licensing categories.

Recertification Requirements. Limited private applicators must accumulate a minimum of eight WSDA-approved credits every five years. All credits must be applicable to the control of weeds. At least one-half of the credits must be directly related to weed control and the remaining must be in topic areas indirectly related to weed control, such as the safe and legal use of pesticides. Rancher private applicators must accumulate a minimum of 12 WSDA-approved credits every five years.

Pesticide Control and Pesticide Application Acts—Generally. The ingredient statement required for a pesticide under the state's Pesticide Control Act for a spray adjuvant is not expressly limited to containing only the names of the principal functioning agents and the total percentage of the constituents ineffective as spray adjuvants, nor, if more than three functioning agents are present, to only the names of the three principal agents. The statement must be consistent with labeling requirements adopted by rule.

The description of a spray adjuvant regulated under the state's Pesticide Control Act and Pesticide Application Act is altered and expressly does not include a product that is only intended to mark the location where a pesticide is applied.

Votes on Final Passage:

House	95	0	
Senate	49	0	(Senate amended)
House	93	0	(House concurred)

Effective: January 1, 2005

HB 2301
C 99 L 04

Including severability clauses in commodity commission statutes.

By Representatives Linville and Schoesler; by request of Department of Agriculture.

House Committee on Agriculture & Natural Resources
Senate Committee on Agriculture

Background: A commodity commission may be established for a particular agricultural commodity. A commodity commission may perform a variety of functions, including advertising, sales promotion, research, standards and grades improvement, and cooperative marketing efforts. Some commodity commissions, such as those for apples, dairy products, and beef, are created directly by statute. A commodity commission also may be established according to the requirements of the Washington Agricultural Enabling Act (the 1955 enabling statutes). Commodity commissions have been created in this manner for wheat, potato, fryers, barley, and other commodities.

Washington courts will not consider an act of the Legislature unconstitutional in its entirety because a provision(s) is unconstitutional unless the invalid provision(s) is not severable from the remaining provisions. The courts will determine whether the remaining portions of the legislation are constitutional by considering whether:

- reasonable belief exists that the Legislature would have passed the remaining provisions without the unconstitutional provision(s); and
- the remaining provisions are capable of accomplishing the legislative purpose.

A severability clause in legislation generally specifies that the judicial invalidation of one or more legislative provisions does not affect the validity of the remaining provisions. As stated in *State v. Anderson*, 81 Wn.2d 234, 501 P.2d 184 (1972), Washington courts consider a severability clause as the "necessary assurance" from the Legislature to the courts that the remaining provisions would have been enacted without the provisions deemed unconstitutional.

Summary: Severability clauses are added to the 1955 enabling statutes for commodity commissions and to the statutes authorizing the state Fruit Commission and the Dairy Products Commission.

Votes on Final Passage:

House	96	0
Senate	49	0

Effective: March 24, 2004

SHB 2307
C 104 L 04

Concerning appointment to a water conservancy board.

By House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Schoesler, Linville, Sump, Cox, Delvin, Armstrong and Hinkle).

House Committee on Agriculture & Natural Resources
Senate Committee on Natural Resources, Energy & Water

Background: Historically, applications for modifying existing water rights were filed with and processed by the Department of Ecology (DOE) and its predecessor agencies. An alternative processing system was established with the enactment of legislation in 1997 authorizing water conservancy boards. These three or five-member boards may be created by county legislative authorities with the approval of the DOE. The county legislative authorities appoint the members, called commissioners, of their boards. A board may process applications for transfers, changes, and amendments of existing surface and ground water rights. The decisions made by a board on the applications are subject to approval or disapproval by the DOE.

The laws authorizing the boards include provisions for prohibiting conflicts of interest by the members of the boards in their consideration of applications. In appointing the members of a board, a county must appoint at least one member who is not a water right holder.

The surface and ground water codes require persons wishing to establish a new right to divert or withdraw and use water to apply for and receive a permit for doing so from the DOE. Exempted from this permit requirement are certain withdrawals of ground water, generally called "exempt well" rights, which may include withdrawing not more than 5,000 gallons per day for residential use.

Summary: For the purposes of determining a person's eligibility to be appointed as the non-water right holding commissioner of a water conservancy board, a person is not considered to be a water right holder:

- if the person receives his or her water from a municipal water supplier; or
- if the only water right held by the person is an "exempt well" right for the residential use of water and that right is for water from a well located in a county with a population that is not greater than 150,000 people.

Votes on Final Passage:

House	95	0
Senate	48	0

Effective: June 10, 2004

SHB 2308

C 101 L 04

Requiring the department of ecology to develop specific criteria for the types of solid wastes that are allowed to be received by inert waste landfills.

By House Committee on Fisheries, Ecology & Parks (originally sponsored by Representatives Schoesler and Cox).

House Committee on Fisheries, Ecology & Parks
Senate Committee on Natural Resources, Energy & Water

Background: The Department of Ecology (Department) is required to adopt administrative rules that establish the minimum functional standards for landfills. The original rules for landfills were adopted by the Department in 1985. On February 10, 2003, substantial revisions to the rules took effect. New landfills are required to abide by the rule revisions immediately, while existing landfills must satisfy the new requirements over a phased transition period.

Among the changes in the new landfill rules are the criteria for limited purpose landfills that only accept inert waste. The new rules affect both the functional standards for inert waste landfills and the criteria for what can be accepted into an inert waste landfill. A waste material can be accepted into an inert waste landfill only if it satisfies a number of criteria. These include being inflammable, being resistant to biological and chemical degradation, and not being capable of producing a leachate or emission that has a potential negative impact on the environment.

Regardless of the outcome of the tests for inert status, the new rules categorically include a number of waste types into the inert waste category. These are certain cured concretes, certain asphaltic materials, brick and masonry that was used for construction purposes, ceramic materials produced from clay or porcelain, certain glasses, and stainless steel and aluminum.

Summary: Standards for inert waste landfills must be developed to contain, at a minimum, a list of substances that an inert waste landfill may accept if the landfill satisfies certain criteria. Landfills that must be allowed to accept the list of substances are any inert waste landfills that were operational prior to February 10, 2003, and are located in a county with less than 45,000 residents and at a site that receives less than 25 inches of rain annually, based on a five-year average.

The wastes that qualifying inert waste landfills must be allowed to accept include:

- cured concrete, masonry, and asphaltic materials;
- glass, regardless of its composition;
- brick and masonry;
- stainless steel; and

- other materials defined in the Washington Administrative Code.

The Department may prohibit these materials from being disposed of in a qualifying landfill if the materials have been made more dangerous than the inherent material to human health or the environment through exposure to chemical, physical, biological, or radiological substances.

The Department is also directed to work with the owners and operators of inert waste landfills to transition into a limited purpose landfill.

Votes on Final Passage:

House	80	16
Senate	49	0

Effective: June 10, 2004

SHB 2313

C 186 L 04

Regulating bail bond recovery agents.

By House Committee on Commerce & Labor (originally sponsored by Representatives Carrell, Boldt and Mielke).

House Committee on Commerce & Labor
House Committee on Appropriations
Senate Committee on Commerce & Trade
Senate Committee on Judiciary

Background: Bail bond agencies post a bond to guarantee that a criminal defendant will appear for a court date. A friend or relative of the defendant pays a premium, generally 10 percent of the bond amount, for this service, as well as providing collateral such as a lien on a home. If the defendant does not show up as scheduled for a court date, he or she is considered a fugitive, and the bail bond agency is liable to pay the entire amount of the bond. There is generally a grace period, the length of which varies by court, in which the bail bond agent may produce the defendant and avoid having to pay the bond amount.

In Washington, bail bond agencies and agents are licensed by the Department of Licensing (Department). Requirements for licensure as an agent include:

- being at least 18 years old and a citizen or resident alien of the United States;
- not having been convicted of any crime in the prior 10 years that, in the judgment of the Department, directly relates to their capacity to do the work of a bail bond agent; and
- submitting an application and completing four hours of pre-licensing training.

Bail bond recovery agents, sometimes known as "bounty hunters," search for and may arrest a fugitive for whom a bail bond has been posted. Bail bond recovery agents are not regulated in Washington. Bail bond

recovery agents work under a variety of arrangements in Washington, including contracting with one or more bail bond agencies and operating independently. Also, some bail bond agents act as their own bail bond recovery agents.

An 1872 Supreme Court case, *Taylor v. Taintor*, 16 Wall. 366 (1872), established that "the sureties" (those who provide bail bonds) do not have to follow due process in seeking a fugitive for whom a bail bond has been posted. They may search and arrest without a warrant.

Summary: A system of mandatory licensing for bail bond recovery agents is established. "Bail bond recovery agents" do not include law enforcement officers. It is stated that the Legislature does not intend by this act to restrict or limit the powers of bail bond agents under *Taylor v. Taintor*.

Licensing and Contracting Requirements. Beginning January 1, 2006, no one may perform the function of a bail bond recovery agent unless the person is licensed and also has entered into a contract with a licensed bail bond agent. Bail bond agents acting as bail bond recovery agents must have an endorsement to their license.

The Department is directed to adopt rules, in consultation with the industry, law enforcement, and prosecutors, for the bail bond recovery agent license, including pre-license training and examination. Minimum requirements for licensure include:

- education or experience appropriate for the work;
- knowledge of relevant areas of criminal and civil law;
- knowledge of appropriate use of force;
- training in the use of firearms;
- minimum age of 21 years; and
- possession of both a firearms certificate and a concealed pistol license, if carrying a firearm in the course of work as a bail bond recovery agent.

Minimum requirements also include a criminal history background check. Criminal convictions may disqualify a person from becoming licensed as a bail bond recovery agent.

Beginning January 1, 2006, it is a gross misdemeanor and unprofessional conduct to function as a bail bond recovery agent without being both licensed and contracted. There must be a separate contract for each fugitive being sought. The bail bond recovery agent must carry a copy of the license and contract while working. If requested, the bail bond recovery agent must show the contract to the fugitive and to the owner or manager of any property that the agent enters, but need not do this immediately during an effort to apprehend a fugitive.

Bail bond recovery agents from other states who are not licensed may operate in Washington only under the supervision of a licensed bail bond recovery agent.

Bail bond recovery agents must operate under both the law and the specific authority given to them in their contract with a bail bond agency. The contract may require more than the minimum required for licensure.

It is unprofessional conduct for a bail bond recovery agent to wear or display a badge not approved by the Department, make statements that would reasonably cause another person to believe the bail bond recovery agent is a law enforcement officer, or be untruthful in applying for a license.

It is unprofessional conduct for a bail bond agent to use the services of a bail bond recovery agent who is not both licensed and under contract.

Bail bond recovery agents must notify local law enforcement whenever they discharge a firearm in the course of their work.

Planned Forced Entry Notice and Identification Requirements. "Planned forced entry" is defined to mean going into a home or other structure without the permission or knowledge of the occupant in an effort to pick up a fugitive, if this action was planned in advance. It does not include situations, such as during a chase or a casual encounter, where the forced entry happens without advance planning.

Notice. Before a planned forced entry, the bail bond recovery agent must notify an appropriate local law enforcement agency. The notice must include at least the following information:

- the name of the defendant being sought;
- the address or approximate address where the entry is anticipated;
- the name of the bail bond recovery agent;
- the name of the bail bond agency for whom the recovery agent is working; and
- the alleged offense or conduct that led to a bail bond being issued on the defendant.

Identification. During a planned forced entry, the bail bond recovery agent is required to wear a shirt or vest with the words "BAIL BOND RECOVERY AGENT" written on the front and back in letters at least two inches high. The words must be reflective and in a color that contrasts with the color of the garment. The bail bond recovery agent may display a badge approved by the Department with the words "BAIL BOND RECOVERY AGENT" prominently displayed.

Beginning January 1, 2006, it is a gross misdemeanor for a bail bond recovery agent to make a planned forced entry without complying with both the notice and the identification requirements.

Votes on Final Passage:

House	96	0	
Senate	49	0	(Senate amended)
House	95	0	(House concurred)

Effective: June 10, 2004

EHB 2318

C 102 L 04

Concerning the verification of a landowner as a small forest landowner.

By Representatives Orcutt, Hatfield, Mielke, Rockefeller and Newhouse.

House Committee on Agriculture & Natural Resources
Senate Committee on Natural Resources, Energy & Water

Background: The forest riparian easement (FRE) program is a program managed by the Department of Natural Resources's (DNR) Small Forest Landowner Office 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 is authorized to purchase easements from small forest landowners and hold the easements in the name of the state. The easements are restrictive only and do not restrict the landowner's activities except as necessary to protect the riparian functions of the habitat for the term of the easement.

The FRE program is available only to small forest landowners who file a forest practices application with the DNR. Generally, compensation is offered for the trees that the landowner is unable to harvest due to the riparian restrictions in the forest practices rules. To qualify as a "small forest landowner," a landowner, among other things, generally may not have harvested more than two million board feet of timber in the three years prior to filing a FRE program application. Information relating to harvest levels are reported to, and maintained by, the Department of Revenue for the purposes of calculating the landowner's timber excise tax.

Landowners wishing to participate in the FRE program must file an application with the Small Forest Landowners Office. That application requires certain information, including a certification by the landowner that he or she meets the harvest threshold required of small forest landowners, the tax identification number of the landowner, and permission for the DNR to access harvest information on file with the Department of Revenue.

Summary: The DNR is prohibited from reviewing the timber harvest records of a FRE program applicant, or any other tax-related information on file with the Department of Revenue, when establishing whether the applicant satisfies the criteria for small forest landowner status.

Upon request from the DNR, the Department of Revenue must confirm or deny, based on submitted tax documents, that a FRE program applicant has not exceeded the three-year harvest limit required to be considered a small forest landowner. The Department of Revenue is prohibited from disclosing more information

than whether or not the qualifying thresholds have been met. The Department of Revenue is not prohibited from supplying aggregate or general information to the DNR.

Votes on Final Passage:

House	95	0
Senate	47	0

Effective: June 10, 2004

SHB 2321

C 199 L 04

Clarifying the definitions of certain natural resources terms.

By House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Linville, Schoesler, Sump, Grant and Pearson; by request of Commissioner of Public Lands).

House Committee on Agriculture & Natural Resources
Senate Committee on Natural Resources, Energy & Water

Background: The Department of Natural Resources (DNR) manages more than five million acres of state-owned land, which is more than any other state or local entity in Washington. Management authority and direction for the DNR is located in various sections of the Public Lands Act. The scope and effect of those statutory directions depend on the term used to describe state land. The terms "state lands," "public lands," "state forest lands," and "aquatic lands" are among the terms that may be used to describe state-owned land, and they all have different meanings.

The term "public lands" is described as any lands owned by Washington, and includes state trust lands that are not reserved for a specific use, aquatic lands, and those lands falling under the definition of "state lands." The term "state lands" includes lands held in trust for common schools or universities, capitol building lands, institutional lands, and all public lands except for aquatic lands. Not included in either definition are state forest lands and some lands held for a specific purpose, such as natural area preserves, land bank lands, and natural resource conservation areas.

Fixtures attached to "state lands" that change the value of the land are defined as "improvements." This definition only applies to those lands falling under the definition of "state lands" and does not include fixtures on other public lands.

Summary: Definitions. Certain definitions in the Public Lands Act are modified. The definition of "public lands" is expanded to include all lands administered by the DNR. This definition includes aquatic lands, state forest lands, and state lands. By not excluding any lands held for a specific purpose, this definition also encompasses holdings such as natural area preserves, land bank lands,

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and natural resource conservation areas. The definition of "state lands" is expanded to include land banks and escheat donations. The definition of "improvements" is expanded to cover all DNR-administered lands, and not just "state lands."

Changing "state lands" to "public lands". The term "state lands" is changed to "public lands" in multiple sections, resulting in a broadening of the effect of the changed sections. This includes:

- expanding the authority to recall a lease, contract, or deed to correct errors to all public lands, and not just state lands;
- expanding the requirement to void certain legal transactions to all public lands, and not just state lands;
- expanding the optional requirement that the DNR may comply with local zoning ordinances to all public lands, and not just state lands;
- expanding the authority of the DNR to set rules or procedures governing the sale of valuable materials to aquatic lands and other public lands, and not just state lands and state forest lands; and
- expanding the authority of the DNR to grant easement rights to aquatic lands and other public lands, and not just state lands and state forest lands.

Votes on Final Passage:

House	96	0	
Senate	48	0	(Senate amended)
House	97	0	(House concurred)

Effective: June 10, 2004

ESHB 2354

C 83 L 04

Concerning rates for a medicare supplement insurance policy.

By House Committee on Health Care (originally sponsored by Representatives Kristiansen, McMahan, Newhouse, Roach, McDonald, Sullivan, Ahern, G Simpson, Pearson, Morrell, Bailey and Benson).

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

Background: Health carriers that sell Medicare supplement insurance policies have given consumers premium rate discounts based on automatic deposit of premiums. The Office of the Insurance Commissioner recently informed health carriers that they must stop this practice because it violates a statute that requires all premiums for Medicare supplement insurance policies to be equal for all policy holders.

Summary: Health carriers that issue Medicare supplement insurance policies are authorized to provide premium rate discounts based on spousal coverage and the

method and frequency of payment, including automatic deposit of premiums.

Votes on Final Passage:

House	95	0	
Senate	44	0	(Senate amended)
House	94	0	(House concurred)

Effective: March 22, 2004

EHB 2364

C 84 L 04

Regulating homeowner's insurance.

By Representatives Kagi, O'Brien, Clibborn, Santos, Dickerson, Schual-Berke, Morrell, Edwards and Hudgins.

House Committee on Financial Institutions & Insurance
Senate Committee on Financial Services, Insurance & Housing

Background: Authority of the Insurance Commissioner. The Insurance Commissioner (Commissioner) is responsible for the licensing and regulation of insurance companies doing business in this state. The authority of the Commissioner includes the oversight of homeowner's insurance policies. "Unfair discrimination" between insureds that have substantially similar risk factors, exposure factors, and expense elements is prohibited.

Foster parents. A "foster-family home" is defined as an agency that regularly provides care on a 24-hour basis to one or more children, expectant mothers, or persons with developmental disabilities in the family abode of the person or persons under whose direct care and supervision the child, expectant mother, or person with a developmental disability is placed. Washington requires foster families to obtain a license.

Summary: In making underwriting decisions, property and casualty insurers offering homeowner's policies are prohibited from discriminating against an applicant or insured because he or she is a licensed foster parent. Insurers are specifically prohibited from denying an application, as well as canceling, modifying (raising rates or premiums), or refusing to renew a policy based upon the fact that the insured is a foster parent.

Votes on Final Passage:

House	97	0	
Senate	48	0	

Effective: June 10, 2004

SHB 2366

C 26 L 04

Promoting Washington state agriculture.

By House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Linville, Schoesler, Campbell, McDonald, Delvin, Conway, Sullivan, Hankins, Moeller, McDermott, Kenney, Morrell and Hudgins; by request of Department of Agriculture).

House Committee on Agriculture & Natural Resources
Senate Committee on Agriculture

Background: A "From the Heart of Washington" program was begun by the WSDA in June 2002. The purpose of the program and campaign is to increase demand for Washington agricultural products in state and to present an accurate picture of the value of agriculture as part of the state's economy and its role in sustaining rural communities.

The program has been funded by a \$2.5 million, one-time federal grant to the WSDA. A 14-member advisory committee has been appointed to guide the program; it is chaired by the Director of Agriculture. The WSDA contracts with the Washington Fruit Commission to administer the program.

Summary: The WSDA may cooperate with other agencies and associations in the state to establish a private, nonprofit corporation under the Washington Nonprofit Corporation Act for carrying out a "From the Heart of Washington" program. The corporation must qualify as a tax-exempt, nonprofit corporation under section 501(c) of the federal Internal Revenue Code and must carry forward with the work of the current program. The majority of the members on its board of directors must be from the state's commodity commissions, nonprofit associations organized for the promotion of this state's agricultural products, and other agricultural industry groups. The WSDA and others may continue separately to promote Washington products under their existing authorities.

The WSDA may contract with the corporation to carry out the program; however, the corporation must aggressively seek to fund its continued operation from non-state funding sources. The corporation must report to the WSDA each January 1 on the amounts it has secured from both non-state and state funding sources, its operations, and its programs. The debts and other liabilities of the corporation are its own; they may be satisfied only from the corporation's resources. The state is not liable for those debts or liabilities.

To establish the corporation, the WSDA and the State Fruit Commission, as the WSDA's contractor, may take all necessary and proper steps, including: transferring any equipment, software, data base, other assets, or contracts for services to the corporation under certain

conditions; assigning contracts and other duties and responsibilities to the corporation; and providing necessary support services under contract for up to two years. The WSDA may pay an annual membership fee to the corporation not to exceed the value of services received.

The transfer authority does not include the authority to transfer the logo. The logo of the program is the property of the WSDA, which may license its use as it deems appropriate. The WSDA retains the right to cancel any license to use the logo.

The WSDA must designate one or more persons to serve in the capacity of a member of the board of directors of the corporation. The state is not liable for the actions of the corporation or its members or its employees.

The WSDA may receive gifts, grants, or endowments from private or public sources, in trust or otherwise, for the use and benefit of the purposes of the program and may spend or contract with the corporation to spend such items or the income from them according to their terms.

Votes on Final Passage:

House	96	0
Senate	49	0

Effective: March 19, 2004

SHB 2367

C 178 L 04

Promoting Washington-grown apples.

By House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Linville, Schoesler, Campbell, McDonald, Delvin, Sullivan, Hunt, Moeller, McDermott, Kenney and Morrell; by request of Department of Agriculture).

House Committee on Agriculture & Natural Resources
Senate Committee on Agriculture

Background: Commodity commissions and boards may be created to perform a variety of functions, including advertising, sales promotion, research, and education, related to a particular commodity. Commodity commissions and boards may be established under Washington law either directly by statute or through statutory enabling acts.

The Washington Apple Commission (Commission) is a corporate body composed of 13 voting members: nine apple producers and four apple dealers. The Director of the Washington State Department of Agriculture (WSDA Director) is a non-voting member. A producer member must be a person engaged in apple production in Washington for at least five years. Commission statutes allow selection of a producer member who sells apples or packs and stores apples grown by others if a substantial quantity of the apples sold or handled are grown by

the producer member. A dealer member must be a person actively engaged as an apple dealer in the state for at least five years.

Commission members are elected to three-year terms. Producer members are elected from three grower districts, and the dealer members are elected from two dealer districts. Grower District No. 1 includes Chelan, Okanogan, and Douglas counties; Grower District No. 2 includes Kittitas, Yakima, Benton, and Franklin counties; and Grower District No. 3 includes all other counties.

Commission Assessments. The Commission may impose on all fresh apples grown in this state a levy of 12 cents per hundred pounds gross billing or reasonable equivalent determined by the Commission. The Commission may change the statutory assessment amount upon determination that the assessment levied is either too high or inadequate to accomplish the Commission's purposes. The Commission must adopt a resolution relating to the assessment change and refer the resolution to a referendum mail ballot of the state's apple producers. The resolution must be approved by at least a majority of the voting producers and the voting producers operating more than 50 percent of the acreage voted in the same election. The increase or decrease becomes effective 60 days after the resolution is adopted if approved by the voting producers.

Legal Challenges to Commodity Commissions. In 2001 the U.S. Supreme Court decided in *United States et al. v. United Foods, Inc.*, 533 U.S. 405 (2001), that a mandatory assessment on mushrooms for a federal promotional program was an unconstitutional infringement on free speech. The U.S. Supreme Court in *United Foods* concluded that the mushroom advertising program was not ancillary to a comprehensive regulatory structure restricting marketing autonomy but was in fact the principal objective of the regulatory scheme for the mushroom program.

In March 2003 a federal district court in Washington determined that the Commission's statutory authority to collect mandatory assessments is unconstitutional. *In re Washington State Apple Advertising Commission*, Case No. CS-01-0278-EFS (U.S. District Court, Eastern District of Washington, filed March 31, 2003). The court in that case concluded that the Commission's activities are not part of a comprehensive regulatory structure and that its marketing program is not government speech protected from constitutional challenge. In July 2003 the parties to this suit reached a settlement, which included a proposal for legislative changes to restructure the Commission.

2003 Commodity Commission Legislation. Legislation enacted in 2003 – after the *In re Washington State Apple Advertising Commission* decision but before the July 2003 settlement – added and revised numerous provisions regarding supervision, governance, and operation

of various commodity commissions. This legislation does not amend the statutes governing the Commission's structure or operations. Chapter 396, Laws of 2003 (HB 1361). Among other changes, the 2003 legislation:

- specifies that each commission or board exists primarily for the benefit of the people of the state and its economy and is charged with speaking, with the WSDA Director's oversight, on behalf of the state government with regard to its particular commodity;
- requires approval by the WSDA Director of commissions' and boards' plans, programs, activities, and budgets;
- modifies commission and board member selection provisions to designate the WSDA Director as a voting member of each of these commissions and boards and to require the WSDA Director to appoint all or a majority of the members;
- adds liability protective provisions to the Dairy Products Commission statutes; and
- grants commodity commissions some additional powers.

Compensation and Liability Provisions. Under state law, agricultural commodity commission members are entitled to up to \$100 per day for each day spent attending official commission meetings or performing statutorily prescribed duties. Neither the state nor a Commission member, agent, or employee is liable for the Commission's acts or contracts. Commission members may not be held liable for acts other than their individual crimes or acts of dishonesty.

Summary: Commission Status, Powers and Duties. The Commission is declared an agency of the Washington state government. The Commission is authorized, with the WSDA Director's oversight, to speak on behalf of the state with regard to apples and apple-related issues. In addition to other powers and duties, the Commission also is authorized to:

- maintain, protect, acquire, or own intellectual property rights and collect royalties from Commission-funded research;
- apply for and administer federal market access or similar programs and provide matching funds as needed;
- provide, with oversight by the WSDA Director, funding and support to organizations representing and supporting the apple industry;
- fund, conduct, and participate in scientific apple-related research;
- provide services relating to production, promotion, sale, or distribution of Washington apples on a fee-for-service basis; and
- gather, maintain, and distribute apple production, processing, shipment, and sales data related to Commission operations, services, and assessment collections.

The Commission also is authorized to adopt rules to implement specified provisions.

The first Commission meeting after the effective date of these provisions must be held in Wenatchee. Subsequent Commission meetings must alternate between Yakima and Wenatchee.

Commission Assessments. The Commission's authorized levy for fresh apples, including fresh sliced apples, is changed from 12 cents per hundred pounds gross billing to 8.75 cents per hundred pounds of apples based on net shipping weight or reasonable equivalent determined by the Commission. The WSDA Director must oversee any changes by the Commission to the statutory assessment amount. Increases must be approved by at least two-thirds of the voting producers and of the voting producers operating acreage voted in the same election. Decreases must be approved by at least a majority of the voting producers and of the voting producers operating acreage voted in the same election.

The Commission also may collect assessments imposed by the Washington Tree Fruit Research Commission. If it does so, the Commission must be reimbursed for its actual collection costs.

Commission Members. Provisions regarding the Commission's composition are revised. The WSDA Director's position is changed from a nonvoting to a voting Commission member. A person operating an apple warehouse or selling apples who meets the qualifications of both producer and dealer may serve as either a producer member or a dealer member.

Commission members are selected by appointment rather than election. The nine producer and four dealer members are appointed by the WSDA Director. The number of producer members appointed from each grower district is to be determined according to the relative acreage of planted commercial apple orchards as of July 1, 2003, with adjustments every ten years according to census information from the Agricultural Statistics Service of the United States Department of Agriculture. At all times at least two producer members must be from Grower District No.1 (with one from Okanogan County) and no fewer than one member must be from Grower District No. 3.

Procedures for appointment of Commission members are added. Initially the WSDA Director is required to appoint the currently elected Commission members to the remainder of their terms. The WSDA Director then must appoint replacement producer members from the most underrepresented grower districts until the initial representation balance is achieved. Thereafter the Commission must hold a secret ballot advisory vote between 60 and 75 days before the beginning of a Commission member's term from nominees of apple producers and apple dealers. Candidates for appointment to the Commission are to be selected by majority vote of apple producers in the respective districts for producer positions

and of apple dealers in the respective districts for dealer positions.

The Commission must forward the names of the two candidates receiving the most votes in the advisory vote. The WSDA Director may either choose one of these two candidates or reject both candidates and request a new advisory vote. The WSDA Director must appoint a member for vacancies from two candidates nominated by the remaining Commission members.

Approval of Commission Programs and Budgets. The WSDA Director is required to approve the Commission's plans, programs, activities, and budgets concerning market research projects, market development projects, and other programs or projects within the Commission's powers and duties. The WSDA Director also must approve the Commission's industry support plans, programs, and projects such as market access or trade banner work. Further, the Commission must submit its budget to the WSDA Director for approval. The WSDA Director must strive for timely review of all submissions to ensure they properly benefit the state's people and economy and properly speak the state's message.

Liability Provisions. The state's liability for Commission acts or contracts is limited solely to the Commission's assets. Commission members have been, and continue to be, state officers or volunteers entitled to the defenses, indemnifications, liability limitations, and other benefits and protections of statutory provisions regarding actions against the state.

Commission Assessments. A process is created for apple producers to consider discontinuance of the assessment. If 8 percent of apple growers eligible to vote in Commission elections sign a petition seeking to reduce the assessment to zero, the Commission must prepare a document discussing the substance of the petition and allow for statements in favor and against the petition to be written. The Commission then must provide the document and at least 20 days' notice of public hearings, which must be held in Yakima and Wenatchee.

After the hearings the Commission must refer the discontinuance of the assessment to a referendum mail ballot of all eligible apple growers that is conducted and supervised by the WSDA Director. The referendum is approved by a majority of growers voting in the referendum election. Referendum results are binding and may not be overturned by the WSDA Director or the Commission. The discontinuance of the assessment is not effective for six months after the election, but the Commission must immediately begin winding down operations if a referendum is approved.

The Commission must pay all costs associated with the referendum process. A petition for discontinuance of the assessment may not be filed during the first five years after the effective date of these provisions or within five years of any previously held referendum.

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Statutory Construction. A severability provision is added to specify that the judicial invalidation of any of the legislation's provisions does not affect the validity of the remaining provisions.

Votes on Final Passage:

House	94	0
Senate	45	1

Effective: June 10, 2004

ESHB 2381

C 96 L 04

Ensuring the quality of degree-granting institutions of higher education.

By House Committee on Higher Education (originally sponsored by Representatives Kenney, Cox, Fromhold, Chase, Miloscia, Morrell and Moeller).

House Committee on Higher Education
Senate Committee on Higher Education

Background: Degree-Granting Authorization and Accreditation. A private or out-of-state institution of higher education may not grant or offer to grant a degree unless the Higher Education Coordinating Board (HECB) has authorized the institution to grant degrees in Washington. Although some private institutions are exempt, the HECB rules apply generally to any institution with a presence in Washington that offers educational credentials, instruction, or services prerequisite to, or indicative of, an academic or professional degree beyond the high school level.

In its review of private institutions seeking authorization to operate in Washington, the HECB examines various documents and interviews the institution's officials. In order to ensure that an institution has appropriate policies, staffing, infrastructure, and support to offer the degrees they claim to offer, the HECB has established standards for review related to administration, academic programs, faculty, support services, and financial stability. Audited financial statements are required every two years for reauthorization.

Accreditation is a process used in some states consisting of peer review of an institution's curricula, instructional support, and finances. Accrediting bodies may rely on self-study or self-reporting by the institution under review. Most public and private institutions seek accreditation, and the United States Department of Education (USDOE) maintains a list of approved accrediting agencies. Although Washington does not require an institution to be accredited in order to obtain authorization, all but two authorized institutions are accredited. The two non-accredited institutions are in the process of seeking accreditation.

Substandard and Unauthorized Degree-Granting Institutions. The HECB is charged with adopting minimum standards and necessary measures to protect the public from substandard and fraudulent or deceptive practices. The HECB authority to investigate complaints extends to any institution it reasonably believes is subject to its jurisdiction, including any institution: (1) offering degree programs or courses for credit at a physical location in Washington; (2) maintaining a server for a distance learning program in Washington; or (3) recruiting or advertising directly to Washington residents.

Unauthorized internet-based institutions that offer degrees with little or no post-secondary level academic work present significant enforcement challenges because they may operate outside the jurisdiction of the HECB. The substandard practices of these institutions also implicate consumer protection concerns for both students and the general public.

Summary: The HECB is permitted to include accreditation or progress toward accreditation by an agency recognized by the USDOE as a requirement for private degree-granting higher education institutions to operate in Washington.

The HECB is directed to develop information for the public regarding the substandard and potentially fraudulent practices of institutions that sell or award degrees without requiring adequate and appropriate post-secondary course work. To the extent feasible, information should include links to additional resources.

Existing exemptions are declared nonpermanent and the HECB is directed to periodically review exempt degree-granting institutions. An exemption will be continued only if the institution continues to qualify based on the criteria for exemption in effect at the time of review.

A clarification is made that the cost of inspecting institutions under the HECB's jurisdiction must be borne by the institution. Further clarification is made regarding exemptions for institutions that offer only credit-bearing seminars or workshops lasting three or fewer days and those that offer only noncredit-bearing seminars and workshops.

Votes on Final Passage:

House	94	2	
Senate	46	0	(Senate amended)
House			(House refused to concur)
Senate	49	0	(Senate receded)

Effective: June 10, 2004

SHB 2382

C 55 L 04

Improving articulation and transfer between institutions of higher education.

By House Committee on Higher Education (originally sponsored by Representatives Kenney, Cox, Fromhold, Nixon, Anderson, Ruderman, Chase, Schual-Berke, Miloscia, Hudgins, Wood, Morrell, Santos, Moeller and Kagi).

House Committee on Higher Education
House Committee on Appropriations
Senate Committee on Higher Education

Background: *Direct Transfer Agreement:* The Higher Education Coordinating Board (HECB) is responsible for establishing a statewide transfer of credit policy and agreement, in cooperation with the public institutions of higher education and the State Board for Community and Technical Colleges (SBCTC). Together, these entities have created the Direct Transfer Agreement, or DTA. Any student who completes an approved DTA associate degree at a community college is considered to have satisfied the lower division general education requirements at a public four-year institution. These students are generally admitted as juniors when they transfer.

Under the agreement, students who transfer to a baccalaureate institution with 90 or more community college credits must complete at least 90 additional credits at a baccalaureate institution to earn a bachelor's degree. This requirement does not apply to students transferring credits earned at another baccalaureate institution.

Transfer Associate Degrees: In the late 1990's, analysis of students' credit accumulation and graduation patterns revealed that when transfer students in science, math, and other highly structured majors arrived at a four-year institution, they needed to take additional lower division course requirements to qualify for entry into their major.

To address this problem, the Council of Presidents (COP), the HECB, and the SBCTC convened a work group to develop a statewide Associate of Science Transfer Degree (AS-T), which was adopted in 2000. Under the AS-T, students take more math and science prerequisites at the community college, with the objective of transferring directly into a major once they reach a four-year institution.

Over the last two years, work groups have been developing other specialized transfer associate degrees: in elementary education, secondary education for math and science teachers, and business administration.

Course Equivalency: Outside of DTA associate degrees, each four-year institution determines how courses earned at another college or university meet general education requirements, apply toward requirements for a major, or count toward a baccalaureate degree. At

some institutions this determination is made by faculty within each college or department. To assist students, each institution has created guides to illustrate course equivalency: which courses from which institutions are considered equivalent to which courses at the receiving institution. However, there is no statewide system of course equivalency in Washington. In 2001, the Education Commission of the States reported that 26 other states had statewide systems of course equivalency.

Access for Transfer Students: In 1994, the public four-year institutions agreed to continue to accept the same proportion of transfer students from community and technical colleges as they did in 1992. The institutions have since met or exceeded this proportion. In mid-2003, however, the University of Washington and Washington State University announced that because of rising student applications and limited additional state dollars for new enrollment, they plan to limit admission of transfer students back to 1992 levels.

Summary: Direct Transfer Agreement: Policies adopted by public four-year institutions of higher education regarding transfer of lower-division credits must treat students transferring from community colleges the same as they treat students transferring from public four-year institutions.

Transfer Associate Degrees: The HECB will convene work groups to develop transfer associate degrees for specific academic majors. Work groups include representatives from the SBCTC, COP, and faculty from two- and four-year institutions. Work groups may include representatives from independent four-year institutions. A transfer associate degree must enable a student to complete the lower-division courses or competencies required for general education and preparation for a specific major. Completion of a transfer associate degree does not guarantee the student admission into an institution or into a major that has competitive requirements. The HECB must monitor four-year institutions' implementation of the degrees to ensure compliance.

During 2004-05, the work groups will develop degrees for elementary education, engineering, and nursing. Each year thereafter, work groups will develop additional degrees with a priority for majors in high demand by transfer students or majors where the current general associate transfer degree does not adequately prepare students.

The HECB makes biennial progress reports beginning January 10, 2005. The first report includes measurable indicators of improvement and baseline data. Subsequent reports monitor the indicators and provide other data on improving transfer efficiency. The HECB, in collaboration with the Intercollegiate Relations Commission, will collect and maintain lists of courses that fall within the associate degrees.

Course Equivalency: The HECB must create a statewide system of course equivalency for public higher education institutions, so that courses from one institution can be transferred and applied toward academic majors and degrees in the same manner as equivalent courses are transferred and applied at the receiving institutions.

A work group convened by the HECB will identify equivalent courses among all public and two- and four-year institutions and develop strategies for communicating course equivalency to students, faculty, and advisors. The work group may include representatives from independent four-year institutions. The work group must take into account the unique curriculum of The Evergreen State College in developing the course equivalency system.

The HECB makes a progress report by January 10, 2005, including options and cost estimates for ongoing maintenance of the system.

Access for Transfer Students: The HECB must conduct a gap analysis of upper division capacity in the public higher education system to accommodate transfer students. The analysis must examine the full range of options, including costs, to close the gap between demand and supply of upper division capacity. A progress report is due January 10, 2005, and a final report is due December 10, 2006, with recommendations on how to expand capacity in various locations.

Votes on Final Passage:

House 96 0
Senate 47 0 (Senate amended)
House 94 0 (House concurred)

Effective: June 10, 2004.

ESHB 2383
C 56 L 04

Providing for paying part-time faculty at institutions of higher education.

By House Committee on Higher Education (originally sponsored by Representatives Kenney, Cox, Fromhold, Chase, Hudgins, Wood, Morrell, Santos and Kagi).

House Committee on Higher Education
Senate Committee on Higher Education

Background: Part-time academic faculties at institutions of higher education often are employed throughout the year under a series of short-term contracts that coincide with an institution's quarterly start and stop dates. Some part-time faculty work under these arrangements for several consecutive years.

The schedule used to pay state employees divides each month into two pay periods, the first through the 15th and the 16th through the last day of the month. The Office of Financial Management (OFM) has established

pay dates for these two pay periods of the 10th and the 25th, respectively. The 10-day period between the end of a pay period and the receipt of a paycheck is commonly called a lag period. Approval from OFM is required to deviate from these pay periods and pay dates.

A typical contract under which a part-time faculty member is employed defines the amount of compensation and the pay dates during the quarter over which the compensation will be distributed. The quarterly start and stop dates which govern the employment status of part-time faculty at institutions of higher education combined with the standard state employee pay periods and pay dates may result in part-time faculty working for more than three weeks at the start of a quarter before receiving compensation under a contract.

Summary: Institutions of higher education are permitted to include in a collective bargaining agreement a provision to pay part-time faculty on all the same pay dates as are used for full-time faculty.

Votes on Final Passage:

House 96 0
Senate 46 0

Effective: June 10, 2004

HB 2387
C 33 L 04

Authorizing the release of patient records for the purpose of restoring state mental health hospital cemeteries.

By Representatives Carrell, Talcott, Bush, Lantz, Cox, Pearson, McMahan, Kristiansen, Mielke, Boldt, Morrell, Orcutt and Ahern.

House Committee on Health Care
Senate Committee on Children & Family Services & Corrections

Background: Between 1887 and 1953, the state buried on hospital grounds more than 7,000 patients who had died while in residence at Northern, Western, and Eastern State Mental Health Hospitals. In 1953, the state discontinued this practice. Most of the graves at these facilities were never marked, although the hospitals retained records of the names and dates of birth and death for the majority of the buried patients.

The law governing patient record confidentiality does not allow the release of patient records, including names and dates of demise, even after death. State hospitals may only release information about the patients buried on hospital grounds to families of the patient. This is one of the primary reasons that cemeteries located on hospital grounds have remained unmarked.

Summary: The Department of Social and Health Services is permitted to release the medical records of patients interred at state hospital cemeteries for the

purpose of marking their headstones or otherwise memorializing their resting place.

Votes on Final Passage:

House	95	0	
Senate	45	0	(Senate amended)
House	93	0	(House concurred)

Effective: June 10, 2004

ESHB 2400
PARTIAL VETO
C 176 L 04

Strengthening sentences for sex offenders.

By House Committee on Appropriations (originally sponsored by Representatives McMahan, Carrell, Mielke, Talcott, Crouse, Bush, Ahern, Newhouse, G. Simpson, Woods and Orcutt).

House Committee on Criminal Justice & Corrections
House Committee on Appropriations

Background: The Special Sex Offender Sentencing Alternative (SSOSA) is an alternative to standard sentencing wherein the court suspends the offender's sentence in exchange for treatment and other conditions.

Eligibility for a SSOSA. An offender is eligible for a SSOSA sentence if he or she:

- is convicted of a sex offense other than a serious violent offense or rape in the second degree;
- has no prior conviction for a sex offense; and
- has a standard sentence range that includes the possibility of imprisonment for 11 years or less.

Deciding Whether to Grant a SSOSA. Prior to ordering a SSOSA, the court orders the offender to be examined. The examiner must submit a report of the examination and a proposed treatment plan to the court. After receipt of the report, the court must consider:

- whether the offender and the community would benefit from the use of a SSOSA; and
- the opinion of the victim.

Terms of a SSOSA Sentence. If a court decides to grant a SSOSA disposition, it enters a sentence and suspends its execution. The court must impose the following conditions of the suspended sentence:

- treatment for any period up to three years; and
- a term of community custody.

Also, the court has the option to impose a variety of conditions of the suspended sentence, including up to six months of confinement (not to exceed the sentence range for the offense), crime-related prohibitions, and community restitution.

Supervision of SSOSA Offenders. Offenders who receive SSOSA sentences are supervised in the community by the Department of Corrections (DOC). During the term of treatment, the treatment provider must provide quarterly reports to the court. If a violation of

the terms of the suspended sentence occurs during community custody, the DOC may handle the violation administratively or refer the violation to the court. The court may revoke the suspended sentence if the offender violates any of the conditions of suspension or does not make satisfactory progress in treatment.

Treatment Termination. When imposing a SSOSA sentence, the court must set a treatment termination hearing for three months prior to the end of treatment. Prior to the hearing, the treatment provider and the DOC must report to the court and the parties regarding the offender's compliance with the conditions of his or her sentence and recommendations regarding treatment termination. Either party may request another evaluation, which the court has the option to grant. The offender must pay for the second evaluation unless the court finds him or her to be indigent, in which case the state pays. After the treatment termination hearing, the court may modify the conditions of community custody, terminate treatment, or extend treatment for up to the remaining term of community custody.

Summary: *The Special Sex Offender Sentencing Alternative*

Eligibility for a SSOSA. The eligibility criteria for a SSOSA are expanded. The following persons are ineligible for a SSOSA:

- persons with adult convictions for violent offenses committed within five years of the current offense;
- persons who caused substantial bodily harm to the victim; and
- persons who had no connection with the victim other than the offense itself.

Deciding Whether to Grant a SSOSA. The proposed treatment plan must contain an identification of behaviors or activities that are precursors to the offender's offense cycle to the extent that they are known.

The court must consider the following factors when deciding whether to grant a SSOSA sentence:

- whether the offender had multiple victims;
- whether the offender is amenable to treatment. An admission to the offense, by itself, does not constitute amenability to treatment;
- the risk the offender poses to the community, the victim, or persons similarly situated to the victim; and
- whether the alternative is too lenient in light of the extent and circumstances of the offense.

The court must give great weight to the victim's opinion. If the court orders a sentence that is contrary to the victim's opinion, the court must state its reasons in writing.

Terms of a SSOSA Sentence. As a condition of the suspended sentence, the court must impose a term of incarceration of up to 12 months or the maximum of the standard range, whichever is less. The court may increase this term of incarceration up to the statutory

maximum sentence for the crime for aggravating circumstances. The term may not be reduced by earned release credits and may be served in partial confinement. The court must also order prohibitions and affirmative conditions regarding known behaviors or activities that serve as precursors to the offender's offense cycle.

The maximum for the initial treatment term is increased from three years to five years. The treatment provider that provided the offender's initial examination may not be the same provider that provides treatment to the offender during the SSOSA sentence, unless the court has entered written findings that such treatment is in the best interests of the victim and that successful treatment of the offender would otherwise be impractical.

Supervision of SSOSA Offenders. The court must conduct a hearing on the offender's progress in treatment at least once a year. The court must provide notice and the opportunity to be heard at the hearing to the victim. The court may modify community custody terms, including crime-related prohibitions and affirmative conditions relating to behaviors or activities that serve as precursors to the offender's offense cycle, or revoke the suspended sentence at the hearing.

Upon a second violation of a prohibition against precursor behaviors or activities, the DOC must refer the offender back to the court and recommend revocation of the suspended sentence.

Treatment Termination. The court must provide the victim with notice and the opportunity to be heard at the treatment termination hearing. The court may order another evaluation prior to the hearing, which may not be performed by the same treatment provider who provided treatment to the offender, unless the court has ordered written findings that such an evaluation is in the best interest of the victim and that a successful evaluation of the offender would otherwise be impractical. The provision allowing the state to pay for the evaluation if the offender is indigent is removed. After the treatment termination hearing, the court may extend treatment in two year increments.

Miscellaneous

The Washington Institute for Public Policy must perform a comprehensive analysis and evaluation of the impact and effectiveness of current sex offender sentencing policies, including the SSOSA and DOC treatment programs for incarcerated offenders, and the validity of the risk assessment tool used by the End of Sentence Review Committee. The analysis must examine whether changes to sentencing policies and sex offender programming can increase public safety. The institute analysis and evaluation of the SSOSA must include an investigation of victim impacts.

The Sentencing Guidelines Commission must examine the following issues:

- eligibility for a SSOSA;

- minimum terms of incarceration;
- appropriate conditions or restrictions that should be placed on SSOSA offenders; and
- standards for a SSOSA revocation.

The institute and the commission must report their results and recommendations to the Legislature no later than December 31, 2004.

Votes on Final Passage:

House	93	2	
Senate	40	7	(Senate amended)
House	95	0	(House concurred)

Effective: June 10, 2004

July 1, 2005 (Sections 2-6)

Partial Veto Summary: The intent section of the bill was vetoed.

VETO MESSAGE ON HB 2400-S

March 26, 2004

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 Substitute House Bill No. 2400 entitled:

“AN ACT Relating to sentence enhancement for sex crimes against minors;”

This bill makes improvements in the Special Sex Offender Sentencing Alternative, which is often needed to get convictions, hold sex offenders accountable, and protect child victims.

I have vetoed section 1, the intent section, because it includes rhetorical language that could inadvertently be misused to increase taxpayers' liability for harm that should be the responsibility of sex offenders themselves. Section 1 discusses a paramount duty of the Legislature to protect children from victimization by sex offenders. Although I agree that the state has the responsibility to take action within its powers and authority, this language could be misunderstood to create a new duty, which would be a higher duty than many equally important government actions and protections. In addition, the section discusses structure and administrative weaknesses in the Special Sex Offender Sentencing Alternative. Taken out of context, this language could be misunderstood and used to indicate an admission of liability when none exists.

For these reasons, I have vetoed section 1 of Engrossed Substitute House Bill No. 2400.

With the exception of section 1, Engrossed Substitute House Bill No. 2400 is approved.

Respectfully submitted,



Gary Locke
Governor

HB 2418

C 4 L 04

Providing benefits to certain disabled members of the law enforcement officers' and fire fighters' retirement system plan 2.

By Representatives Cooper, Delvin, G. Simpson, Hinkle, Chase and Morrell.

House Committee on Appropriations
Senate Committee on Ways & Means

Background: Members of the Law Enforcement Officers' and Fire Fighters' Retirement System, Plan 2 (LEOFF 2) are eligible for a retirement allowance of 2 percent of average final salary for each year of service credit earned at age 53. Members of the LEOFF 2 may apply for early retirement beginning at age 50; however, the member's benefit is reduced by 3 percent per year below age 53 if the member has 20 or more years of service, and fully actuarially reduced if the member has less than 20 years of service.

If a member becomes disabled for any reason, the LEOFF 2 offers two benefits. First, a member may receive a retirement allowance based on the 2 percent of average final salary formula that is actuarially reduced from age 53 to the age at disability. This actuarial reduction is about 8 percent per year, so a member leaving service by disability at age 48 would receive a reduction of about 40 percent.

A member with 10 or more years of service who leaves employment in the LEOFF 2 may request a refund of 150 percent of the member's accumulated contributions. A member with less than 10 years of service may request 100 percent of the member's contributions. In either case, a member who requests a refund of contributions is ineligible for a disability or service retirement allowance.

If a duty-related disability retirement allowance is based on a member's age and years of service at disability, then it is paid subject to federal income tax. In contrast, to the extent that a duty-related disability retirement allowance is not based on age or years of service, it may qualify for favorable tax treatment.

Summary: A member of the LEOFF 2 who leaves service as a result of a line of duty disability is entitled to withdraw 150 percent of accumulated member contributions. (This withdrawal benefit is not subject to federal income tax.)

A member of the LEOFF 2 who leaves service as a result of a line of duty disability is also eligible to receive a retirement allowance of at least 10 percent of final average salary. If the 2 percent per year of service disability benefit, actuarially reduced for the difference between age 53 and age at retirement, results in a greater benefit than the minimum 10 percent, the member receives the greater benefit. (The first 10 percent of the

line of duty disability benefit is not subject to federal income tax.)

The line of duty disability benefit applies to all LEOFF 2 members disabled in the line of duty on or after January 1, 2001.

Votes on Final Passage:

House	96	0
Senate	48	0

Effective: June 10, 2004

HB 2419

C 5 L 04

Calculating the retirement allowance of a member of the law enforcement officers' and fire fighters' retirement system plan 2 who is killed in the course of employment.

By Representatives G. Simpson, Delvin, Cooper, Hinkle, Chase, Morrell and Conway.

House Committee on Appropriations
Senate Committee on Ways & Means

Background: All members of the Law Enforcement Officers' and Fire Fighters' Retirement System, Plan 2 (LEOFF 2) are eligible for normal retirement at age 53, and early retirement beginning at age 50. Several death benefits are payable to LEOFF 2 members who die while in active service.

One of the death benefits paid to a member of the LEOFF 2 is a survivor benefit paid to the spouse or eligible survivor. The amount of this survivor benefit is the greater of: (1) the member's accumulated contributions, or if the member has 10 or more years of service, 150 percent of the member's accumulated contributions; or (2) the member's earned retirement benefit, reduced for payment in the form of a survivor benefit and also reduced from the LEOFF 2 normal retirement age to the member's age at death. The survivor of a LEOFF 2 member who dies as a result of injuries sustained in the course of employment is also eligible for a \$150,000 lump-sum death benefit.

A workers' compensation death benefit may also be payable from the Department of Labor and Industries (L&I) for death resulting from injury sustained in the course of employment. A lump sum benefit may be payable from the L&I for burial expenses, as well as a monthly benefit of 60 percent of gross wages up to 120 percent of the state's average wage.

Chapter 155, Laws of 2003 (SHB 1519) provides that members of the Public Employees' Retirement System, the School Employees' Retirement System, and the Teachers' Retirement System killed in the course of employment are not subject to early retirement reductions.

SHB 2431

Summary: The survivor benefit paid from a member's earned retirement benefit to survivors of LEOFF 2 members killed in the course of employment is not subject to an early retirement actuarial reduction.

Votes on Final Passage:

House 96 0
Senate 47 0

Effective: June 10, 2004

SHB 2431

C 107 L 04

Modifying Dungeness crab management provisions.

By House Committee on Fisheries, Ecology & Parks (originally sponsored by Representatives Upthegrove, Cooper and Chase).

House Committee on Fisheries, Ecology & Parks
House Committee on Appropriations
Senate Committee on Parks, Fish & Wildlife
Senate Committee on Ways & Means

Background: A personal use saltwater, freshwater, combination, or temporary license is required for all persons 15 years of age or older to fish for or possess fish or shellfish taken for personal use from state or offshore waters. Temporary fishing licenses are issued either as a license document requiring personal identification or as a stamp. Charter boats may sell customers temporary fishing license stamps that are valid for two consecutive days.

In addition to a recreational license, the Washington Department of Fish and Wildlife (WDFW) requires fishers to report their harvest activity on catch record cards for salmon, steelhead, sturgeon, halibut, and Dungeness crab. Initial catch record cards are provided free with the purchase of a license, and additional or duplicate catch record cards cost \$10 each. Catch estimates generated by the catch record card system are used by the WDFW to manage fisheries. However, since a catch record card contains a variety of species, WDFW is unable to sample only Dungeness crab recreational fishers.

Summary: A catch record card endorsed for Dungeness crab is required for Puget Sound recreational fishers to take or possess Dungeness crab. The cost of a Dungeness crab endorsement may not exceed \$3, and moneys from the endorsement may only be used for sampling, monitoring, and management of Dungeness crab recreational fisheries. Catch record cards issued with affixed temporary charter stamps are not subject to the Dungeness crab endorsement fee.

The Department must evaluate the effectiveness of the Dungeness crab endorsement as a method for improving the accuracy of the catch estimate for Puget Sound Dungeness crab recreational fisheries and report its findings to the Legislature by May 15, 2006.

Votes on Final Passage:

House 76 0
Senate 47 0 (Senate amended)
House 93 0 (House concurred)

Effective: May 15, 2004

SHB 2452

C 239 L 04

Regulating sites for construction and operation of unstaffed public or private electric utility facilities.

By House Committee on Technology, Telecommunications & Energy (originally sponsored by Representatives Morris and Crouse).

House Committee on Technology, Telecommunications & Energy

Senate Committee on Land Use & Planning

Background: The state subdivision law governs the manner in which cities and counties administer the division of land into parcels for the purpose of sale, lease, or other transfers of ownership. For purposes of the state subdivision law, when the division is of five or more parcels, it is considered a long subdivision, and a division of four or fewer parcels is considered a short subdivision. Once established, long and short subdivisions are subject to certain requirements. For example, lots created by a short plat cannot be further divided for five years after short plat recording, with limited exceptions.

There are eight exemptions from the requirements of the state subdivision law. They are property divisions for cemeteries and burial plots, certain divisions of five acres or larger, divisions resulting from a will or inheritance, certain divisions for industrial or commercial use, certain divisions by lease where no residential structures other than mobile homes or trailers will be placed on the land, divisions to adjust boundaries, certain divisions for condominium developments, and divisions to be leased for placement of personal wireless facilities.

Summary: An additional exemption to the state subdivision law is established for divisions of land into lots or tracts of less than three acres that are used or will be used for the purpose of establishing a site for construction and operation of public or private electric utility facilities that are unstaffed, except for the presence of security personnel. This additional exemption applies only to a utility's existing customers or electric utility locations that are not in existence when the electric utility facilities subject to the act are planned and constructed.

Votes on Final Passage:

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

Effective: June 10, 2004

HB 2453

C 81 L 04

Modifying the taxation of wholesale sales of new motor vehicles.

By Representatives Fromhold, Roach and Condotta.

House Committee on Finance

Senate Committee on Ways & Means

Background: Washington's major business tax is the business and occupation (B&O) tax. The B&O tax is imposed on the gross receipts of business activities conducted within the state, without any deduction for the costs of doing business. Although there are several different rates, the rate on wholesaling is 0.484 percent and the rate on retailing is 0.471 percent.

Motor vehicle dealers are exempt from B&O tax on wholesales of used vehicles at auto auctions. New car dealers are exempt on wholesales of new motor vehicles to other new car dealers if the transaction enables dealers to adjust their inventory. The price may not exceed the acquisition cost to the selling dealer plus any car preparation expenses.

Summary: New car dealers are exempt from B&O tax on wholesales of new motor vehicle to other new car dealers selling vehicles of the same make. The requirements that the purpose of the sale is for inventory adjustment and that the price is limited to cost are eliminated.

Votes on Final Passage:

House	95	0
Senate	45	0

Effective: March 22, 2004

HB 2454

C 103 L 04

Allowing DNR to accept voluntary contributions.

By Representatives Buck, Eickmeyer, Armstrong and Bush.

House Committee on Appropriations

Senate Committee on Parks, Fish & Wildlife

Background: The Park Land Trust Revolving Fund is administered by the Department of Natural Resources (DNR) and is non-appropriated but is subject to allotment. The fund is used for acquiring real property as a replacement for the property transferred to the State Parks and Recreation Commission in order to maintain the land base of the affected trusts.

Summary: The DNR is authorized to solicit and receive voluntary contributions for the purpose of operating and maintaining public use and recreation facilities, includ-

ing trails, managed by the department. The DNR may seek voluntary contributions from individuals and organizations for this purpose.

Voluntary contributions are deposited into the Park Land Trust Revolving Fund and are not considered a fee for use of these facilities.

Votes on Final Passage:

House	96	0
Senate	48	0

Effective: June 10, 2004

SHB 2455

PARTIAL VETO

C 247 L 04

Providing for financial literacy.

By House Committee on Education (originally sponsored by Representatives Santos, Anderson and G. Simpson).

House Committee on Education

Senate Committee on Financial Services, Insurance & Housing

Background: "Financial literacy" is the understanding of basic concepts of money and the skills needed to handle personal finances during the course of an individual's lifetime. The concepts include, for example, how compound interest works, the meaning of net worth, the effects of annual percentage rates on credit cards, discernment of appropriate investments, price and term comparisons, and planning ahead for major transactions and life events, such as buying a home or car, or funding college or retirement.

According to Youth and Money, a 1999 study conducted by the American Savings Education Council, fewer than half of all high school and college students have regular savings plans. Only about one-fourth of the students stick to a budget and more than one-third do not keep track of their spending at all. According to a survey conducted by the National Council on Economic Education, financial illiteracy is not limited to students. Half of all adults fail to understand basic economic concepts.

Testimony before the United States House of Representatives Committee on Education and the Workforce suggests that many Americans live paycheck to paycheck and acquire substantial debt because they never learned the basics about personal finance. Bob Duvall, CEO of the National Council on Economic Education testified that "This (financial) literacy, together with reading and mathematics, is the key to home ownership, managing credit, financing higher education, saving for retirement, and citizenship."

Further testimony before the Committee reported that the departments of the Treasury and Education are working to encourage schools to integrate basic financial

education into their reading and math curriculum in accordance with the goals of the "No Child Left Behind Act" (Act). The Act includes several provisions that encourage financial literacy. For example, the Act allows districts to use funds from the Local Innovative Education Programs to support activities that provide consumer, economic and personal finance education. The Act also included the Excellence in Economic Education program. Through the program, the Secretary of Education may award a grant to a non-profit entity to foster economic literacy through a variety of activities.

Summary: The Financial Literacy Public Private Partnership (Partnership) is established to develop a working definition of "financial literacy," identify strategies that promote the use of financial literacy curricula in schools, serve as a resource, and seek outcome measures to determine the effectiveness of educational efforts. A timeline is included for the dates by which various tasks must be completed. The Partnership will report to the Legislature and educational stakeholders, with a final report by June of 2007.

The Partnership will be composed of 12 to 14 members, including legislators, financial services representatives, educators, and representatives from the Office of the Superintendent of Public Instruction (OSPI) and the Department of Financial Institutions. From two to four of the members will be legislators. At least two of the legislators, one from each chamber, will be appointed from the legislative committees that consider legislation dealing with financial institutions and insurance. The OSPI will appoint educators and members from the financial services sector. The members must be appointed by July 1, 2004.

The Washington Financial Literacy Education Partnership Account is created to provide learning opportunities for students, professional development for educators, and support for the Partnership. Public funds and donations may be included in the account. Money may be withdrawn from the account by the OSPI or the Superintendent's designee. The account is subject to allotment procedures, but no appropriation is required for expenditures.

The Partnership expires on June 30, 2007.

Votes on Final Passage:

House	93	1	
Senate	45	1	(Senate amended)
House	96	1	(House concurred)

Effective: June 10, 2004

Partial Veto Summary: The Governor vetoed a section that directed the Office of the Superintendent of Public Instruction (OSPI) and the Financial Literacy Public-Private Partnership to make available to school districts some of the financial literacy educational materials the partnership will develop. The materials included lists of identified skills and knowledge, instructional materials,

assessments and other relevant information. The section also encouraged school districts to implement opportunities for students in financial literacy, and clarified the OSPI's authority to exclude financial literacy from the essential academic learning requirements and grade level expectations.

VETO MESSAGE ON HB 2455-S

March 31, 2004

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, Substitute House Bill No. 2455 entitled:

“AN ACT Relating to financial literacy;”

This bill creates a public-private partnership to define skill and knowledge components of financial literacy for students, identify appropriate curriculum materials, develop appropriate assessments, and articulate other program outcomes.

Creating a financially literate citizenry is a worthy goal. However, we must keep in mind the significant challenges already underway in our schools and stay focused on ensuring our students achieve the academic requirements we have established in the basics of reading, writing, mathematics and science. Additionally, we must work to maintain strong programs in the social studies, arts, and health and fitness.

This bill sets forth an ambitious series of tasks for developing financial literacy. Section 4 would have directed the Office of the Superintendent of Public Instruction (OSPI) to perform certain duties, encouraged school districts to implement opportunities for students in financial literacy, and provided that the OSPI need not include financial literacy as an essential academic learning requirement or grade level expectation.

Before requiring a state agency to provide technical assistance to school districts and encouraging districts to teach and assess a new curricular topic, it is prudent for the development work to be completed and appropriately reviewed. I strongly believe this is a topic that could find a lasting place in our schools if it is incorporated into one of the already acknowledged subject areas. I would direct the work of the partnership to the language in section 3(2) that addresses this focus.

For these reasons, I have vetoed section 4 of Substitute House Bill No. 2455.

With the exception of section 4, Substitute House Bill No. 2455 is approved.

Respectfully submitted,



Gary Locke
Governor

ESHB 2459
PARTIAL VETO
 C 276 L 04

Making supplemental operating appropriations.

By House Committee on Appropriations (originally sponsored by Representatives Sommers, Fromhold and Sehlin; by request of Governor Locke).

House Committee on Appropriations
 Senate Committee on Ways & Means

Background: The state government operates on the basis of a fiscal biennium that begins on July 1 of each odd-numbered year. A biennial operating budget was enacted in the 2003 legislative session, appropriating \$23.1 billion from the State General Fund.

Summary: Appropriations are modified for the 2003-05 fiscal biennium. Prior to the supplemental budget, the total appropriation was \$38.6 billion, of which \$23.1 billion was from the State General Fund.

The 2004 Supplemental Operating Budget (including those appropriations made in House Bill 1777, home care workers contract) increases general fund spending by \$145 million, a 0.6 percent increase from the original budget. Total appropriations are increased by \$634 million.

Including the changes made by the supplemental budget, total appropriations for the 2003-05 fiscal biennium are \$39.2 billion, of which \$23.2 billion is from the State General Fund.

Votes on Final Passage:

House	51	45	
Senate	34	15	(Senate amended)
House	84	12	(House concurred)

Effective: April 1, 2004

Partial Veto Summary: The Governor vetoed budget provisions affecting the following agencies: Joint Legislative Audit and Review Committee, Secretary of State, Juvenile Rehabilitation Administration, Department of Social and Health Services—Mental Health Division, Superintendent of Public Instruction, higher education institutions, University of Washington, Washington State University, and the Higher Education Coordinating Board. In addition, the Governor vetoed budget provisions regarding allotment reductions for travel, equipment, and contracts, transfers to the general fund, and scholarship eligibility. The vetoes had the net impact of increasing the general fund appropriation level by \$19,445,000 and decreasing other fund appropriations by \$37,921,000. For more information, see "Legislative Budget Notes," published by the House Appropriations Committee and the Senate Ways & Means Committee.

VETO MESSAGE ON HB 2459-S

April 1, 2004

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 the following appropriation items and sections 103(2); 103(3); 103(4); 103(6); 103(7); 111, lines 21-22; 203, lines 26-27; 204(2)(d); 513(18); 601(3); 603(12); 604(9); 609(3)(a); 610(11), lines 7-13; 717; 802, page 207, lines 10-14; and 906, Engrossed Substitute House Bill No. 2459 entitled:

“AN ACT Relating to fiscal matters;”

Engrossed Substitute House Bill No. 2459 is the state supplemental operating budget for the 2003-2005 Biennium. I have vetoed several provisions as described below:

Sections 103(2); 103(3); 103(4); 103(6); and 103(7), Page 3, Various Studies (Joint Legislative Audit and Review Committee (JLARC))

With the exception of Section 103(7), which applies to a bill that did not pass, the subsections I have vetoed would have added funding for specific fiscal year 2005 studies. While these studies may have merit, it is more appropriate for JLARC to fund these new priorities with existing resources. I have left intact two JLARC studies, one on state wildfire suppression and the other on alternative learning experience programs, that relate to audit issues.

Section 111, Page 11, Lines 21-22, Primary Election (Secretary of State)

Implementation of the new primary system will increase local government costs at a time when many have had to make significant cuts to services due to ongoing revenue shortfalls. This veto restores \$6.038 million General Fund-State to the Secretary of State's Office to help defray one-time county costs associated with implementing this new system. Because this appropriation will lapse on June 30, 2004, county auditors will need to file expense claims with the Secretary of State's Office by June 15, 2004.

Section 203, Page 47, Lines 26-27, Cost Assumption for Juvenile Institutions Beds (Department of Social and Health Services (DSHS) - Juvenile Rehabilitation Administration)

Savings assumed in the 2003-2005 enacted budget were too large due to a technical error in the way they were calculated. This would have caused a shortfall of \$1.1 million in fiscal year 2005, which would have resulted in overcrowding and reductions in treatment programs. Therefore, I have vetoed the change to the 2005 fiscal year appropriation to restore \$2,213,000 in the Juvenile Rehabilitation program. DSHS will be directed to place \$1,076,000 of these funds into unallotted status and use the balance of the funds, \$1,056,000 to maintain these essential youth services.

Section 204(2)(d), Page 53, State Hospital Inpatient Assumptions (Department of Social and Health Services (DSHS) - Mental Health Program)

This proviso would have prohibited DSHS from reducing the number of inpatient psychiatric hospital beds below existing levels of 642 at Western State Hospital and 191 at Eastern State Hospital. The minimum level of hospital beds specified in the proviso for Western State Hospital exceeds the current level of inpatient psychiatric hospital beds by 95. Thus, this proviso would have directed the DSHS to increase the number of psychiatric hospital beds without additional funding. Adding inpatient beds without additional funding would have resulted in a significant budget shortfall, or would have come at the expense of community placements. DSHS will not change the number of existing inpatient hospital beds until the Joint Task Force on Mental Health, provided for in section 714 of this act, makes recommendations. In addition, I concur with the language in section 204(2)(d) that would have ensured community placements from the adaptive living skills program may only occur if

DSHS provides sufficient resources to the communities in which patients are placed.

Section 513(18), Page 160, Study of Title II Funding (Superintendent of Public Instruction)

Current estimates for federal Title II funds from the No Child Left Behind Act indicate that the amount assumed in the supplemental budget as passed is too high. There also is a concern that federal Title II funds may not be used for the \$50,000 JLARC study required in the supplemental budget. I have vetoed this subsection in order to retain the \$87.9 million federal appropriation in the current budget, to and eliminate the mandate for a study.

Section 601(3), Page 167, Enrollment Band Intent Language (Higher Education)

This item would have stated the intent of the Legislature that the higher education institutions manage enrollment within two percent of budgeted levels. Because every four-year institution, and the two-year system as a whole, is already over-enrolled, this language would have required institutions to reduce their current enrollment levels. While high over-enrollment imposes some costs to the state through financial aid, for example, this is the wrong time to reduce access in our higher education system.

Section 603(12), Page 174, Bothell Campus Study (University of Washington)

This subsection would have required the University of Washington branch campus in Bothell to issue a plan to the Legislature detailing how the institution would phase in lower division courses. Elements of the plan would include enrollment growth estimates, appropriate state funding levels, fiscal costs, etc. The recently enacted Substitute House Bill No. 2707 directs all branch campuses to examine their service delivery options - from partnerships with community and technical colleges, to adding lower division courses and becoming four-year universities. This statewide approach in Substitute House Bill No. 2707 is superior because it does not presuppose a correct answer to the question of which institutional structure best fits state needs. Further, it will examine every campus, which may help to identify other branches equally well suited to deliver lower division courses.

Section 604(9), Page 177, Vancouver Campus Study (Washington State University)

This subsection would have required the Washington State University branch campus in Vancouver to issue a plan similar to the one required in section 603(12). I have vetoed this subsection for the same reasons set forth above.

Section 609(3)(a), Page 183, High-Demand Enrollment (Higher Education Coordinating Board (HECB))

This item would have allowed private institutions to compete for these enriched FTEs. Despite the over-enrollment in public four-year institutions, funding is the limiting factor for high-demand degree production, not physical capacity. Siphoning some of this limited funding to private schools would exacerbate this problem. We should think carefully about how to utilize the capacity that private schools provide, but not rush to judgment by opening this extremely successful program to private institutions.

Section 610(11), Page 189, Lines 7-13, Promise Scholarship Eligibility (Higher Education Coordinating Board (HECB))

This section would have changed the eligibility requirements for the Promise Scholarship program. This program was designed to reward achievement in high school, but its ability to function as a meaningful reward would have been compromised if eligibility standards changed. Predictability for students, parents, and counselors is critical to the program's success. Changing the income eligibility now, even for just one year, would have set a troubling precedent.

Section 717, Page 201, Allotment Reductions to Travel, Equipment, and Contracts

In the 2003-05 enacted budget, I vetoed a similar across-the-board reduction because it presented reductions on top of programmatic cuts that had already been taken. My objections

remain. Also, the calculation of this reduction was based on actual spending during the prior fiscal year, which creates inequities in the way the reductions are applied. The Department of Corrections, for example, previously incurred a major one-time expense for a data system, but that funding is no longer in the budget and should not be the basis for a new cut. The Office of the Superintendent of Public Instruction would have had to absorb the object cut while absorbing unfunded new programs that the Legislature created for professional conduct investigations. This section would have cut higher education by \$2.7 million - more than ten percent of the increase provided in the supplemental budget - reducing the final budget to less than half of what I originally proposed in my 2004 supplemental budget, and eroding the increase in student enrollments. For these reasons, I have vetoed this section.

Section 802, Page 207, Lines 10-14, Transfer to the General Fund (State Treasurer)

I have vetoed this transfer of \$500,000 from the Gambling Revolving Fund to the General Fund to enable the Gambling Commission to resume its contribution to the Council on Problem Gambling. Although the Gambling Revolving Fund is non-appropriated, it is my expectation that the Gambling Commission will follow through on the intent to provide additional funding to address the critical issue of problem gambling.

Section 906, Page 211-213, Promise Scholarship Eligibility

Consistent with the intent of section 610(11), this item would have amended the statute governing the Promise Scholarship program. I have vetoed it for the same reasons set forth in my veto of that section.

For these reasons, I have vetoed appropriation items and sections 103(2); 103(3); 103(4); 103(6); 103(7); 111, lines 21-22; 203, lines 26-27; 204(2)(d); 513(18); 601(3); 603(12); 604(9); 609(3)(a); 610(11), lines 7-13; 717; 802, page 207, lines 10-14; and 906, of Engrossed Substitute House Bill No. 2459.

With the exception of appropriation items and sections 103(2); 103(3); 103(4); 103(6); 103(7); 111, lines 21-22; 203, lines 26-27; 204(2)(d); 513(18); 601(3); 603(12); 604(9); 609(3)(a); 610(11), lines 7-13; 717; 802, page 207, lines 10-14; and 906, Engrossed Substitute House Bill No. 2459 is approved.

Respectfully submitted,

Gary Locke
Governor

ESHB 2460
PARTIAL VETO
C 244 L 04

Providing access to health insurance for small employers and their employees.

By House Committee on Health Care (originally sponsored by Representatives Cody, Campbell, Kessler, Morrell, Haigh, Kenney, Santos, Hatfield, Blake, Linville, Uptegrove, G. Simpson, Moeller and Lantz).

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

Background: As in other states, most people in Washington who receive their health insurance through the private market do so through their employer in what is referred to as the group market. Within that group market, Washington law distinguishes between plans

provided to "small groups," defined to include those employing between one and 50 people, and "large groups" which include those employing more than 50. A separate set of standards also applies to the individual market, where those not provided coverage by their employer can get their health insurance.

Various mandates in Washington law require that health plans sold in the state, including in the small group market, cover particular conditions and reimburse for services provided by identified types of providers. Plans offered to groups of up to 25 are exempt from many of these mandates. The law further requires carriers in the small group market to offer a plan with benefits identical to those provided in the state's Basic Health Plan and also exempts such plans from the various benefit mandates.

All plans subject to state regulation, without exception, are required to cover every category of provider. This means for any treatment sought, enrollees must be given the option of receiving that treatment from any type of provider, as long as the condition is covered by the plan, the treatment is appropriate for the condition, and the provider is acting within his or her scope of practice.

The premiums charged for small group plans are also governed by state law. In general, plans must be community-rated, with rate variations allowed based only on geographic area, family size, age, and wellness activities. Variations for age and wellness must be within a specified range.

The law also requires that carriers accept for enrollment any person within a group, large or small, to whom a plan is offered. This is known as guaranteed issue. Carriers are also required to guarantee continuity of coverage, meaning that, with some exceptions, they may not cancel or fail to renew a group plan unless it is replaced with a similar product or they are completely withdrawing from a service area.

Federal law requires employers with 20 or more employees to offer continuation coverage under COBRA provisions. There is no comparable state or federal requirement for employers with fewer than 20 employees.

Insurance in the small group market is becoming increasingly costly, prompting employers to shift more of the costs to their employees or drop coverage altogether.

Summary: Health carriers are not required to offer small employers a benefit plan identical to the Basic Health Plan. Health carriers are authorized to offer a limited health plan that features a limited schedule of covered health care services.

The exemption from existing mandates is made applicable to plans offered to any small employer, not just those employing up to 25 employees.

The restriction on how much rates may vary based on wellness activities is eliminated.

Carriers may develop rates based on claims costs due to network provider reimbursement schedules or type of network. Rate increases for small group products may vary based on deductibles, benefit design, or provider network. Rate increases may vary by up to 4 percentage points from the overall adjustment of the carriers entire small group pool.

The definition of small employer is changed from an establishment employing between one and 50 employees to an establishment employing between two and 50 employees. However, existing groups of one are grandfathered.

Current continuity of coverage provisions are amended to cover plans for groups of up to 200 and to allow a group plan to be discontinued, with 90 days notice, as long as policyholders are allowed to continue coverage in any other group plan offered by the carrier. A group plan may also be discontinued if the carrier discontinues all coverage in the particular market.

Employees working for small employers with fewer than 20 employees who leave their jobs may apply for individual health insurance policies without first taking the health questionnaire if they had at least 24 months of immediately prior continuous group coverage and application is made within 90 days of the event that would have qualified the person for COBRA coverage.

The requirement that carriers offer conversion policies is repealed. Persons who lose their conversion coverage may apply for individual coverage without taking the standard health questionnaire.

Votes on Final Passage:

House	63	33	
Senate	32	16	(Senate amended)
House			(House refused to concur)
Senate	46	3	(Senate amended)
House	89	7	(House concurred)

Effective: June 10, 2004

Partial Veto Summary: The Governor vetoed the repeal of the requirement that health carriers offer conversion health plans to group enrollees who lose coverage in the private insurance market.

VETO MESSAGE ON HB 2460-S

March 31, 2004

*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 5, 11, 13, 15 and 16, Engrossed Substitute House Bill No. 2460 entitled:

"AN ACT Relating to access to health insurance for small employers and their employees;"

This bill provides changes that redefine the small group health insurance market and requirements related to guaranteed renewal. It also adds factors that may be considered in the

development of rates, and provides protections for those individuals not previously protected by health benefit extensions in the Consolidated Omnibus Budget Reconciliation Act (COBRA).

Section 16 would have repealed the requirement that carriers offer conversion health plans to group enrollees who lose coverage in the private insurance market. Under federal Health Insurance Portability and Accountability Act (HIPAA) requirements, conversion health plans must be issued, and must not impose restrictions relating to preexisting conditions. Sections 5, 11, 13, and 15 would have amended related statutes to ensure that they were consistent with the repeal of conversion health plans. At the request of the prime sponsor and Insurance Commissioner, I have vetoed these sections. If these provisions had been repealed, Washington would have been unable to certify that we have a functioning state alternative mechanism that complies with HIPAA.

For these reasons, I have vetoed sections 5, 11, 13, 15, and 16 of Engrossed Substitute House Bill No. 2460.

With the exception of sections 5, 11, 13, 15, and 16, Engrossed Substitute House Bill No. 2460 is approved.

Respectfully submitted,



Gary Locke
Governor

SHB 2462

C 6 L 04

Providing for disposition of funds from teachers' cottages.

By House Committee on Education (originally sponsored by Representatives Quall, Haigh and Talcott).

House Committee on Education
Senate Committee on Education

Background: State law permits school boards to purchase real property for any school district purpose and also permits the sale or rental of school district real property. The income from the sale or rental of district property must first be deposited in the district's general fund to recover any costs associated with the rental or sale of that property. Any additional income must then be deposited in the district's debt service fund and/or its capital projects fund.

State law also permits second class school districts, with an enrollment of 300 students or fewer, to provide housing for the school district superintendent. The school district must charge rent in an amount at least equal to the amount of the real property tax that would be owed if the housing were not exempt from the tax (because owned by the school district). Additionally, state law requires second-class school districts to build school houses and teachers' cottages when directed to do so by a vote of the district.

Second-class school districts are defined in statute as those school districts with fewer than 2,000 students. There are approximately 144 second-class high school districts and 48 second-class districts that do not operate

high schools. During the 2002-03 school year, 12 school districts had 40 or fewer students, and six districts had between 40 and 50 students.

Summary: The board of directors of a second-class, nonhigh school district that serves fewer than 40 students and is totally surrounded by water may construct teachers' cottages without first obtaining a vote of the district. The board may construct the cottages with funds from the district's capital projects fund or general fund. Any income derived from the cottages, including rental or sale of a cottage, may be deposited into the district's general fund, debt service fund, and/or capital projects fund.

Votes on Final Passage:

House	96	0
Senate	48	0

Effective: June 10, 2004

HB 2473

C 16 L 04

Restricting possession of weapons in courthouse buildings.

By Representatives Clibborn, Woods, Lantz, Jarrett, Darneille, Bailey, Hunt, Lovick, Shabro, Kenney, Chase, Tom and Schual-Berke.

House Committee on Judiciary
Senate Committee on Judiciary

Background: Weapons, including firearms, are generally prohibited in courtrooms and other court facilities. However, exceptions are provided for military and security personnel while they are engaged in official duties and for law enforcement personnel.

Summary: A law enforcement officer is prohibited from possessing a weapon in a court facility if the officer is present at the facility as a party to an action involving harassment or domestic violence.

Votes on Final Passage:

House	95	0
Senate	47	1

Effective: June 10, 2004

ESHB 2474
PARTIAL VETO
C 229 L 04

Making supplemental transportation appropriations.

By House Committee on Transportation (originally sponsored by Representative Murray; by request of Governor Locke).

House Committee on Transportation
Senate Committee on Highways & Transportation

Background: The Transportation Budget provides biennial appropriations to the major transportation agencies: Department of Transportation, Washington Traffic Safety Commission, County Road Administration Board, Transportation Improvement Board, Washington State Patrol and Department of Licensing. The Transportation Budget also provides appropriations from transportation funds to many smaller agencies with transportation functions.

Summary: Overview

Legislation enacted in 2003 implemented a number of changes to improve accountability, efficiency, and oversight of the state's transportation system and associated agencies. The 2004 Supplemental Transportation Budget builds on that foundation with targeted funding of specific activities linking new revenue with specific projects to be delivered.

Agency Appropriations

Agency	Original 2003-05 Appropriations	2004 Supplemental Budget	Revised 2003-05 Appropriations
Dept of Transportation	\$3,603,586	\$98,316	\$3,701,902
Dept of Licensing	\$182,151	\$7,204	\$189,355
WA State Patrol	\$251,099	\$3,765	\$254,864
County Road Improvement Board	\$94,184	\$7	\$94,191
Transp Improve Board	\$200,647	\$4	\$200,651
Traffic Safety Comm	\$20,820		\$20,820
Special Appropriations to Governor for I-776 Refunds		\$3,300	\$3,300
Other Agencies with Transp Funding	\$1,146	\$100	\$1,246
Bond Retirement and Interest	\$352,296	(\$7,553)	\$344,743
Total Appropriations	\$4,705,929	\$105,143	\$4,811,072

Type of Funds Utilized in Transportation Budget

Fund Type	Original 2003-05 Appropriations	2004 Supplemental Budget	Revised 2003-05 Appropriations
State Funds	\$2,734,278	\$7	\$2,734,285
Federal Funds	\$768,652	\$84,401	\$853,053
Local Funds	\$36,722	\$25,735	\$62,457
Bonds	\$1,166,277	(\$5,000)	\$1,161,277
Total Funding	\$4,705,929	\$105,143	\$4,811,072

Recent Developments

Since the completion of the 2003 Legislative Session, the Washington Supreme Court has rendered a decision on Initiative 776 that eliminated some local transportation option taxes and reduced the gross weight

fees on trucks under 10,000 pounds to \$30. The 10-year revenue reduction is \$205 million. The 2003-05 biennial revenue reduction is as follows:

I-776 Reductions of \$43.1 million

- \$9.41 million from the State Patrol Highway Account.
- \$30.163 million from the Motor Vehicle Account.
- \$925 thousand from the Puget Sound Ferry Operations Account.
- \$2.605 million from the Nickel Account.

I-776 Response and Funding of Other Emerging Issues

- Revenue losses are partially mitigated through available fund balances, federal funding provided for ferries, a risk management reduction, and reductions in state expenditures as follows:
- \$18.6 million state ferry capital funding is replaced with federal funding.
- \$8 million fund transfer from Transportation Equipment Fund (\$5 million) and the Advanced Right of Way Account (\$3 million).
- \$7.569 million reduction in self insurance premiums.
- \$6.177 million in program reductions.
- \$1.9 million in vacancy/salary savings.
- \$7.553 million one time debt service reduction.

Nickel Project Management and Schedule Adjustments

- The recommended adjustments proposed by the Transportation Commission have been adopted.
- No projects have been added or deleted from the 2003 Transportation (Nickel) Program.
- All projects originally listed are slated for completion within the financial package adopted in 2003.
- The budget accelerates the schedule for projects associated with the 2010 Olympics, including I-5 HOV at Everett and SR 539 (10 mile road to SR 546) in Whatcom County. The budget also accelerates construction for the SR 16 Burley Olalla Interchange project by one year.

Budget Additions

- \$11.0 million from the Puyallup Tribal Settlement Account to mitigate effects on traffic currently being served by the Murray Morgan Bridge in Tacoma.
- \$1.2 million for the design of a SR507 to SR 510 bypass in Yelm.
- \$650 thousand for phase two of the SR164 corridor study.
- \$500 thousand for a sensitive lands database for use in GIS systems.
- \$1.7 million for additional noise walls on I-5 by Salmon Creek.

- \$400 thousand for a traffic and economic study of the Mount Saint Helens tourist and recreational area.
- \$550 thousand for a route development plan of SR169.
- \$2.48 million for either the SR28 – east end of the George Sellar Bridge Phase I or the US 2/97 Peshastin East interchange project.
- \$500 thousand for sensitive lands database.

Freight and Rail Projects

- \$13.9 million for local freight mobility projects which include projects at the Port of Pasco, Port of Kalama, Benton County, City of Fife, Colville, Kent, Seattle, Spokane County, and Granite Falls.
- \$800 thousand for a new freight rail spur in Lewis County.

Public Transportation

- Greater flexibility is provided for special needs transportation providers. Funds may be used by transit agencies for operating and capital as long as the agencies maintain or increase special needs transportation compared to the previous year.
- The use of vanpool funds provided in 2003 is expanded to include incentives to employers to increase employee van pool use.
- \$100 thousand for Benton County Commute Trip Reduction Program.
- \$500 thousand for King County for a car sharing program. Funds serve as a state match to federal funding.

Washington State Ferries

- \$1 million for a study on the viability of the existing Keystone harbor.
- Funding for the fourth new ferry vessel has been accelerated from 2011-13 to 2007-11. This adjustment provides for more efficient contracting and millions of dollars in savings associated with building all four ferry vessels consecutively.
- \$15.4 million has been received in one-time funding, including \$9.4 million for ferry security equipment purchases.
- \$3 million in toll credits are assigned to Kitsap transit to assist them in obtaining federal funds for passenger only ferry capital projects.
- Washington State Ferries is to develop a 10-year strategy plan.

Mandatory Increases

- \$3.3 million in local and state funding for the production and mailing of refund checks to truck owners affected by I-776.
- \$1.71 million for the Department of Labor and Industries payments for workers' compensation coverage.

- \$3.8 million to implement ferry system security to meet U.S. Coast Guard requirements.
- \$873 thousand in federal and state funds to implement the new federal commercial vehicle entrants program and the new northern border program.
- \$427 thousand for state laws to bring Washington into compliance with federal commercial driver license laws and to fund a bill passed in 2003 for new ignition interlock requirements.
- \$1.404 million for DOL workload and cost increases.
- \$647 thousand for ferries fuel cost increases.
- \$906 thousand for ferries insurance premium cost increase.
- \$265 thousand increase in revolving fund charges.

Recently Identified Needs

- \$1 million for the Safe Routes for Schools Program.
- \$721 thousand for new laser printers in vehicle licensing services offices.
- \$948 thousand in federal and DUI cost recovery funds for the purchase of additional video cameras and new breath test equipment to be used by the Washington State Patrol.
- \$1.489 million for the implementation of bills passed by the Legislature. The bills include the implementation of alternate driver license renewals, four new specialized license plates, and the implementation of voluntary biometrics.
- \$475 thousand for the implementation of a transportation data recovery site at Union Gap.
- \$283 thousand for pilot projects regarding employee safety at selected DOL high risk offices and for a DOL policy and data analyst.

Votes on Final Passage:

House	85	10	
Senate	38	9	(Senate amended)
House			(House refused to concur)
Senate	49	0	(Senate amended)
House	93	3	(House concurred)

Effective: March 31, 2004

Partial Veto Summary:

- Section 216 providing \$400K for a traffic and economic development study of the Mt. St. Helens recreational area.
- Section 224 (5) directing DOT to conduct an origin/destination study for passengers using Amtrak within Washington and Oregon.
- Section 225 (3) directing the Governor to add the State Historic Preservation Officer to any steering committee that makes final selection of projects funded with STP enhancement funds (federal).

- Section 302 (4) (b) providing \$100,000 for an analysis of the effectiveness and efficiency of a right versus left HOV lane.
- Section 305 (7) directing DOT to submit a business plan to the Legislature and be approved by OFM before the Palouse River/Coulee City short line rail system can be purchased.
- Section 505 having to do with balancing the Freight Mobility Account. Since the bills creating and providing revenue for this account did not pass, this section was not needed.

VETO MESSAGE ON HB 2474-S

March 31, 2004

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 216; 224(5); 225(3); 302(4)(b); 305(7); and 505, Engrossed Substitute House Bill No. 2474 entitled:

“AN ACT Relating to transportation funding and appropriations;”

Section 216, page 13, Department of Transportation - Economic Partnerships

This section would have provided \$400,000 for a traffic study and an economic analysis related to constructing a connection between State Route 504 and Forest Service Road 99. In 2001, the Department of Transportation completed a study on this project, and it does not consider additional study of the project to be a high priority. While there may be rural economic development benefits to such a road connection, existing state transportation funding remains quite limited and should be reserved for higher priority projects.

Section 224(5), page 25, Department of Transportation - Rail

This section would have directed the Department to perform an origin and destination study by July 1, 2004. No funding was appropriated for this purpose. Nonetheless, the Department has indicated that it will look for opportunities to collect comparable data to achieve the goal of the study. As it does this, the Department should communicate to the Legislature by July 1, 2004 regarding currently available data, and other relevant information that supports the rationale for the new passenger train cost sharing agreement.

Section 225(3), page 25, Department of Transportation - Local Programs

This section would have required that the state historic preservation officer be appointed to a committee appointed by the Governor. This is an unnecessary intrusion into executive authority. Notwithstanding this, it is anticipated that the state historic preservation officer will be included in a steering committee where historic preservation issues will be considered.

Section 302(4)(b), page 28, Department of Transportation - Improvements

This section would have provided \$100,000 to the Department to analyze the costs and benefits of having high-occupancy lanes in the right lane, instead of the left lane. The Department has analyzed the placement of the high-occupancy lanes, and another study is unnecessary.

Section 305(7), page 41, Department of Transportation - Rail

This section would have directed the Department to provide the Legislature and the Office of Financial Management (OFM) with a business plan for purchasing the Palouse River and Coulee City Railroad. Further, it would have directed that the purchase may not be executed until OFM has approved the plan. No additional funding was provided for this purpose. In

addition, the Department, which has expertise in rail operations and financial management, has already reviewed the financial issues related to purchasing this railroad, so another study is unnecessary.

Section 505, page 52

This section referenced two bills, Substitute Senate Bill No. 6680 and Engrossed Substitute Senate Bill No. 6701, that were not approved during the 2004 legislative session. Therefore, I have vetoed this section.

For these reasons, I have vetoed sections 216; 224(5); 225(3); 302(4)(b); 305(7); and 505 of Engrossed Substitute House Bill No. 2474.

With the exception of sections 216; 224(5); 225(3); 302(4)(b); 305(7); and 505, Engrossed Substitute House Bill No. 2474 is approved.

Respectfully submitted,



Gary Locke
Governor

SHB 2475
C 231 L 04

Facilitating enforcement of toll violations.

By House Committee on Transportation (originally sponsored by Representative Murray; by request of Department of Transportation).

House Committee on Transportation
Senate Committee on Highways & Transportation

Background: It is a traffic infraction to evade payment of tolls on a publicly operated toll facility. A law enforcement officer is only authorized to issue a citation for a traffic infraction if it is committed in the officer's presence or in the presence of a referring law enforcement officer, or if the officer is at the scene of an accident and has probable cause to believe that an infraction has been committed.

Summary: Toll Evasion Violations Generally. Failure to pay a toll is made a non-moving traffic infraction. If a person violates the requirements to pay a toll, a law enforcement officer may issue a notice of a traffic infraction in person or the notice may be mailed to the registered owner. Infractions for toll violations are not part of the registered owner's driving record. If the owner does not respond to the notice of infraction, the Department of Licensing must suspend the renewal of the vehicle registration upon request by the Department of Transportation.

If the registered owner is a rental car business, the infraction will be dismissed against the business if the business provides the name and known mailing address of the person renting or driving the vehicle.

Proof that a particular vehicle was involved in a toll evasion violation, together with proof that the person named in the notice of the violation was the registered owner of the vehicle at the time of the infraction, creates

a rebuttable presumption that the registered owner committed the violation.

Time Limits for Notices of Infractions. Notice of an infraction for toll violations must be mailed to the registered owner within 60 days of the toll violation, unless issued in person. A registered owner will be responsible for the violation unless he or she provides either (1) a sworn statement that the vehicle was stolen or in the care, custody, or control of some other person at the time of the violation, or (2) testifies in open court that the person was not the operator of the vehicle at the time of the violation. The statement or testimony must be furnished to the agency issuing the notice of infraction within 15 days if issued in person, or within 18 days if mailed.

Photo Enforcement Systems. When a photo enforcement system is used at toll facilities, the content and use of the images recorded by the system are restricted. The content of the recorded images is limited to the vehicle and license plate only. Recorded images are not open to the public and may not be used in court unless the proceeding relates to a toll collection violation.

Rules adopted by the Department of Transportation must provide an open standard for interoperability with multiple transponder vendors.

Votes on Final Passage:

House	94	4	
Senate	48	0	(Senate amended)
House	93	4	(House concurred)

Effective: June 10, 2004

HB 2476

C 230 L 04

Facilitating vehicle toll collection.

By Representative Murray; by request of Department of Transportation.

House Committee on Transportation
Senate Committee on Highways & Transportation

Background: The Department of Transportation (DOT) plans to operate the Tacoma Narrows Bridge utilizing electronic toll collection technology as well as manual toll collection. Using that technology, frequent users of the bridge can keep a transponder in their car that records their use of the toll facility. Electronic toll collection by transponder could either be prepaid or users could receive a monthly toll bill in the mail. The Transportation Commission will be addressing payment specifics as part of setting tolls.

Use of an electronic toll collection system allows traffic to move more freely than a conventional toll booth and can also be used to facilitate enforcement against toll violators.

The Department of Licensing (DOL) may provide lists of registered and legal owners of vehicles to speci-

fied entities for specified purposes. For example, car manufacturers are authorized to obtain lists to assist with factory recalls. A toll facility operator is not authorized to access DOL vehicle records to identify toll evaders.

Summary: Electronic toll collection is allowed on the Tacoma Narrows Bridge. Recorded images may not be used for any purpose other than toll enforcement. "Electronic toll collection" and "photo monitoring system" are defined under the Public-Private Transportation Initiatives Act.

The DOT is directed to create rules for operating and managing toll collection and allowing for transponder compatibility between statewide toll facilities (including ferries, public transit agencies). The DOT rules must also allow for an open standard for interoperability with multiple transponder vendors.

Toll facility operators are added to the list of entities to whom the DOL may furnish lists of registered and legal owners in order to identify toll violators.

Votes on Final Passage:

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

Effective: June 10, 2004

HB 2483

C 200 L 04

Modifying the disposition of title fees.

By Representatives Murray and McIntire.

House Committee on Transportation
Senate Committee on Highways & Transportation

Background: Senate Bill 6072, which passed during the 2003 session, transferred some vehicle title fees to accounts funding three activities: (1) retrofitting school buses with exhaust emission control devices; (2) locating a tug boat at the entrance of the Strait of Juan de Fuca whose primary mission is to arrest the drift of disabled vessels in order to prevent a spill; and (3) providing funding to the Nickel Account.

After the 2003 session it was found that the language in SB 6072 did not transfer the funds to the appropriate accounts, thus not funding the services that the bill intended to fund.

Summary: Corrections are made to the disposition of title fee revenue to meet the intentions and the appropriations made in SB 6072.

Votes on Final Passage:

House	97	0	
Senate	47	0	

Effective: July 1, 2004

HB 2485
C 185 L 04

Revising the rate of interest on certain tort judgments.

By Representatives Lantz, Carrell, Newhouse, Alexander, Jarrett, Moeller, Sommers, Kagi, Upthegrove, Schual-Berke and Darneille.

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

Background: Interest accrues on a tort judgment from the date of entry of the judgment at a rate determined as prescribed in statute. That rate is set at the maximum rate allowed under the state's general usury law. It is the higher of the two following rates:

- 12 percent; or
- 4 points above the 26-week Treasury bill (T-bill) rate established by the Federal Reserve Board.

This method of determining the rate was enacted in 1983 and applies to tort judgments against defendants who are government entities or private entities. Prior to 1983 the interest rate on judgments against private party defendants was 12 percent, and on judgments against the state it was 8 percent.

In 1983 the 26-week T-bill rate averaged 8.75 percent. Adding 4 percent to this amount made the two alternative methods of computing the interest rate for judgments roughly equivalent. Over the past 20 years, the highest average annual T-bill rate was 9.77 percent in 1984. However, since 1991 the T-bill rate has been no higher than 5.59 percent. As a result of these low T-bill rates, 12 percent has been the interest rate on judgments for the past decade or more.

In 1983 the legislation that created the current method of determining the interest rate on judgments expressly made the change apply only to judgments entered after the effective date of the change. There is case law suggesting that if legislation is silent on the issue, the courts may decide either way on whether the new rate will be applied to existing unpaid judgments as well. It appears, however, that the Legislature may make an interest rate change apply to existing judgments if it chooses to do so expressly. The courts of this state have said that interest on a judgment is not a matter of contractual right, but rather a matter of legislative discretion.

Summary: The interest rate on tort judgments is to be determined by adding two points to the 26-week T-bill rate.

This new method of calculating interest rates applies to interest on judgments still accruing interest on the effective date of the act, as well as to interest on judgments entered after the act takes effect.

An express statement is provided to make it clear that the act does not change the interest rate on legal

obligations imposed as the result of a criminal conviction.

Votes on Final Passage:

House	97	1	
Senate	43	3	(Senate amended)
House	70	27	(House concurred)

Effective: June 10, 2004

ESHB 2488
C 194 L 04

Developing an electronic product management program.

By House Committee on Fisheries, Ecology & Parks (originally sponsored by Representatives Cooper, Campbell, Hunt, Romero, O'Brien, Chase, Sullivan, Ruderman, Dunshee, Wood and Dickerson).

House Committee on Fisheries, Ecology & Parks
House Committee on Appropriations
Senate Committee on Natural Resources, Energy & Water

Background: Rapidly changing technological advances in the computer and electronics sector have resulted in an increasing number of outdated electronic products. The Environmental Protection Agency estimates that over 20 million personal computers became obsolete in 1998 and only 13 percent were reused or recycled. By 2005, more than 63 million personal computers are projected to be retired according to a recent study by the National Safety Council. Electronic products may contain hazardous materials including lead, mercury, brominated flame retardants, and hexavalent chromium. Cathode ray tubes in computer monitors and video display devices may contain between four to eight pounds of lead.

National and state efforts have been initiated to examine opportunities to recycle and reuse electronic waste and encourage development of products using less toxic substances and more recycled content. Representatives from electronics manufacturers, government agencies, environmental groups and others began meeting in April 2001 to develop a joint plan in the United States for managing used electronic products. The National Electronics Product Stewardship Initiative (NEPSI) goal is to develop a system to maximize collection, reuse and recycling of used electronics, while considering appropriate incentives to design products that facilitate source reduction and reuse and recycling and that reduce toxicity and increase recycled content.

The Department of Ecology (Department) is the state agency assigned the responsibility of managing the state's solid and hazardous wastes. The Department issued a policy notice for managing computer monitors, televisions, and other devices that contain cathode ray tubes (CRTs). Under these regulations, materials desig-

nated as hazardous, such as CRTs, must be handled, treated, and recycled differently than universal waste.

The Solid Waste Advisory Committee (SWAC) consists of at least 11 members that provide consultation to the Department regarding solid and dangerous waste handling, recycling, and resource recovery.

The Environmental Protection Agency administers federal hazardous waste regulations, and exporters of hazardous waste must comply with certain documentation and labeling requirements.

Summary: The Department, in consultation with the SWAC, must research information regarding the collection, recycling, and reuse of electronic products. Covered electronic products include all computer monitors, personal computers, and televisions sold to consumers for personal use. The Department must identify and evaluate existing projects and encourage new pilot projects to allow evaluation of a variety of factors including urban versus rural programs, a diversity of financing types, and the impact of approaches on local governments and other stakeholders.

The Department must work with the Environmental Protection Agency and other stakeholders to determine the amount of electronic waste exported from Washington that is subject to federal reporting requirements.

The Department must also review data on health and environmental impacts from electronic waste, review existing programs and infrastructure for electronic product reuse and recycling, compile information regarding manufacturers' electronic product collection and recycling programs, and report findings and recommendations to the Legislature by December 15, 2004, and December 15, 2005.

These programs expire December 31, 2005. The recommendations must include a description of what could be accomplished voluntarily, and what legislation may be needed to implement a statewide collection, recycling and reuse plan for electronic products.

Votes on Final Passage:

House	94	0	
Senate	48	0	(Senate amended)
House	97	0	(House concurred)

Effective: June 10, 2004

SHB 2489
C 105 L 04

Concerning nonhighway and off-road vehicles.

By House Committee on Fisheries, Ecology & Parks (originally sponsored by Representatives Cooper, Condotta, Anderson, Nixon, Upthegrove, Priest, Dunshee, Moeller and Armstrong).

House Committee on Fisheries, Ecology & Parks
Senate Committee on Parks, Fish & Wildlife

Background: Fuel tax paid on gasoline consumed for recreational purposes on nonhighway roads is used to support nonhighway and off-road vehicle (ORV) recreational facilities. The State Treasurer deposits 1 percent of the eligible fuel tax revenue into the Nonhighway and Off-road Vehicle Activities (NOVA) Account. Funds from the NOVA Account are distributed by statutory formula including:

- 40 percent is deposited in the ORV and Nonhighway Vehicle Account (ORV Account) for the Department of Natural Resources (DNR) to maintain and manage ORV and nonhighway road recreational facilities. 10 percent of these funds is transferred to the Interagency Committee for Outdoor Recreation (IAC) for education and enforcement;
- 3.5 percent is deposited in the ORV Account and administered by the Department of Fish and Wildlife (WDFW) for acquisition, planning, development, maintenance, and management of nonhighway roads and recreation facilities;
- 2 percent is deposited in the ORV Account and administered by the State Parks and Recreation Commission for the maintenance and management of ORV facilities; and
- 54.5 percent is deposited in the NOVA Account and administered by the IAC for the planning, maintenance, and management of ORV and nonhighway road recreational facilities, as well as ORV education and law enforcement programs.

The NOVA Advisory Committee is appointed by the IAC and provides advice regarding the administration of the NOVA program, including the evaluation of NOVA projects submitted for funding. Funds distributed to the IAC for the NOVA grant program are subject to the following spending restrictions:

- up to 20 percent for ORV education, information, and law enforcement;
- up to 60 percent for ORV recreation facilities; and
- up to 20 percent for nonhighway road recreation facilities.

Applicants for land acquisition projects must conduct public hearings and publish notices before submitting their project to the IAC.

A fuel use study was completed in 2003 to determine the relative portion of motor fuel tax revenues attributable to off-road vehicle and nonhighway road recreational activities. Legislation passed in the 2003 session directed an advisory committee of stakeholders to review the existing allocation formulas and develop recommendations consistent with the fuel use study.

ORV use permits are required to operate an ORV within the state. However, there are several exceptions to ORV use permit requirements, including ORVs owned by government agencies or ORVs used for exempt purposes.

Summary: The allocation of NOVA funds to the DNR is decreased from 40 percent to 36 percent, and the transfer of funds from the DNR to the IAC for enforcement and education is eliminated. Categorical restrictions on the use of DNR's NOVA funds are eliminated.

The IAC NOVA Account distribution is increased from 54.5 percent to 58.5 percent. The restriction on education and enforcement funding is increased from 20 percent to 30 percent. Of the remaining funds, not less than 30 percent may be spent in each of three categories including ORV recreation facilities, nonmotorized recreation facilities, and nonhighway road recreation facilities. The minimum percentage may be waived if there are insufficient requests for funds or low scoring projects.

NOVA funds expended on nonmotorized recreation facilities are named after Ira Spring. Expenditures from ORV use permit monies will be based on recommendations from the ORV and mountain biking recreationists, governmental representatives, and land managers serving on the NOVA Advisory Committee.

ORV dealers may not sell an ORV at retail without an ORV use permit unless it is for an exempt use. Certain ORV use permit exemptions are eliminated including ORVs operating in an organized competitive event, ORVs operated on any lands, except agricultural lands owned or leased by the operator, and ORVs used for commercial construction or inspection purposes.

Three types of nonhighway recreational users are established. ORV recreational users include anyone using motorized recreational vehicles, including motorcycles, all-terrain vehicles, or four-wheel drive vehicles. Nonmotorized recreational users include hikers, skiers, mountain bikers, horseback riders, or others that use nonmotorized trails and facilities. Nonhighway road recreational users include persons using nonhighway roads for recreational purposes including hunting, fishing, wildlife viewing, camping, or sightseeing. Technical changes are made to several definitions including alphabetizing the entire definition section.

The NOVA funds may be used by each agency for nonmotorized, ORV, or nonhighway road recreation facilities. At least annually the DNR, the IAC, the WDFW, and the State Parks and Recreation Commission must report to the Advisory Committee on the expenditure of funds and seek advice on proposed expenditures. The Advisory Committee is expanded to include governmental representatives and land managers.

Public hearing and notice requirements are removed for land acquisition and development projects; however, they must comply with either the State Environmental Policy Act or the National Environmental Policy Act.

Votes on Final Passage:

House	84	12	
Senate	46	0	(Senate amended)
House	77	16	(House concurred)

Effective: June 10, 2004
 July 1, 2004 (Section 4)
 June 30, 2005 (Section 6)

SHB 2504
 C 195 L 04

Concerning water policy in regions with regulated reductions in aquifer levels.

By House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Schoesler, Grant, Holmquist, Cox, Newhouse, Hinkle, Chandler, Sump and McMorris).

House Committee on Agriculture & Natural Resources
 Senate Committee on Natural Resources, Energy & Water

Background: A water right may be forfeited for non-use. The forfeiture may be found under common law principles of abandonment or may result from the application of state statutes on relinquishment. The relinquishment laws provide exemptions from their forfeiture requirements. Exempted from relinquishment is the non-use of standby or reserve waters that are to be used in time of drought or other low flow periods as long as the withdrawal or diversion facilities for the right are maintained in good operating condition.

The DOE has adopted rules establishing the Odessa Groundwater Management Subarea (Subarea). Part of the Subarea includes lands within the boundaries of the federal Columbia Basin Project (Project). The management policy for the Subarea establishes an authorized, regulated rate of decline in the level of the area's aquifer. The aquifer level was originally allowed to decline 30 feet every three years. However, the spring static water table, as measured before pumping for irrigation, is prohibited from being lowered more than 300 feet below the altitude of the static water level as it existed in the spring of 1967.

Summary: Agreements. The Legislature intends the DOE to enter into agreements with the United States and Project irrigation districts regarding the allocation of water conserved from within the currently served areas to deep well irrigated lands within the federal Project and for other authorized Project beneficial uses. The DOE may provide the districts with data identifying areas with the most serious ground water depletions. The irrigation districts must consider and may rely on the DOE's data and recommendations in making allocation decisions to offset groundwater withdrawals consistent with the operational constraints of the distribution system.

Policy. Circumstances are identified under which permits and certificates for rights to use water from an aquifer in an adopted groundwater management subarea must be revised as a condition for the delivery of certain

SHB 2507

federal Project waters. The DOE must issue a superseding water right permit or certificate for a such a groundwater right if water from the federal Project is delivered for use by a person who holds such a groundwater right. The superseding water right permit or certificate must designate the portion of the groundwater right that is replaced by water from the federal Project as a standby or reserve right that may be used when water delivered by the federal Project is curtailed or otherwise not available. The period of curtailment or unavailability is deemed a low flow period under the state's relinquishment laws. The total number of acres irrigated by the person under the groundwater right and through the use of the Project's water must not exceed the quantity of water used and number of acres irrigated under the person's water right permit or certificate for the use of water from the aquifer.

Votes on Final Passage:

House 94 0
Senate 48 0

Effective: June 10, 2004

SHB 2507
C 7 L 04

Providing for the recoupment of county and city employee salary and wage overpayments.

By House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Bush, Morrell, Campbell, Chase and Moeller).

House Committee on Commerce & Labor
Senate Committee on Government Operations & Elections

Background: It is unlawful for an employer to withhold or divert any portion of an employee's wages except in three limited circumstances. These circumstances do not include the recovery of overpayments of wages. Consequently, with one exception, an employer must bring a civil action against an employee to collect such overpayments.

Legislation enacted in 2003 authorized the state, as an employer, to recover overpayments of wages to an employee either by making deductions from subsequent payments of wages to the employee or by a civil action. Deductions are limited to 5 percent of the employee's disposable earnings per pay period, except that they may be for the full amount still outstanding in the final pay period. Deductions may be made only in accordance with a specified process for reviewing and recovering overpayments of wages.

Summary: Counties and cities, as employers, are authorized to recover overpayments of wages to an employee in the same manner as the state. Disputes relating to overpayments to state, county, and city employees

covered by collective bargaining agreements must be resolved using the grievance procedures in such agreements.

Votes on Final Passage:

House 95 0
Senate 48 0

Effective: June 10, 2004

HB 2509
C 110 L 04

Correcting certain references dealing with unemployment compensation.

By Representatives McCoy, Condotta, Conway, McMorris, Moeller and Chase; by request of Employment Security Department.

House Committee on Commerce & Labor
Senate Committee on Commerce & Trade

Background: Individuals are eligible to receive unemployment benefits if they: (1) worked at least 680 hours in covered employment in their base year; (2) were separated from employment through no fault of their own or leave work for good cause; and (3) are able to work and are actively searching for suitable work. Good cause includes leaving work to protect the claimant or an immediate family member from domestic violence.

In 2003, when the Legislature made numerous changes to the Employment Security Act, there were errors in references to the provision making domestic violence good cause for voluntarily leaving work.

Summary: Erroneous references to the provision making domestic violence good cause for voluntarily leaving work are corrected.

Votes on Final Passage:

House 94 0
Senate 46 0

Effective: June 10, 2004

SHB 2510
C 97 L 04

Modifying provisions concerning unemployment compensation.

By House Committee on Commerce & Labor (originally sponsored by Representatives Conway, McCoy, Condotta, McMorris and Chase; by request of Employment Security Department).

House Committee on Commerce & Labor
Senate Committee on Commerce & Trade

Background: Washington's unemployment insurance system requires each covered employer to pay contribu-

tions on a percentage of his or her taxable payroll, except for certain employers who reimburse the Employment Security Department (ESD) for benefits the agency pays to these employers' former workers. For most covered employers, unemployment insurance contribution rates are determined by the rate in the employer's assigned rate class under the unemployment insurance tax schedule in effect for that calendar year (or, beginning in 2005, the combined rate assigned to the employer based on layoff experience, social costs, and solvency surcharge, if any). The highest contribution rate in 2004 is 5.4 percent. Beginning in 2005, the highest rate will vary but may not exceed 6.5 percent plus a solvency surcharge, if any.

Some covered employers are not qualified to be assigned a rate class. These unqualified employers include employers who are delinquent in paying contributions and certain successor employers who were not employers at the time of acquiring a business. Delinquent employers pay at a contribution rate of 5.6 percent or, beginning in 2005, two-tenths higher than the highest rate. Until a new successor employer becomes a qualified employer, the rate for these successor employers is the lower of the rate class assigned to the predecessor employer (or, beginning in 2005, the assigned rate) or the average industry rate with a 1 percent minimum rate.

For a business transfer on or after January 1, 2005, a new successor employer who has substantial continuity of ownership and management of the predecessor's business is not permitted to use the optional average industry rate, but must pay at the rate assigned to the predecessor employer, and will have the experience of the predecessor employer transferred to the successor as part of its array calculation factor rate beginning in January following the transfer.

In 2003, a penalty was enacted that applies to an employer who is delinquent in paying unemployment taxes because of an intent to evade the successorship requirements and to businesses that are promoting such evasion. For five calendar quarters, these businesses will be assigned the highest contribution rate.

Summary: The penalty is changed for businesses that are delinquent in paying unemployment contributions because of an intent to evade the successorship requirements and for businesses that are promoting such evasion. Instead of being assigned the highest contribution rate for five quarters, these businesses will be assigned, for a calendar year, the highest contribution rate, plus 2 percent, for that calendar year in which the Commissioner of the ESD makes the penalty determination.

Votes on Final Passage:

House	96	0
Senate	49	0

Effective: June 10, 2004

E2SHB 2518

C 240 L 04

Exempting from the state public utility tax the sales of electricity to an electrolytic processing business.

By House Committee on Finance (originally sponsored by Representatives Kirby, Conway, Morris, Holmquist and Hinkle).

House Committee on Technology, Telecommunications & Energy

House Committee on Finance

Senate Committee on Economic Development

Senate Committee on Ways & Means

Background: Public and privately owned utilities are subject to the state public utility tax (PUT). The PUT is applied to the gross receipts of the business. For electrical utilities, the applicable tax rate is 3.873 percent. Revenues are deposited in the State General Fund.

The PUT does not permit deductions for the costs of doing business, such as payments for raw materials and wages of employees. However, there are several deductions and credits for specific types of business activities. These activities include wholesale sales and sales of electricity to direct service industrial businesses.

There are a small number of large industrial manufacturers, mostly aluminum smelters, that consume significant amounts of electricity in their processing operations. They purchase their electricity directly from the Bonneville Power Administration and are known as direct service industrial customers or DSIs. The DSIs are not utilities and are not subject to the PUT, and the income to BPA (a federal agency) from those sales is not subject to the PUT.

Industrial chemical businesses also use significant amounts of electricity in their chemical processing operations. Some of these businesses purchase their electricity from a local electric utility. The income to the utility from the sale of electricity to the chemical business is subject to the PUT.

A number of tax incentives include accountability provisions. The principal components of these provisions are disclosure requirements and enforcement mechanisms. Firms that take certain incentives are required to disclose such information as the number of jobs created, the location of new investments, and other information. For certain incentives, firms must meet certain eligibility requirements, such as the requirement under the rural county and distressed area sales and use tax deferral that, for counties with community empowerment zones, a certain number of employees be hired from within the zones, depending on the level of investment. Firms in such areas that fail to meet these requirements are required to repay the deferred taxes.

Summary: Effective July 1, 2004, income from the sales of electricity by a utility to a chlor-alkali or a

sodium chlorate chemical business is exempt from the PUT if the sales contract between the utility and the chemical business meets the following conditions:

- The electricity used in the chemical processing is separately metered from the electricity used in the general operation of the business.
- The price of the electricity used in the processing of the chemicals and charged to the chemical business is reduced by the amount of the tax exemption received by the selling utility.
- If the tax exemption is disallowed, the chemical business must pay the amount of the disallowed exemption to the utility.

If the electricity originally obtained by the utility to meet the contracted amount required by the chemical business for use in the processing of the chemicals is resold by the utility, the income from the resale of that electricity is not exempt from the PUT.

Businesses that claim the PUT exemption must report annually to the Department of Revenue details of employment, wages, and benefits per job (but excluding individual employee identification). The report must also include the quantity of product produced. The first report must include employment, wage, and benefit information covering the 12-month period preceding the effective date of the incentives. The report content is not subject to statutory confidentiality requirements. During any year, if a business fails to submit a report, all tax savings attributable to the incentives for the year are due.

The fiscal committees of the House of Representatives and the Senate are required to study the effectiveness of the tax incentive with respect to job creation and other factors deemed necessary. The committees must consult with the Department and address expected trends in electricity prices. Reports must be submitted in December 2007 and December 2010.

The tax exemption expires January 1, 2011.

Votes on Final Passage:

House	88	5	
Senate	48	1	(Senate amended)
House	92	4	(House concurred)

Effective: June 10, 2004

HB 2519
C 80 L 04

Authorizing voter approved property tax levies for criminal justice purposes.

By Representatives Hatfield, Blake, Crouse and Kagi.

House Committee on Finance
Senate Committee on Ways & Means

Background: Property taxes are levied by state and local governments. The county assessor determines assessed value for each property. The county assessor

also calculates the tax rate necessary to raise the correct amount of property taxes for each taxing district. The assessor calculates the rate so the individual district rate limit, the district revenue limit, and the aggregate rate limits are all satisfied. The property tax bill for an individual property is determined by multiplying the assessed value of the property by the tax rate for each taxing district in which the property is located. The assessor delivers the county tax roll to the treasurer. The county treasurer collects property taxes based on the tax roll starting February 15 each year.

The sum of property tax rates is limited by the State Constitution to a maximum of 1.0 percent of true and fair value, or \$10 per \$1,000 of market value. Property taxes that are subject to this 1 percent limitation are referred to as regular property taxes. Generally, there are no voting requirements with respect to regular property taxes, which are levied annually. However, there are several exceptions, including the taxing authority for emergency medical service districts, park and recreation districts, and cultural arts, stadium and convention districts. In these types of districts, regular property taxes may be levied for periods of six years or more. The regular levies for these districts require approval of 60 percent of the voters in the district.

The Legislature has established caps on individual district rates and on the aggregate rate so as to keep the total tax rate for regular property taxes within the constitutional 1 percent 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 thousand; county road levies are limited to \$2.25 per thousand; and city levies are limited to \$3.375 per thousand. These districts are known as "senior" districts. "Junior" districts, such as fire, library, and hospital districts, each have specific rate limits as well. The tax rates for most of senior and junior districts must fit within an overall rate limit of \$5.90 per \$1,000 of value. There is a complex system of prorating the various levies so that the total rate does not exceed \$5.90. Under this prorating system, senior districts are given preference over junior districts.

A few regular property tax levies are not subject to the \$5.90 aggregate rate limit for senior and junior districts: county ferry service, emergency medical service, affordable housing, conservation futures, and a portion of a metropolitan park district's rate. However, these districts' rates are subject to reduction if the total aggregate rate for these districts, the state property tax, and the districts subject to the \$5.90 limit together exceed \$10 per \$1,000 of market value.

In 1995 and 1997, with respect to the state property tax levied for collection in 1996 and 1997, the Legislature enacted temporary reductions of 4.7187 percent of the amount that would have otherwise been allowed for collection. To avoid the possibility that local districts' levies could increase to backfill the state reduction, the

Legislature enacted provisions instructing county assessors to calculate the aggregate tax rate for property using a hypothetical state levy amount that ignored the 1996 and 1997 reductions. However, as part of the approval of Referendum 47 in 1998, the state levy reduction was made permanent, making moot the use of a hypothetical amount for calculation purposes.

Structural changes to state and local taxing authority as a result of the passage of Initiative 695 in 1999 and Initiative 747 in 2001 have reduced the amount of revenue available to local governments for general as well as certain specific purposes, including criminal justice. From 1999 to 2002, general and special fund revenues at the county level grew at an annual rate of 3.7 percent, while county law and justice expenditures grew at an annual rate of 6.6 percent.

Summary: Counties with population of 90,000 or less are authorized to impose a new regular property tax of up to 50 cents per thousand dollars of the assessed value of property in the county. The funds are to be used for criminal justice purposes only. The new authority is not subject to the \$5.90 per thousand dollars of assessed value limitation that applies to other junior and senior districts but is subject to the 1 percent of true and fair value limitation. Tax may be imposed for up to six consecutive years, but only after approval of 60 percent of the voters voting on the proposition at a general or special election. Any new tax that is imposed is subject to prorationing requirements under the 1 percent limitation and must be reduced before other levy types are reduced if the tax rate exceeds 1 percent of true and fair value.

Obsolete statutory language is deleted.

Votes on Final Passage:

House	94	3	
Senate	45	0	(Senate amended)
House	87	6	(House concurred)

Effective: July 1, 2004

SHB 2532
C 187 L 04

Modifying commercial driver's license provisions.

By House Committee on Transportation (originally sponsored by Representative G. Simpson; by request of Department of Licensing).

House Committee on Transportation
Senate Committee on Highways & Transportation

Background: *Federal Commercial Driver's License Program.* The federal Commercial Motor Vehicle Safety Act of 1986 (CMVSA) established the federal Commercial Driver's License (CDL) Program and required states to ensure that drivers convicted of certain serious traffic violations be prohibited from operating a commercial motor vehicle (CMV). The goal of the CMVSA is to

improve highway safety by ensuring that drivers of large trucks and buses are qualified to operate those vehicles and to remove unsafe and unqualified drivers from the highways.

Washington's Uniform Commercial Driver's License Act. Washington adopted the Uniform Commercial Driver's License Act in 1989 to implement these federal regulations and to reduce or prevent commercial motor vehicle accidents, fatalities and injuries by:

- permitting commercial drivers to hold only one license;
- disqualifying commercial drivers who have committed certain serious traffic violations or other specified offenses; and
- strengthening licensing and testing standards.

Disqualifying Offenses. A CDL holder will be disqualified from driving a commercial motor vehicle if a report has been received by the Department of Licensing that the driver has received a confirmed positive drug or alcohol test either as part of a drug and alcohol testing program required by employers or as part of pre-employment drug and alcohol testing.

If a driver may be disqualified for 60 to 120 days if convicted or found to have committed two or more serious traffic violations within a three year period. Serious traffic violations include:

- excessive speed (15 mph over posted limit);
- reckless driving;
- negligent driving;
- improper lane changes;
- following too closely; and
- violation of a state or local law relating to motor vehicle traffic control, other than a parking violation, in connection with an accident or collision resulting in a death to any person.

Other disqualifying offenses include driving a commercial vehicle under the influence of alcohol or drugs or committing certain offenses while operating a commercial vehicle at a railroad-highway grade crossing.

Drivers in Washington, including CDL holders, may postpone prosecution or sentencing for certain traffic offenses. If the driver complies with requirements set out by the court, the original conviction may be removed from their record, "masking" the conviction. (Masking occurs when a conviction for a traffic violation is posted to the driver's record, but the conviction is hidden or masked from view.)

Licensing and Testing Standards. All applicants for a Washington CDL must consent to a review of their driving record, provide proof of fitness, and pass both a knowledge and skill test(s) that comply with minimum federal standards. In addition to a CDL, drivers may need special endorsements if they drive vehicles carrying passengers (buses); pull double or triple trailers (see following section on exemptions); drive tank vehicles (see following section on exemptions); or haul placarded

hazardous materials (see following section on exemptions). There are seven special endorsements and one restriction for the CDL and each requires specific tests.

All instruction permit applicants must hold a valid driver's license, consent to a review of their driving record, and provide proof of fitness.

Recent Federal Changes. The Motor Carrier Safety Improvement Act of 1999 (MCSIA) amended numerous provisions of the CMVSA relating to licensing and sanctioning of CMV drivers required to hold a CDL. These new requirements are designed to further enhance the safety of CMV operations on our nation's highways by ensuring that only safe drivers operate CMVs. States are required to comply with these new resulting regulations by 2005 or risk losing federal Motor Carrier Safety Administration (MCSAP) funds.

The U.S.A. Patriot Act of 2001 also placed new requirements on states issuing CDLs. The Patriot Act limits the issuance of, and established enhanced requirements for, CDL endorsements for the transport of hazardous materials by commercial vehicles.

Summary: Various amendments are made to the Uniform Commercial Driver's License Act to comply with new federal regulations.

The "masking" of traffic violations from the driving records of a CDL holder is prohibited. Certain traffic violations and offenses are added to those offenses that would disqualify a person from driving a commercial motor vehicle.

The Department of Licensing is required to obtain a new CDL applicant's driving record from every state in which they have been licensed in the last 10 years. The holder of a CDL:

- is disqualified if the holder has caused a fatality through the negligent operation of a commercial motor vehicle; and
- may be immediately disqualified if the holder has been determined to constitute an imminent hazard by the federal Department of Transportation.

Instruction permit holders are required to be at least eighteen years of age, to have passed a general knowledge examination, and to have paid the appropriate application and exam fees. They are prohibited from operating a commercial motor vehicle transporting hazardous materials.

A new endorsement category is created for school bus operation. Definitions of "hazardous materials," "school bus," and "serious traffic violations" are updated.

Votes on Final Passage:

House 61 37
Senate 48 0

Effective: June 10, 2004
July 1, 2005 (Sections 1, 5, 7, 8 and 10)

Providing death benefits for members of the Washington state patrol retirement system plan 2.

By Representatives Fromhold, Alexander, Conway, Rockefeller, G. Simpson, Chase and Morrell; by request of Select Committee on Pension Policy.

House Committee on Appropriations
Senate Committee on Ways & Means

Background: All members of the Washington State Patrol Retirement System (WSPRS) who first became members after January 1, 2003, have entered as members of Plan 2. WSPRS Plan 2 members are eligible for normal retirement either at age 55 or after 25 years of service. Several death benefits are payable to members of the WSPRS Plan 2 who die while in active service.

One of the death benefits paid to a member of the WSPRS Plan 2 is a survivor benefit paid to the spouse or other eligible survivor. The amount of this survivor benefit is the greater of: (1) the member's accumulated contributions; or (2) the member's earned retirement benefit, actuarially reduced for payment in the form of a survivor benefit and also reduced from the plan's normal retirement age to the member's age at death. A member of WSPRS is also eligible for a \$150,000 death benefit payable to the member's estate or designee where death occurs as a result of injuries sustained in the course of employment.

A workers' compensation death benefit may also be payable from the Department of Labor and Industries (L&I) for death resulting from injury sustained in the course of employment. A lump sum benefit may be payable from the L&I for burial expenses, as well as a monthly benefit of 60 percent of gross wages up to 120 percent of the state's average wage.

Chapter 155, Laws of 2003 (SHB 1519) provides that members of the Public Employees' Retirement System, the School Employees' Retirement System, and the Teachers' Retirement System killed in the course of employment are not subject to early retirement reductions.

The State Actuary indicates that while few WSPRS members die while in active service, about 20 percent of those deaths in active service are duty-related.

Summary: The survivor benefit paid from a member's earned retirement benefit to survivors of WSPRS Plan 2 members killed in the course of employment is not subject to an early retirement actuarial reduction.

Votes on Final Passage:

House 94 0
Senate 48 0

Effective: June 10, 2004

HB 2535
C 172 L 04

Permitting members of the public employees' retirement system plan 2 and plan 3 and the school employees' retirement system plan 2 and plan 3 who qualify for early retirement or alternate early retirement to make a one-time purchase of additional service credit.

By Representatives Alexander, Fromhold, Conway, Rockefeller, G. Simpson, Kessler, Moeller, Chase, Bush and Armstrong; by request of Select Committee on Pension Policy.

House Committee on Appropriations
Senate Committee on Ways & Means

Background: A vested member of the Public Employees' Retirement System (PERS) or the School Employees' Retirement System (SERS) Plans 2 or 3 may retire with an unreduced defined benefit at age 65. At retirement in Plan 2 a member receives 2 percent of the member's final average salary for each year of credited service. In Plan 3, a member receives 1 percent of the member's final average salary for each year of credited service and may withdraw his or her accumulated member contributions and earnings.

A member of the PERS or the SERS Plan 2 may apply for early retirement after 20 years of credited service beginning at age 55. A member of the PERS or the SERS Plan 3 may apply for early retirement after 10 years of credited service beginning at age 55. If a member in Plan 2 or Plan 3 applies for early retirement with less than 30 years of service, his or her benefit is actuarially reduced for the member's age difference at retirement and age 65. This actuarial reduction typically averages about 8 percent per year. A member who applies for early retirement with 30 or more years of service has his or her benefit reduced instead by 3 percent per year.

Members of the PERS and the SERS generally have the opportunity to participate in deferred compensation plans. These plans permit an individual to place a portion of salary into a special account prior to being subject to payroll tax reductions. The Department of Retirement Systems (DRS) operates a deferred compensation program consistent with the federal tax requirements of 26 United States Code section 457, commonly called a "457 Plan", in which employees of the state, counties, municipalities and other political subdivisions may participate. Some school districts and local governments may also participate in other deferred compensation-type plans commonly referred to as "403(b)" or "401(k)" plans. Individuals may also be able to deposit funds into accounts with preferential tax treatment such as Individual Retirement Accounts (IRAs).

In recent years, changes in federal law have liberalized the rules on the transfer of funds between tax-deferred accounts, including government defined benefit

pension plans like the PERS and the SERS, and deferred compensation accounts such as 457, 403(b), and 401(k) plans. Many state and local government pension plans have subsequently provided the opportunity for members to transfer funds, including funds from tax-deferred accounts, into these plans to add up to five years of service credit to a member's defined benefit.

Summary: A member who applies for early retirement in the PERS or the SERS Plan 2 or 3 may, at the time of retirement, file an application with the DRS to purchase up to five years of additional service credit. The cost of the additional service credit is the actuarial equivalent value of the resulting increase in the member's benefit.

The member may pay all or part of the cost of the additional service credit with an eligible transfer from a qualified retirement plan. The DRS must adopt rules to ensure that all purchases and transfers comply with the requirements of the federal Internal Revenue Code and regulations.

Additional purchased service credit is not regular membership service credit and may not be used to qualify a member for the 3 percent per year early retirement reduction available to members of the PERS and the SERS Plans 2 or 3 with 30 years of service.

Votes on Final Passage:

House	94	0
Senate	47	0

Effective: July 1, 2006

HB 2537
C 242 L 04

Establishing a public safety employees' retirement system plan 2.

By Representatives Alexander, Fromhold, Conway, G. Simpson, Moeller and Chase; by request of Select Committee on Pension Policy.

House Committee on Appropriations
Senate Committee on Ways & Means

Background: The Public Employees' Retirement System Plans 2 and 3 (PERS 2/3) provide the broadest eligibility rules of Washington State retirement system plans. All regularly compensated employees and appointed and elected officials of covered employers first employed on or after October 1, 1977, are members of the PERS 2/3 unless they fall under a specific exemption. Covered employers include all state agencies and subdivisions and most local government employees not employed by the cities of Seattle, Tacoma, and Spokane. If public employees normally work enough to meet the minimum eligibility standards, at least five months in which 70 or more hours are worked per year, and are not members of another Washington State plan, they generally enter the PERS 2/3.

PERS 2 members earn a benefit based on 2 percent of a member's average final salary multiplied by the years of service earned. PERS 3 members earn a benefit based on 1 percent of a member's average final salary multiplied by the years of service, plus an individual defined contribution account where all employee contributions plus earnings are deposited.

Members of the PERS 2/3 have a normal retirement age of 65 and may retire early with sufficient service beginning at age 55. Members retiring early with less than 30 years of credited service have their benefit fully actuarially reduced for the difference between age 65 and age at retirement. PERS 2/3 members with 30 or more years of service have their benefit reduced by 3 percent per year for the difference between age 65 at age at retirement.

Membership in the Law Enforcement Officers' and Fire Fighters' Retirement System, Plan 2 (LEOFF 2) is limited to: (a) full-time, fully authorized general authority law enforcement officers; and (b) full-time fire fighters. LEOFF 2 members must also be employed by a general authority law enforcement agency or a fire department.

Enforcement officers with limited authority, or employed by limited authority law enforcement agencies, are ineligible for LEOFF 2 membership. Among the employers specifically excluded from the LEOFF 2 because of the limited authority of the officers or agency include the state departments of Corrections, Natural Resources, and Social and Health Services, the State Gambling Commission, the State Lottery Commission, the State Parks and Recreation Commission, the State Liquor Control Board, and others.

Members of the LEOFF 2 earn a benefit based on 2 percent of a member's average final salary. Members of the LEOFF 2 have a normal retirement age of 53 and may retire early with 20 years of service beginning at age 50. With 20 years of service, a LEOFF 2 member's early retirement benefit is reduced by 3 percent for each year before 53.

The portability rules in the state public retirement law provide for the retirement benefits of members with service in several systems or plans. Among the most important principles in the portability rules is that years of service in several plans may be combined to determine the eligibility for benefits from each plan; however, each benefit is still only available under the terms of that plan. The member's base salary from any one of the systems may also be used for calculating the benefit from the others.

Summary: The Public Safety Employees' Retirement System Plan 2 (PSERS 2) is created, effective July 1, 2006. Specified job classes currently covered by the PERS 2/3 are covered by PSERS 2. The PSERS 2 has a normal retirement age of 60 with 10 years of service (age 65 with five years of service), and early retirement

beginning at age 53. Members with 20 years of service may retire early with a 3 percent per year reduction of their benefits.

The legislative intent is that the PSERS 2 encompass the PERS 2/3 members with distinct law enforcement responsibilities and powers, including to protect lives and property, endure a high degree of physical risk, have arrest authority, conduct criminal investigations, enforce the criminal laws of Washington, pass examinations and law enforcement training, and be authorized to carry a firearm.

No member is covered by the PSERS 2 unless the member is specifically included in the definition of PSERS member, which includes: city corrections officers; jailers; police support officers; custody officers and bailiffs; county corrections officers; probation officers and probation counselors; state correctional officers; correctional sergeants and community corrections officers; liquor enforcement officers; park rangers; commercial vehicle enforcement officers; and gambling special agents.

Membership in the PSERS 2 is prospective. Members of the PERS 2/3 prior to the creation of the PSERS 2 must choose, between July 1, 2006, and September 1, 2006, to remain members of the PERS 2/3 or transfer to the PSERS 2 for purposes of future service. Members who transfer from the PERS 2/3 will be dual members and receive benefits from each plan under the portability rules. Members of the PERS 1 are ineligible to transfer to the PSERS 2.

The remainder of the PSERS 2 is consistent with the PERS 2/3 design.

Votes on Final Passage:

House	97	0
Senate	49	0

Effective: July 1, 2006

SHB 2538

C 85 L 04

Establishing a one thousand dollar minimum monthly benefit for public employees' retirement system plan 1 members and teachers' retirement system plan 1 members who have at least twenty-five years of service and who have been retired at least twenty years.

By House Committee on Appropriations (originally sponsored by Representatives Conway, Fromhold, Alexander, Rockefeller, Upthegrove, G. Simpson, Moeller, Chase, Bush and Armstrong; by request of Select Committee on Pension Policy).

House Committee on Appropriations
Senate Committee on Ways & Means

Background: Members of the Teachers' Retirement System (TRS) and the Public Employees' Retirement

System (PERS) Plans 1 receive a retirement benefit based on 2 percent of their final average salary for each year of service credit earned. Members may apply to begin their retirement benefits from the PERS and the TRS Plans 1 after 30 years of service, at age 55 with 25 years of service, or at age 60 with five years of service.

When members retire, they generally may choose among several optional forms of benefit payment. For example, in both the PERS and the TRS Plans 1, a member may choose to receive a reduced benefit that continues for the life of both the member and the member's spouse (or other survivor), rather than just for the life of the member. Members of the TRS Plans 1 may also choose to withdraw all or part of their accumulated employee contributions and reduce their retirement allowances by the equivalent of an annuity that those contributions could purchase.

Retirees in the PERS and the TRS Plans 1 receive an annual increase in their benefit at age 66 and after at least one year of retirement. This annual increase is often referred to as the "Uniform COLA", and in 2003 it increased an eligible retiree's monthly benefit by \$1.18 per year of service. The PERS and the TRS Plans 1 also provide a minimum benefit that a retiree may receive, based on the number of years of service credit a retiree earned. The minimum benefit is \$31.76 per month per year of service, providing a retiree with 25 years of service a minimum benefit of \$794 per month.

The PERS and the TRS Plans 1 had 87,154 retirees at the end of 2002. Among these retirees, 1,288 earned at least 25 years of service, had been retired for 20 years or more, and had a benefit of less than \$1,000 per month before optional payment reductions. Of those below \$1,000, the average benefit was \$870.

Summary: A minimum benefit of \$1,000 is established, prior to optional reductions, for PERS and TRS Plan 1 members with at least 25 years of service who have been retired for at least 20 years.

Votes on Final Passage:

House	95	0
Senate	45	0

Effective: June 10, 2004

ESHB 2546

C 2 L 04

Modifying high technology and research and development tax incentive provisions.

By House Committee on Finance (originally sponsored by Representatives McIntire, Morris, Hunter, Ruderman, Kessler, Lovick, Hunt, Grant, Hatfield, Fromhold, Clibborn and Clements; by request of Governor Locke).

House Committee on Finance

Background: In 1994 the Legislature enacted tax incentives to encourage additional research and development (R&D) in the high-technology sector. The legislation allows businesses that conduct activities in advanced computing, advanced materials, biotechnology, electronic device technology, or environmental technology to take a credit against the business and occupation (B&O) tax and an exemption from sales and use taxes on construction of R&D and pilot scale manufacturing facilities.

A firm qualifies for the high technology B&O tax credit for R&D spending if the firm's spending on research and development exceeds 0.92 percent of B&O taxable income. For-profit firms may take a credit equal to 1.5 percent of R&D spending. The credit is equal to 0.484 percent of the R&D expenditures for nonprofit organizations. A maximum of \$2 million in credit is available each year to an eligible firm. The tax credit program expires on December 31, 2004.

Firms taking the B&O tax credit file an affidavit that includes the amount of credit claimed, an estimate of anticipated R&D expenditures for the year for which the credit is claimed, an estimate of taxable income for the year, and other information that the Department of Revenue (Department) deems necessary to administer the credit.

Firms that create a new operation or expand or diversify a current operation in R&D or pilot scale manufacturing are eligible for a sales and use tax exemption on the project. The exemption includes sales and use tax on building construction and purchases of equipment. If the investment project is used for a purpose other than qualified R&D or pilot scale manufacturing within the first eight years of operation, a proportionate share of exempted taxes must be paid.

Firms apply for the exemption before starting construction or equipment purchases. The application must include the location of the project, current employment, new employment estimates, estimated wages related to the project, estimated or actual cost data, time schedules for completion and operation, and other information required by the department. Applications for the program are not confidential and may be disclosed to the public. No new projects will be approved for exemption after June 30, 2004.

Participants in both tax incentives are required to supply the Department with information necessary to measure the results of the tax credit program. The Department was required to do assessments of the programs in 1997, 2000, and 2003. The Department has estimated that about 600 firms utilize the B&O credit for R&D expenditures each year, resulting in tax savings of about \$25 million annually. About 50 to 60 businesses use the sales and use tax exemption each year with annual tax savings of about \$40 million. Firms in the advanced computing and biotechnology sectors have

used the majority of the incentives. The majority of the incentives have been used in King County.

Under the federal small business innovation research program, grants are made to small businesses for research and development. Under the federal small business technology transfer program, grants are made for research and development to small business partnering with nonprofit research institutions. To be eligible for the programs, a business must be American owned, independently operated, for profit, employ the principal researcher, and have not more than 500 employees. Amounts received by a small business under these programs are subject to the B&O tax.

Sales tax is imposed on all sales to state and local governments other than sales for resale. The federal government is immune from direct taxation by the states unless the Congress has specifically waived that immunity. States may impose indirect taxes on the federal government as long as the economic burden borne by the federal government is not greater than that borne by a similarly situated entity. Under Washington law, contractors on federal construction projects are considered the consumer of tangible personal property purchased or used by them. Therefore, the federal government is indirectly subject to the sales and use tax on the construction materials. The U.S. Supreme Court upheld this tax treatment in *Washington v. United States*, 460 U.S. 536 (1983), explaining that as long as the burden on the federal government was not greater than the burden on other contractors for other governmental or private activities, the tax would be valid.

Summary: The B&O tax credit for research and development spending is extended from December 31, 2004, to January 1, 2015. The R&D credit is calculated on the amount of R&D expenditures in excess of 0.92 percent of taxable income. For taxpayers other than nonprofit institutions, the credit is computed using the taxpayer's average tax rate rather than 1.5 percent. The affidavit that previously was filed with each tax return is changed to an annual report that is filed in the year following use of the credit.

The sales and use tax exemption for new, expanded, or diversified operations in R&D or pilot scale manufacturing is extended from July 1, 2004, to January 1, 2015. State universities (University of Washington and Washington State University) may take the exemption. An exemption from sales and use tax is provided for federal contractors on materials purchased for an investment project that would be eligible for the deferral program if undertaken by a private entity.

Participants in both programs are required to complete an annual survey and provide information on the amount of B&O tax credit or sales tax exemption; the number of new products, trademarks, patents, and copyrights; the number of jobs and the percent of full-time, part-time and temporary jobs; wages by salary band; and

the number of jobs with employer provided health and retirement benefits. The Department of Revenue may request additional information necessary to measure the results of the programs. Information reported in the survey is confidential except that the amount of B&O credit and the amount of sales tax exemption taken is not confidential. Businesses taking less than \$10,000 in B&O credit may request that the credit amount be treated as confidential.

The survey is due by March 31. B&O tax credit participants may not take credits in any year they fail to complete the survey. Sales and use tax exemption participants must pay 12.5 percent of the tax exempted for each year they fail to complete the survey.

Each year by September 1, the Department will prepare summary descriptive statistics by category from the information provided by the survey. No fewer than three taxpayers will be included in any category.

The Department of Revenue is required to study the B&O tax credit program and the sales and use tax exemption program and report back to the Legislature by December 1, 2009, and December 1, 2013.

Amounts received by businesses from the federal small business programs for innovation research and technology transfers are exempt from B&O tax.

Votes on Final Passage:

House	86	12
Senate	40	9

Effective: June 10, 2004
July 1, 2004 (Sections 9 and 10)

ESHB 2554
C 183 L 04

Authorizing collection of support payments for children with developmental disabilities in out-of-home care.

By House Committee on Juvenile Justice & Family Law (originally sponsored by Representatives Dickerson, Kagi, Lovick, Delvin, Pettigrew, Rockefeller and Wood; by request of Department of Social and Health Services).

House Committee on Juvenile Justice & Family Law

Background: A parent of a child in foster care may be ordered to pay child support for the care of the child. The support may be established by court order or administratively by the Department of Social and Health Services (DSHS) in the absence of a court order.

The DSHS is statutorily prohibited from collecting child support for children who have been determined to be eligible for services through the Division of Developmental Disabilities. The statutes prohibit collection actions against parents of children who are eligible for admission to, or have been discharged from, a residential habilitation center. For the period July 1, 1993, through June 30, 1995, a collection action was authorized to be

taken against parents of children with developmental disabilities placed in community-based residential care

Summary: The DSHS is required to refer a case to the Division of Child Support whenever state or federal funds are expended for the care and maintenance of a child placed into care as a result of a dependency or termination action, including a child with a developmental disability, unless the DSHS finds that there is good cause not to pursue collection of child support against the parent or parents of the child.

The Act statutorily clarifies that the DSHS may administratively establish an order of child support in a dependency or termination of parental rights action.

The DSHS may institute a collection action against parents of children eligible for admission to, or who have been discharged from, a residential habilitation center if the child is placed into care as a result of a dependency or termination action. Expired language authorizing the DSHS to take collection action against parents of children with developmental disabilities who are placed in community-based residential care is removed.

Votes on Final Passage:

House	97	0
Senate	49	0

Effective: July 1, 2004

ESHB 2556
PARTIAL VETO
C 41 L 04

Studying criminal background check processes.

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives O'Brien, Kagi, Carrell, Upthegrove, Miloscia, Lovick and Moeller).

House Committee on Criminal Justice & Corrections
Senate Committee on Children & Family Services & Corrections

Background: The Washington State Patrol (WSP) is authorized to disclose criminal background checks of applicants and employees to any business or organization in Washington that educates, trains, treats, supervises, houses, or provides recreation to developmentally disabled persons, vulnerable adults, mentally ill persons, or children under 16 years of age, including but not limited to public housing authorities, school districts, and educational service districts. The business or organization making the inquiry to the WSP or a federal law enforcement agency must notify the applicant who has been offered a position as an employee or volunteer that a background inquiry may be made.

The Legislature has found that many developmentally disabled individuals and vulnerable adults desire to hire their own employees directly and that they also need

adequate information to determine which employees to hire. In these cases, the WSP may also disclose, upon request of a developmentally disabled person or a vulnerable adult or his or her guardian, an applicant's record for convictions of offenses against children or other persons, convictions for crimes relating to financial exploitation (but only if the victim is a vulnerable adult), adjudications of child abuse in a civil action, and any issuance of a vulnerable adult protection order.

Law enforcement agencies, the Office of the Attorney General, prosecuting authorities, and the Department of Social and Health Services may also request background check information to aid in the investigation and prosecution of cases of abuse that may have involved a child, developmentally disabled person, or vulnerable adult.

Summary: The Legislature finds that criminal background checks for employment purposes are rapidly increasing and, as a result, the current processes are not adequate to keep pace with the growing demand. Without adequate processes to encourage receiving results on a timely basis, a public risk is created.

Joint Task Force on Criminal Background Check Processes. A Joint Task Force on Criminal Background Check Processes (Task Force) is established to review and make recommendations to the Legislature and the Governor regarding the criminal background check process. The Task Force must choose two co-chairs from among its membership. The membership consists of one member from each of the two largest caucuses of the Senate and the House of Representatives; one representative from the Washington State Patrol, the Department of Social and Health Services, and the Office of the Superintendent of Public Instruction; one elected sheriff or police chief, selected by the Washington Association of Sheriffs and Police Chiefs; and jointly appointed by the speaker of the House of Representatives and the president of the Senate, representatives from the following entities:

- a nonprofit service organization that serves primarily children under sixteen years of age;
- a health care provider;
- an organization that serves primarily developmentally disabled persons or vulnerable adults;
- a local youth athletic association;
- the insurance industry;
- a local parks and recreation program, selected by the Association of Washington Cities; and
- a local parks and recreation program, selected by the Washington Association of Counties.

The Task Force must, at a minimum, review the following issues:

- What state and federal statutes require regarding criminal background checks.
- What criminal offenses are currently reportable through the criminal background check program.

- What information is available through the Washington State Patrol and the Federal Bureau of Investigation criminal background check systems.
- What are the best practices among organizations for obtaining criminal background checks on their employees and volunteers.
- What is the feasibility and costs for businesses and organizations to do periodic background checks.
- What is the feasibility of requiring all businesses and organizations, including nonprofit entities, to conduct criminal background checks for all employees, contractors, agents, and volunteers who have regularly scheduled supervised or unsupervised access to children, developmentally disabled persons, or vulnerable adults.
- What are the benefits and obstacles of implementing a criminal history record information background check program created by the National Child Protection Act of 1993.

The Task Force, where feasible, may consult with individuals from the public and private sector and will use legislative facilities and staff from Senate Committee Services and the House Office of Program Research.

WASPC's Study on Criminal Background Checks.

The Washington Association of Sheriffs and Police Chiefs (WASPC) must work in consultation with the WSP to conduct a study on criminal background checks. The study must focus on how Washington can reduce delays in the criminal background check processing time, and how it can make criminal background checks more accessible and efficient.

The study must include, but is not limited to:

- a review and analysis of the criminal background check programs in states that have recently implemented or are soon to implement comprehensive criminal background check programs;
- recommendations on how a comprehensive criminal background check program should be designed in Washington, and how much it would cost to implement such a comprehensive program; and
- a review of how a comprehensive criminal background check program could be paid for in Washington, which includes a determination on whether the program could be funded solely by user fees.

The findings and recommendations from the WASPC study must be presented to the Joint Task Force on Criminal Background Check Processes no later than November 30, 2004. The Joint Task Force on Criminal Background Check Processes must report its findings and recommendations to the Legislature by December 31, 2004.

The act expires January 31, 2005.

Votes on Final Passage:

House	96	0	
Senate	45	0	(Senate amended)
House	95	0	(House concurred)

Effective: June 10, 2004

Partial Veto Summary: The Governor vetoed the intent section.

VETO MESSAGE ON HB 2556-S

March 22, 2004

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 Substitute House Bill No. 2556 entitled:

“AN ACT Relating to studying criminal background check processes;”

This bill creates a joint task force to study criminal background check policies and procedures and make recommendations to improve those systems and increase public safety.

Section 1 was an introductory section that was not necessary to support the creation or work of the joint task force. It would have given an inaccurate view of the current criminal history record information background check data transmission infrastructure and process. Taken out of context, this language could have been misunderstood and used to indicate an admission of liability when none exists. To avoid the inadvertent misuse of this language, I have vetoed section 1.

For these reasons, I have vetoed section 1 of Engrossed Substitute House Bill No. 2556.

With the exception of section 1, Engrossed Substitute House Bill No. 2556 is approved.

Respectfully submitted,



Gary Locke
Governor

ESHB 2573
PARTIAL VETO
C 277 L 04

Adopting a supplemental capital budget.

By House Committee on Capital Budget (originally sponsored by Representatives Dunshee, Alexander, Hunt and Linville; by request of Governor Locke).

House Committee on Capital Budget

Background: Washington operates on a biennial budget cycle. The Legislature authorizes expenditures for capital needs in the Capital Budget for a two-year period, and authorizes bond sales through passage of a bond bill associated with the Capital Budget to fund a portion of these expenditures. The current Capital Budget covers the period from July 1, 2003, through June 30, 2005.

Summary: Supplemental Capital Budget appropriations of \$217.6 million are made for the 2003-05 biennium. (See budget highlights.) These appropriations do not require a bond bill to finance.

Votes on Final Passage:

House	61	36	
Senate	47	1	(Senate amended)
House			(House refused to concur)
Senate	49	0	(Senate amended)
House	82	14	(House concurred)

Effective: April 1, 2004

April 16, 2004 (Sections 117 and 202)

Partial Veto Summary: The Governor vetoed appropriations of: \$1 million for wastewater treatment facility upgrades for the City of Enumclaw; \$1.8 million for tire clean-up in Klickitat County; and \$3.4 million for WSU's wastewater reclamation project. The partial veto also retains \$1 million to help capitalize a self-insurance pool through the Housing Trust Fund and eliminates certain provisos relating to project accountability.

VETO MESSAGE ON 2573-S

April 1, 2004

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 the following appropriation items and sections: 114(8); 117; 118; 122(5); 136; 137; 203; 216(2); 245; and 917, Engrossed Substitute House Bill No. 2573 entitled:

“AN ACT Relating to the capital budget;”

Engrossed Substitute House Bill No. 2573 is the state supplemental capital budget for the 2003-2005 Biennium. I have vetoed several provisions as described below:

Section 114(8), Page 9, Department of Ecology

This subsection would have provided \$1 million from the Water Quality Account to assist the City of Enumclaw with upgrades to their wastewater treatment plant to address phosphorus loading in the White River. Although, I support funding assistance to upgrade wastewater treatment plants to address specific water quality problems, this project did not go through the competitive grant and loan process. Nor did the City of Enumclaw apply for "hardship" funding. A specific grant for this project would be unfair to other communities that applied for assistance and are waiting in line for hardship funding from the Water Quality Account. The City of Enumclaw may apply for additional assistance during the next competitive grant and loan funding cycle beginning in September 2004.

Section 117, Page 12, Department of Ecology

This section for water rights purchase and lease is tied to section 118 which states that if Engrossed Substitute House Bill No. 1317 is not enacted by April 15, 2004, section 117 is null and void. Since Engrossed Substitute House Bill No. 1317 did not pass, I have vetoed this section to ensure that section 309, Chapter 26, Laws of 2003, First Special Session remains operative.

Section 118, Page 12, Department of Ecology

This section ties section 117 to Engrossed Substitute House Bill No. 1317 and states that if the bill is not enacted by April 15, 2004, section 117 is null and void. Since the bill did not pass, I am have vetoed this section to ensure that section 309, Chapter 26, Laws of 2003, First Special Session remains operative.

Section 122(5), Page 15, Interagency Committee for Outdoor Recreation

Subsection 122(5) would have required the Interagency Committee for Outdoor Recreation to develop or revise project evaluation criteria for the Washington Wildlife and Recreation Program based on the provisions of Engrossed Substitute House Bill No. 2275 or Second Substitute Senate Bill No 6082. Since neither bill passed, this subsection is unnecessary.

Section 136, Page 22, Community and Technical College System

This section would have placed overly restrictive conditions on the replacement of the North Plaza Building at Seattle Central Community College. Subsection 136(1) would have mandated construction limits that should, in part, be determined as part of the design phase of the project. Sections 136(2) and (3) would have required submission of major project reports and final budget reconciliation in excess of normal requirements, requirements that can be handled administratively. Although I have vetoed this section, I am directing the Office of Financial Management to consider this project a major capital project for purposes of review and oversight.

Section 137, Page 23, Community and Technical College System

This section would have placed overly restrictive conditions on the renovation of Building 7 at Tacoma Community College. Subsection 137(1) would have mandated construction limits that should, in part, be determined as part of the design phase of the project. Sections 137(2) and (3) would have required submission of major project reports and final budget reconciliation in excess of normal requirements, requirements that can be handled administratively. Although I have vetoed this section, I am directing the Office of Financial Management to consider this project a major capital project for the purposes of review and oversight.

Section 203, Page 27, Department of Community, Trade, and Economic Development

This section provided that if Second Substitute House Bill No. 1840 is not enacted by April 15, 2004, section 202 is null and void. Section 202 authorizes up to \$1,000,000 to help capitalize a self-insurance risk pool for non-profit corporations in Washington that develop housing units for the low-income. Since the bill did not pass, I have vetoed this section. However, I am retaining section 202 since the companion measure, Senate Bill No. 5869, did pass.

Section 216(2), Page 34, Department of Ecology

This subsection would have appropriated \$1.8 million of Local Toxics Control Account grants to Klickitat County for removal, disposal or recycling of vehicle tires. This effort is not an eligible project under the Local Toxics Control Account, Remedial Action Cleanup Program. To be eligible for such funding, a site must be under an agreed-upon order or consent decree, have completed a site assessment and cleanup plan, and be a declared toxic waste site.

Section 245, Page 51, Washington State University

The section would have appropriated \$3,400,000 for the start of a wastewater reclamation project at Washington State University and the City of Pullman. The proviso required a study that summarizes a strategy for completion of future phases of this project, identifies all funding sources, and identifies water conservation measures to be enacted. I originally recommended a proviso limiting the amount of state funding for this project until these serious questions have been answered; that proviso has been removed. It is inappropriate to commit funding without knowing the sources of future funding, phasing, costs, and conservation efforts. The university should explore and attempt to secure alternative funding that is consistent with a completed comprehensive project plan.

Section 917, Page 90, Washington State University

This section would have required Washington State University to retain ownership of 22 acres of the Puyallup research campus, and maintain its use for agricultural research. This section duplicates section 310(2) of the bill and is unnecessary.

In addition to vetoes above, I am directing the Department of General Administration to work with stakeholders to develop cancellation language for operating and capital leases. This language will provide the state flexibility to respond to funding changes that necessitate termination of leases. This will properly protect the Legislature and state agencies and is a complement section 906, which amends RCW 43.82.010, requiring all

leases with a term of ten years or less not to contain a nonappropriation clause.

For these reasons, I have vetoed appropriation items and sections 114(8); 117; 118; 122(5); 136; 137; 203; 216(2); 245; and 917, of Engrossed Substitute House Bill No. 2573.

With the exception of appropriation items and sections 114(8); 117; 118; 122(5); 136; 137; 203; 216(2); 245; and 917, Engrossed Substitute House Bill No. 2573 is approved.

Respectfully submitted,

Gary Locke
Governor

SHB 2575
C 246 L 04

Relating to provisions of the Washington horse racing commission's authority.

By House Committee on Commerce & Labor (originally sponsored by Representatives Cairnes, Cody, Conway, Wood and Kenney; by request of Horse Racing Commission).

House Committee on Commerce & Labor
Senate Committee on Commerce & Trade

Background: Washington's only for-profit owner-operated racetrack, Emerald Downs, is located in Auburn. There are also four non-profit racetracks where horse races take place no more than 10 days per year and a limited amount is wagered. These tracks are located in Kennewick, Waitsburg, Walla Walla, and Dayton. They are known as Class C tracks.

Three taxes are levied on horse race wagering in Washington:

- **Washington Bred Owners' Bonus.** For-profit tracks pay 1 percent of gross receipts. This money is deposited in the Washington Bred Owners' Bonus Account. For newly built tracks, half of the principal is paid to owners of Washington bred horses that come in first through fourth at the track from which this tax comes. The other half goes to reimburse any new for-profit track for construction costs. Interest on the account is distributed to the non-profit tracks for capital improvements, such as upgrading the tracks or horses quarters.
- **Class C Purse.** All racetracks pay one-tenth of 1 percent of gross receipts. This money is deposited in the Class C Purse Account and is used for prize money at non-profit tracks that have operated at least five years.
- **Operating.** For-profit tracks with annual gross receipts over \$50 million pay 1.3 percent of gross receipts. This money is deposited into the operating account of the Commission. Along with fees and fines, this tax covers salaries and all other costs of operating the Commission.

Each year, the Commission must distribute to the non-profit tracks, from its operating funds, the difference between \$300,000 and the amount generated from the one-tenth of 1 percent tax that goes into the Class C Purse Account. In 2004, this difference is about \$161,000.

The Commission has two bank accounts in a local commercial bank, an operating account and a second account with monies from both the Washington Bred Owner's Bonus and the Class C Purse taxes. The operating account does not, because of the volume of transactions, generate interest. Based on historical operating account fund balances and interest rates, the Office of Financial Management estimates that this account would generate \$20,000 annually in interest if it was managed by the State Treasurer.

Gross receipts from horse racing declined from \$165 million in calendar year 2000 to \$139 million in calendar year 2003, continuing a long-term trend in the industry. Declining gross receipts means both a decline in funds available for operation of the Commission and an increase in the amount that the Commission must contribute to the non-profit tracks for prize money.

The Commission fines licensed tracks and individuals for rules violations, based on its general authority to regulate the horse racing industry. Fines are levied by a Board of Stewards, appointed by the Secretary of the Commission to see that horse racing meets are conducted properly.

The State Treasurer's Office (Office) maintains and invests a trust fund comprising money in the custody of the Office, but not required to be in the state treasury. In general, interest earned on the trust fund goes to the State General Fund. However, some accounts within the fund retain the interest earned on their share of the trust fund.

Summary: The Commission's bank accounts are moved from a local bank to a trust fund in the custody of the State Treasurer. The purpose of this change is to generate interest from the Commission's operating account to support non-profit tracks, in turn reducing the amount from Commission operating funds spent for this purpose.

Three accounts are created in the custody of the State Treasurer: the Washington Bred Owners' Bonus Fund Account, the Class C Purse Fund Account, and the Horse Racing Commission Operating Account. The uses of each fund are specified. The Operating Account is appropriated, while the other two are not. Interest from these accounts stays in the accounts, except that interest from the Operating Account is deposited in the Class C Purse Fund Account.

The Board of Stewards is given specific authority to levy fines. Money generated from fines is deposited in the Class C Purse Fund Account.

It is specified that the Commission will annually make up the difference between \$300,000 and the amount in the Class C Purse Fund. The Class C Purse

Account will contain fine money and operating account interest, as well as money from the Class C Purse tax.

Various clarifying and technical changes are made.

Votes on Final Passage:

House	94	0
Senate	45	0

Effective: March 31, 2004

HB 2577
PARTIAL VETO
C 98 L 04

Providing for committees of members.

By Representatives Linville, Carrell, Kirby, Newhouse, Lovick, Campbell, McMahan, Moeller and Flannigan.

House Committee on Judiciary
Senate Committee on Judiciary

Background: The Washington Nonprofit Corporation Act governs the formation of nonprofit corporations.

Nonprofit corporations may form for any lawful purpose, including charitable, benevolent, educational, civic, patriotic, political, religious, and social. The powers of a nonprofit corporation include the power to sue and be sued, engage in property transactions, lend money, make contracts, and incur liabilities. A nonprofit corporation may not issue stock, make income disbursements to members, officers or directors, or make loans or advance credit to directors or officers.

A nonprofit corporation may have one or more classes of members or no members. An annual meeting of members must be held and special meetings of members may be called. Notice of members' meetings and voting and quorum requirements are generally provided for in the bylaws. Unless the articles or bylaws prohibit it, members of the corporation may participate in a meeting by conference telephone or other communication device that enables all persons to hear each other at the same time. Participation by these means constitutes presence in person at the meeting.

An action that is either required or allowed to be taken at a meeting of members may be taken without a meeting with the unanimous consent of all members entitled to vote on the matter.

Summary: The Washington Nonprofit Corporation Act is amended to specifically authorize a nonprofit corporation to create member committees according to the provisions of the nonprofit corporation's articles of incorporation or bylaws.

A committee of members may participate in a meeting of the committee by conference telephone or other means by which all parties are able to hear each other at the same time.

Unless restricted by the articles or bylaws, the members, or committee of members, may take action on a matter without a meeting if a majority of the members, or committee of members, entitled to vote on the matter consents.

Votes on Final Passage:

House	95	0
Senate	48	0

Effective: June 10, 2004

Partial Veto Summary: The Governor vetoed the provision of the act that allows members or a committee of members to take action on a matter without a meeting upon consent of a majority of the members or committee members.

VETO MESSAGE ON HB 2577

March 24, 2004

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, House Bill No. 2577 entitled:

“AN ACT Relating to nonprofit corporations;”

This bill would allow a nonprofit corporation to provide in its articles of incorporation or its bylaws that one or more committees of members may handle duties assigned in the articles or bylaws. It further provides that committees of members may meet by teleconference or other electronic means.

Section 3 of House Bill No. 2577 would have amended RCW 24.03.465 to provide that unless restricted by articles or bylaws, members or committees of members could take action on a matter without a meeting if a majority of members, or committee members, consent. This authority is inconsistent with that provided to nonprofit corporations in section 39 of Engrossed Senate Bill No. 6188, which the Legislature also passed this session and which also amends RCW 24.03.465. Section 39 provides that an action "may be taken without a meeting if a consent in the form of a record, setting forth the action so taken, shall be executed by all of the members entitled to vote with respect to the subject matter thereof, or all of the directors, as the case may be." Substantively, these two sections differ on the important point of whether a "consent to action" by members of a nonprofit corporation requires affirmative action by a majority of members or by all members entitled to vote.

Section 3 would have also been inconsistent with section 11 of Engrossed Senate Bill No. 6188, which allows matters submitted to a vote of the members to be acted upon by a majority vote, and that such a vote may be conducted "by mail, by electronic transmission, or by proxy in the form of a record executed by the member." Section 11 would provide this authority only where specifically approved in the bylaws or articles of incorporation, while section 3 would have provided this authority unless it is specifically restricted in the bylaws or articles of incorporation.

In any event, section 11 of Engrossed Senate Bill No. 6188 provides an alternative mechanism by which matters submitted to members may be acted upon by a majority vote. This section establishes specific requirements and time limits for such voting, and therefore provides an effective and more comprehensive mechanism for action by members, and committees of members, than that provided under section 3 of House Bill No. 2577.

For these reasons, I have vetoed section 3 of House Bill No. 2577.

With the exception of section 3, House Bill No. 2577 is approved.

Respectfully submitted,



Gary Locke
Governor

HB 2583
C 43 L 04

Authorizing issuance of infractions and citations by electronic device.

By Representatives Lovick and Delvin; by request of Administrative Office of the Courts.

House Committee on Criminal Justice & Corrections
Senate Committee on Judiciary

Background: Civil Infractions. A civil infraction is a minor, non-criminal offense for which a fine may be imposed. A person who is issued a civil infraction must sign the notice of infraction and either pay the fine or challenge the infraction. In a hearing contesting the infraction, the state has the burden of proving the commission of the civil infraction by a preponderance of the evidence.

Law enforcement agencies and agencies authorized to issue civil infractions must issue notices of civil infractions from books with notices in quadruplicate. The chief administrative officer of such an agency must keep a record of every book issued to the employees of the agency along with a receipt for every book so issued.

After issuing a civil infraction, the law enforcement officer or other person authorized to do so must deposit the original copy of the notice of infraction with a court of competent jurisdiction. It is official misconduct for a law enforcement officer or other officer or public employee to dispose of a notice of civil infraction, copies of the notice of civil infraction, or the record of the issuance of the notice of civil infraction in a manner not authorized by law.

Traffic Citations. A traffic enforcement officer may issue a traffic citation whenever any person is arrested for any violation of the traffic laws or regulations that is punishable as a misdemeanor or by imposition of a fine. Traffic enforcement agencies authorized to issue traffic citations must issue notices of the citations in books with citations in quadruplicate. The chief administrative officer of such an agency must keep a record of every book issued to the employees of the agency along with a receipt for every book so issued.

After issuing a traffic citation, the traffic enforcement officer must deposit the original copy of the citation with a court of competent jurisdiction or with its traffic violations bureau. It is unlawful and official mis-

conduct for a traffic enforcement officer or other officer or public employee to dispose of a traffic citation, copies of the traffic citation, or the record of the issuance of the traffic citation in a manner not authorized by law.

Summary: Civil infractions and traffic citations may be issued by an electronic device capable of producing a printed copy of the infraction or citation.

In addition to being official misconduct, it is unlawful for a law enforcement officer or other officer or public employee to dispose of a notice of civil infraction, copies of the notice of civil infraction, or the record of the issuance of the notice of civil infraction in a manner not authorized by law.

Votes on Final Passage:

House	94	0
Senate	48	0

Effective: July 1, 2004

HB 2598
C 30 L 04

Providing venue for administrative rule challenges in Spokane, Yakima, and Bellingham for residents of those appellate districts.

By Representatives Grant, Holmquist, Linville, Kessler, Quall, Clements, Ahern, Cox, Sehlin, Morris, Priest, Kristiansen, Nixon, Santos, Buck, Wallace, Orcutt, Armstrong, Clibborn, Chandler, Schoesler, Sump, Bush, Jarrett, Kenney, Hatfield, Lovick, Eickmeyer, O'Brien, Blake, Ruderman, Skinner, Hinkle, Newhouse, Anderson, Schindler, Tom, Wood, Hankins, McMahan and Condotta; by request of Governor Locke.

House Committee on Judiciary
Senate Committee on Government Operations & Elections

Background: The Administrative Procedure Act (APA) details procedures state agencies are required to follow when adopting rules. Generally, a rule is any agency order, directive, or regulation of general applicability that: (1) subjects a person to a sanction if violated; or (2) establishes or changes any procedure or qualification relating to agency hearings, benefits, or privileges conferred by law; licenses to pursue any commercial activity, trade, or profession; or standards for the sale or distribution of products or materials. Before adopting a rule, an agency must follow specified procedures, including publishing notice in the state register and holding a hearing.

Under the APA, the validity of any rule adopted by an agency may be challenged by a petition for declaratory judgment when it appears the rule or application of the rule interferes with or impairs the legal rights or privileges of the petitioner. The court may declare a rule invalid only if it finds that the rule: (1) violates the

constitution; (2) exceeds the statutory authority of the agency; (3) was adopted without compliance with rule-making procedures; or (4) is arbitrary and capricious.

The petition for declaratory judgment on the validity of an agency rule must be filed in Thurston County Superior Court.

In 2003 the Legislature passed ESHB 1530, which allowed a petitioner to seek a declaratory judgment challenging an agency rule in the superior courts of Clark, Spokane, or Whatcom counties, in addition to Thurston County. The Governor vetoed the legislation, but in his veto message suggested other possibilities.

Summary: A petitioner who resides or has a principal place of business within the geographical boundaries of Division III of the Court of Appeals (the 20 counties east of the Cascades) may file a petition for declaratory judgment challenging an agency rule in the superior court of either Spokane, Yakima, or Thurston County.

A petitioner who resides or has a principal place of business within the geographical boundaries of district three of Division I of the Court of Appeals (Whatcom, Skagit, San Juan, and Island counties) may file a petition for declaratory judgment challenging an agency rule in the superior court of either Whatcom or Thurston County.

This provision allowing a petition to be filed in these counties other than Thurston County expires on July 1, 2008.

Votes on Final Passage:

House	85	8
Senate	47	1

Effective: June 10, 2004

HB 2601

C 44 L 04

Prohibiting the unlawful discharge of reserve officers.

By Representatives Lovick, Carrell, Flannigan, Newhouse, Lantz, Ahern, Morrell, O'Brien, Kirby, Cooper, Moeller, McMahan, Haigh, Campbell, Rockefeller, Conway and Wood.

House Committee on Commerce & Labor
Senate Committee on Commerce & Trade

Background: In Washington, the general rule is that employment is "terminable at-will." In other words, an employer may discharge an employee at any time without cause, and an employee may quit employment at any time without cause. Similarly, an employer may take other employment action that he or she deems appropriate.

Wrongful Discharge: Exceptions to the general rule that employment is "terminable at-will" have been enacted by the Congress and the Legislature and recognized by Washington courts. For example, an employer

may not discharge an employee for exercising rights under certain federal and state laws (e.g., the federal Family and Medical Leave Act (FMLA) and the state Minimum Wage Act). An employer also may not discharge an employee because he or she is a member of a protected class under the Washington Law Against Discrimination or other anti-discrimination laws or discharge a volunteer fire fighter because of leave related to emergency calls. An employer may be liable for wrongful discharge for terminating an employee because he or she refused to commit an illegal act or because he or she performed a public duty.

Wrongful Disciplinary Action: Exceptions to the general rule that an employer may take other employment action that he or she deems appropriate also have been enacted by the Congress and the Legislature. For example, an employer may not use the taking of FMLA leave as a negative factor in employment actions, such as hiring, promotions, or disciplinary actions. An employer also may not discriminate against a person in compensation or in other terms or conditions of employment because he or she is a member of a protected class under anti-discrimination laws.

Volunteer Fire Fighters: As noted above, a statutory exception to these general rules applies to volunteer fire fighters. An employer may not discharge or discipline a volunteer fire fighter because of leave related to an alarm of fire or an emergency call. The Department of Labor and Industries (Department) investigates and makes determinations as to the validity of complaints of such actions. If the Director of the Department determines that the employer acted unlawfully, and the employer fails to reinstate the employee or withdraw the disciplinary action, the volunteer fire fighter may bring an action against the employer in superior court seeking reinstatement or withdrawal of the disciplinary action. These provisions apply to employers with 20 or more employees. Civil actions related to these provisions are abolished.

Summary: The statutory exception to the general rule that employment is "terminable-at-will" for volunteer fire fighters is extended to reserve officers. "Reserve officers" are law enforcement officers who do not serve as law enforcement officers on a full-time basis, but who, when called into active service, are fully commissioned on the same basis as full-time officers to enforce criminal laws.

Votes on Final Passage:

House	94	0
Senate	48	0

Effective: June 10, 2004

HB 2612
C 77 L 04

Modifying provisions concerning the Hanford area economic investment fund.

By Representatives Grant, Hankins, Delvin and Veloria; by request of Department of Community, Trade, and Economic Development.

House Committee on Technology, Telecommunications & Energy

House Committee on Appropriations

Senate Committee on Economic Development

Background: In 1991 the Legislature established the Hanford Area Economic Investment Fund (Fund) in the custody of the State Treasurer. By law, the Fund was to be used for revolving loan funds, infrastructure projects, or other economic development and diversification projects, all in Benton and Franklin Counties. The law was later amended to allow a portion of the Fund to be used for reasonable Assistant Attorney General costs in support of the committee that was formed to make recommendations with respect to the use of the Fund.

Along with establishing the Hanford Area Economic Investment Fund in 1991, the Legislature created a committee to make recommendations to the Director of the Department of Trade and Economic Development (now the Department of Community, Trade and Economic Development, also known as CTED) regarding projects eligible to receive funding from the Hanford Area Economic Investment Fund. The committee comprises 11 members, appointed by the Governor, representing the elected leadership of Benton and Franklin counties and the cities of Richland, Kennewick, and Pasco; a Hanford area port district; the labor community; and the Hanford area business and financial community. Each member of the Committee resides or must be employed in Benton or Franklin County.

Specifically, under current law, the business that the committee may conduct is to:

- adopt its own bylaws;
- use the services of other governmental agencies;
- accept federal or state agency loans or grants for purposes of funding qualify revolving loan funds or other projects under the Hanford Area Economic Investment Fund;
- recommend to the Director of CTED rules for administration of the program, including terms and rates pertaining to its loans and criteria for awarding grants, loans, and financial guarantees;
- recommend to the Director of CTED a spending strategy for the moneys in the Hanford Area Economic Investment Fund, including five- and 10-year goals for economic development and diversification for use of the funds in Benton and Franklin Counties;

- recommend to the Director of CTED no more than two allocations eligible for funding per calendar year, subject to certain priorities;
- establish and administer a revolving fund; and
- make grants from the Hanford Area Economic Investment Fund.

Summary: Existing law is modified to allow the Hanford Area Economic Investment Fund Committee: (1) to adopt rules for the administration of the Hanford Area Economic Investment Fund, including terms and rates pertaining to its loans and criteria for awarding grants, loans, and financial guarantees; and (2) to adopt a spending strategy for the moneys in the Hanford Area Economic Investment Fund, including five- and 10-year goals for economic development and diversification for use of the moneys in Franklin and Benton Counties. The requirement that the Hanford Area Economic Investment Fund Committee recommend rules and spending strategies to the Director of the Department of Community, Trade and Economic Development is eliminated.

Votes on Final Passage:

House	95	0
Senate	48	0

Effective: June 10, 2004

HB 2615
C 190 L 04

Modifying the interlocal cooperation act regarding notice requirements for contracting.

By Representatives Jarrett, Moeller, Ericksen, Clibborn, Edwards, Schindler, Romero and Tom.

House Committee on State Government

Senate Committee on Government Operations & Elections

Background: The Inter-Local Agreement Act (Act) was established in 1967. The Act allows any agency to jointly exercise any powers or privileges granted by law with any other public agency having the same powers or privileges. Public agencies entering into inter-local agreements may supply property, as well as personnel and services, to a joint undertaking.

A public agency, for purposes of inter-local agreements, includes any agency, political subdivision, or unit of local government in this state including, but not limited to municipal corporations, quasi municipal corporations, special purpose districts, and local service districts, as well as any state agency, federal agency, Indian tribe recognized by the federal government, and political subdivision of another state.

An inter-local agreement must be filed with the county auditor before it can take effect and must specify the following:

- duration of the agreement;

- the precise organization, composition and nature of any separate legal or administrative entity, including delegated powers;
- its purpose;
- financing and budget provisions;
- methods for termination and disposal of property; and
- any other necessary information.

If an inter-local agreement deals with services or facilities over which a state agency or officer has control, then the agreement must be submitted to the state agency or officer for approval. No time limit is specified in statute for the state agency or officer to respond to the proposed agreement.

An inter-local agreement does not release a public agency of any obligation or responsibility imposed by law except to the extent of actual and timely performance by a joint board or other legal or administrative entity created by the agreement.

Summary: For public agencies purchasing or contracting through a bid, proposal, or contract awarded by another public agency or group of public agencies, the obligation to provide notice for bids or proposals is satisfied if the public agency awarding the bid, proposal, or contract complied with its own statutory requirements and either: (a) posted the bid or solicitation notice on a web site established and maintained by a public agency, purchasing cooperative, or similar service provider, for purposes of posting public notice of bid or proposal solicitations; or (b) provided an access link on the state's web portal to the notice.

Votes on Final Passage:

House	94	0
Senate	49	0

Effective: June 10, 2004

SHB 2618

C 179 L 04

Concerning commodity commissions.

By House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Linville, Schoesler, Holmquist, Grant and Sump).

House Committee on Agriculture & Natural Resources
Senate Committee on Agriculture

Background: A commodity commission may be established for an agricultural commodity directly by statute or through marketing orders adopted according to the Washington Agricultural Enabling Act. The primary role of a commodity commission is to conduct marketing programs, provide information, communication, education and training, and otherwise steward the specific commodity assigned to the commission.

Marketing orders establishing commodity commissions are adopted by rule of the Washington State Department of Agriculture (WSDA). The WSDA Director (Director) is directed to provide notice of a hearing to issue, amend or terminate a marketing order. The WSDA must publish notice of a hearing once a week for four consecutive weeks in one or more newspapers of general circulation within the affected area. The WSDA must also mail notice to all affected parties or producers.

After the public hearing, the Director must publish findings upon material points controverted at a public hearing along with the Director's recommended decisions. These findings and recommended decisions must be delivered or mailed to all parties in attendance at the hearing or their attorneys. After the issuance of recommended decisions, and after the Director has considered objections, the Director may issue his or her final decision. The WSDA must mail or deliver this final decision to the same parties who received the findings and recommended decisions.

After the issuance of the Director's final decision approving the issuance, amendment or termination of a marketing order, the Director must determine by a referendum whether the affected parties or producers agree to the action proposed in the final decision. The WSDA Director must conduct the referendum among the affected parties or producers. If the referendum is approved by the affected parties or producers, the Director must promulgate the order and mail notice to all affected parties.

Summary: When the WSDA receives a petition to issue, amend, or terminate a marketing order, it must mail a copy of the petition to all affected parties or producers and post the petition on the WSDA's web site. Notice of a public hearing to discuss the petition must be mailed along with the copy of the petition. In addition, the mailing must contain a description of the issuance, amendment and termination process and must direct recipients to the WSDA's web site. A legal notice of the public hearing must be published for two days in a newspaper of general circulation within the affected area.

Notification of the Director's recommended decisions must be mailed and must include the WSDA's web site address. The full text of the Director's findings and decisions, both recommended and final, must be posted on the web site. In the case of amendment and termination petitions, the affected commission may place a link on their web site to the WSDA's web site. If the Director's recommended decision does not include changes to the proposal, mail notification must be by post card. If the recommended decision includes changes to the proposal, mail notification must be by letter describing the changes and explaining the reason for not supporting the petition or referendum.

After the Director issues his or her findings, conclusions, and recommended decisions, all interested parties

SHB 2621

have 15 days from the day the post card or letter is mailed to file statements supporting or opposing the decision. The Director must notify the affected parties of the final decision by mail in the form of a post card. The post card must direct the recipient to the WSDA's web site where the full text of the decision is posted. After the Director determines whether the final decision is supported or opposed by referendum of the affected parties or producers, results of the referendum must be mailed to all affected parties by post card.

Affected parties who do not have access to material posted on the WSDA's web site may request notification by mail containing the full text of all findings, decisions, and referendum results.

Votes on Final Passage:

House	95	0
Senate	48	1

Effective: June 10, 2004

SHB 2621

C 248 L 04

Concerning personal use shellfish licenses.

By House Committee on Fisheries, Ecology & Parks (originally sponsored by Representatives Blake, Orcutt, Hatfield and Flannigan).

House Committee on Fisheries, Ecology & Parks
House Committee on Appropriations
Senate Committee on Parks, Fish & Wildlife

Background: The Department of Fish and Wildlife (DFW) is primarily responsible for administering the state's commercial and recreational fishing permit system. In order to harvest shellfish recreationally, including razor clams, a person is required to first obtain a personal use shellfish and seaweed license.

The DFW is authorized to issue both an annual license and a license that is valid for two days. The annual personal use shellfish license costs \$7.00 for a resident of Washington, \$20.00 for a non-resident, and \$5.00 for a person over the age of 70. A two-day shellfish license costs \$6 for residents, non-residents, and seniors. In addition to the license fee, a purchaser of an annual shellfish license must pay a \$3.00 surcharge that is dedicated to the Department of Health to fund biotoxin testing and monitoring of shellfish.

The proceeds generated from the sale of annual personal use shellfish licenses are deposited into the State General Fund. The proceeds from the two-day personal use shellfish license are deposited into the State Wildlife Fund.

Summary: An annual and a three-day razor clam license is created, to be administered by the DFW. The license allows for the non-commercial harvest of razor clams from state waters and national park beaches. The

annual razor clam license costs \$5.50 for a Washington resident, including seniors, and \$11 for a non-resident. This money will be deposited into the State General Fund. The three-day razor clam license costs \$3.50 for both residents and non-residents, with all money generated being deposited into the State Wildlife Fund.

In addition, the razor clam licenses are assessed a surcharge for biotoxin testing and monitoring. The surcharge for the annual license is \$2.00, and the surcharge for the three-day license is \$1.00.

When issuing the annual and three-day razor clam licenses, the DFW may only require that an applicant show proof of residency. The DFW may not require additional personal information to be provided.

Razor clams may still be harvested using an annual personal use shellfish and seaweed license as well as a razor clam license. The two-day personal use shellfish and seaweed license is eliminated.

Votes on Final Passage:

House	95	0
Senate	49	0

Effective: June 10, 2004

SHB 2635

C 78 L 04

Authorizing port districts to provide limited consulting services.

By House Committee on Trade & Economic Development (originally sponsored by Representatives Pettigrew, Skinner, Jarrett, Clibborn, McDonald, Veloria, Anderson, Chase, Morrell and Rockefeller).

House Committee on Trade & Economic Development
Senate Committee on Economic Development

Background: Washington has the largest locally controlled port system in the world with 76 ports in 33 of the state's 39 counties. The primary purpose of a port district is to promote economic development. Port districts are authorized to acquire, construct, maintain, operate, develop and regulate within the district: harbor improvements; rail or motor vehicle transfer and terminal facilities and other commercial transportation, transfer, handling, storage and terminal facilities; and industrial improvements.

The port districts are authorized to levy a tax of up to \$0.45 per \$1,000 of assessed value on property in the port district. The port district may also generate revenue through the lease or rental of warehouses or office buildings, proceeds from bond sales for capital project construction, grants, and gifts.

Summary: A port district is authorized to provide consulting services on matters within its statutory jurisdiction to governments and public agencies; however, direct competition with private business is not allowed. The

port district may receive compensation for these consulting services. In addition, the port district must maintain a roster of firms interested in taking advantage of the opportunities that result from the consultant work. The act expires July 1, 2008.

Votes on Final Passage:

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

Effective: June 10, 2004

HB 2647

C 245 L 04

Continuing the existence of the Washington quality award council.

By Representatives Miloscia, Haigh, McDermott, Wallace, Chase, Linville and Rockefeller.

House Committee on State Government
Senate Committee on Economic Development

Background: The Washington Quality Award Council (Council) was organized by statute in 1994 as a private, nonprofit organization to oversee the Governor's Washington State Quality Achievement Award Program.

The purpose of the quality award program is to improve the overall competitiveness of the state's economy by stimulating industries, businesses, and organizations to bring about measurable success by setting standards of organization of excellence, encouraging organizational self-assessment, identifying successful organizations, and promoting and strengthening a commitment to continuous quality improvement.

Through a process developed by the Council, award recipients are approved and announced and annual presentations are made by the Governor.

The Council ceases to exist on July 1, 2004, unless otherwise extended by law.

Summary: The termination date of July 1, 2004, for the Washington Quality Award Council is removed.

Votes on Final Passage:

House	95	0
Senate	48	0

Effective: June 10, 2004

ESHB 2650

C 180 L 04

Recognizing important bird areas.

By House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Linville, Flannigan, Cooper, Priest, Quall, Jarrett, Kessler, Tom, Rockefeller, Dunshee, Grant, Romero, Moeller, McDermott, O'Brien, Chase, Upthegrove, Hunt, G. Simpson, Kenney, Wallace, Wood and Kagi).

House Committee on Agriculture & Natural Resources
Senate Committee on Parks, Fish & Wildlife

Background: The Department of Natural Resources (DNR) is authorized to maintain a natural heritage program. This program is designed to provide assistance to the DNR in the selection and nomination of areas in the state containing natural heritage resources. Natural heritage resources are unique types of plant communities, animal species, and geologic or aquatic areas.

The natural heritage program is required to maintain a database that contains the location of natural heritage resources in the state. The information in the database is available to public and private entities to aid in environmental assessments and land management decisions. Generally, information in the database that relates to wildlife habitat is developed jointly with the Department of Fish and Wildlife.

The natural heritage program is directed by the natural heritage plan. This plan is required to provide details on which natural heritage resources are to be considered and provide criteria for the selection of natural areas. Natural areas, also known as natural area preserves, are lands which have retained much of their natural character or are important in preserving natural heritage resources. Natural areas may be purchased, leased, set aside, or exchanged by the DNR. Natural areas in the state must be listed on the Washington Register of Natural Area Preserves. To be included on the register, the owner of the natural area must have voluntarily agreed to participate.

Summary: The DNR is provided discretionary authority to recognize important bird areas within its natural heritage program, using information collected by a qualifying nonprofit organization. "Qualifying nonprofit organization" is defined as a national nonprofit organization, or a branch of the organization, that conserves and restores natural ecosystems. "Important bird areas" is defined as areas identified by the DNR and a qualifying nonprofit organization as being necessary to conserve populations of wild water fowl, upland game birds, songbirds, or other birds or their habitat.

Information relied on by the DNR should be based on internationally agreed-upon scientific criteria and protocols developed by a qualifying nonprofit organization. Once recognized, important bird areas must be

SHB 2657

included in the natural heritage program's data bank. Any qualifying nonprofit organization that teams with the DNR is encouraged to work with interested parties to maintain or enhance important bird areas.

Votes on Final Passage:

House	95	0	
Senate	48	0	(Senate amended)
House	93	0	(House concurred)

Effective: June 10, 2004

SHB 2657

C 50 L 04

Modifying training requirements for security guards.

By House Committee on Commerce & Labor (originally sponsored by Representatives Morrell and McDonald).

House Committee on Commerce & Labor
Senate Committee on Commerce & Trade

Background: There are about 7,000 security guards licensed to work in Washington. They are employed by 150 security guard businesses, large and small.

Since 1991, when licensing requirements for security guards were first established, security guards have been required to complete four hours of training before beginning independent work. The Department of Licensing (Department) has, by rule, set content requirements for this training. Among the areas that must be covered are:

- basic security, including the role of a security officer;
- legal powers and limitations, including use of force;
- emergency response;
- preparing reports; and
- public relations, including skills for communication and avoiding confrontation.

The Department may establish requirements for continuing education for security guards, but has not done so.

The Department may permit security guards licensed in other states where requirements meet or exceed those of Washington to work in Washington.

Summary: Pre-Service Training. Beginning July 1, 2005, the amount of training that security guards must complete prior to beginning independent work is increased from four to eight hours. At least four of these hours must be classroom instruction, as opposed to on-the-job training. The Department may exempt an individual from pre-licensing training if he or she has passed the pre-licensing examination, last worked full-time as a law enforcement officer, and worked in that capacity no more than five years prior to applying for a security guard license.

Continuing Education. In addition, beginning July 1, 2005, security guards must complete eight hours of training after they begin working independently. It may

take place in a classroom, in the field, or both. The Department must set topic areas to be covered in this training.

Four of these hours must be completed within the first six months of becoming licensed and the remaining four must be completed within the next six months. Security guards who are licensed when these provisions take effect are exempt from pre-licensing training, but must complete four hours of continuing education by December 31, 2005, and the remaining four hours by June 30, 2006.

The number of hours of continuing education increases by one hour each year until 2012, with these additional hours required to be completed within 18 months of licensure. By 2012, a total of 23 hours of training will be required for security guards: eight hours of pre-service training, and 15 hours of continuing education.

Trainers certified by the Department must report the pre-service training to the Department. Training completed after the security guard is working does not have to be reported to the Department, but the security guard company must keep training records on file and available for inspection.

Reciprocity. The Department is authorized to negotiate reciprocity agreements allowing guards licensed in Washington to work in other states.

Votes on Final Passage:

House	91	0	
Senate	48	0	(Senate amended)
House	95	0	(House concurred)

Effective: June 10, 2004

SHB 2660

C 95 L 04

Revising provisions involving alcohol-related offenses.

By House Committee on Judiciary (originally sponsored by Representatives G. Simpson, Carrell, McMahan, Lovick, Kenney and Wallace; by request of Office of the Lieutenant Governor).

House Committee on Judiciary
Senate Committee on Judiciary
Senate Committee on Highways & Transportation

Background: Implied Consent Law. Any person who operates a motor vehicle in this state is deemed to have given consent for a blood or breath alcohol concentration (BAC) test if he or she is arrested for driving while under the influence of alcohol or drugs (DUI). This provision in the state's motor vehicle code is known as the Implied Consent Law.

A so-called "per se" violation of the DUI law consists of operating a motor vehicle while having a BAC of 0.08 or more for persons over the age of 21, or having a

BAC of 0.02 or more for younger drivers. (The BAC measurement is of either grams of alcohol per 210 liters of breath, or grams of alcohol per 100 milliliters of blood.)

If an arresting officer has reasonable grounds to believe a driver has committed DUI, the officer may request the driver to take a BAC test. If the driver refuses the test, his or her driver's license will be administratively suspended or revoked by the Department of Licensing (DOL). If the driver submits to the test and fails it, i.e., registers above the legal BAC limit, the DOL will also administratively suspend or revoke the license. The length of the suspension or revocation is generally longer for a refusal than for a failure of the BAC test. The period of suspension or revocation escalates with successive incidents, ranging from one year for a first refusal and 90 days for a first failure, to two years for a second or subsequent refusal or failure. These administrative sanctions against a person's driving privileges are completely independent of the outcome of any criminal prosecution that may arise out of the same incident. However, except for first-time, low BAC offenders, periods of license suspension or revocation under these administrative provisions run consecutively to any period of suspension or revocation required upon a criminal conviction arising out of the same incident.

Driving While Under the Influence. The DUI law contains a system of escalating penalties that increase with the number of past offenses and the BAC level of the offender at the time of the current offense. In addition to mandatory periods of incarceration, DUI convictions carry mandatory loss of driving privileges, mandatory fines, mandatory alcohol abuse screening, and, in the case of offenders with high BACs or with repeat offenses, mandatory use of ignition interlocks upon restoration of driving privileges.

Periods of license loss range as follows for first, second, and third offenses within seven years:

- If the driver's BAC was below 0.15, or there was no BAC for reasons other than the driver's refusal to take the test: 90 days, two years, and three years.
- If the driver's BAC was at or above 0.15, or there was no BAC because of refusal: one year, 900 days; and four years.

Occupational Licenses. Drivers who have had their licenses suspended may, under certain circumstances, apply for an "occupational" driver's license. Such a license is for the purpose of allowing the person to work, or in some instances to get training or to get treatment for substance abuse.

The authority to drive under such a license is limited to driving that is directly related to employment, training, or treatment. The license must be accompanied by specific detailed restrictions on the hours of the day when driving is allowed and by a general description of the permitted routes for traveling to and from work or

treatment. An occupational license is good for either the length of the suspension or revocation, or for two years, whichever is shorter.

One category of persons who may apply for an occupational license is drivers who have had their licenses suspended by the DOL for one of three specified reasons. These reasons are:

- failure to pay a traffic ticket;
- driving without insurance; or
- committing multiple driving offenses with a frequency that indicates a disrespect for traffic laws or a disregard for the safety of others.

A person who has had his or her license suspended for one of these reasons may apply to the DOL for an occupational license if he or she is engaged in an occupation that makes driving essential, or he or she:

- is in an apprenticeship or training program that requires a license;
- has applied for such a program (in which case an occupational license will be good for only 14 days);
- is enrolled in a WorkFirst program that requires a license; or
- is undergoing substance abuse treatment or attending substance abuse meetings and does not have transit services available to get to and from the treatment or meetings.

If the reason for the loss of license was failure to pay a fine, then the applicant must also enter into a payment plan with the court in order for the DOL to issue an occupational license.

Another category of persons who may apply for an occupational license is drivers who have had their licenses suspended or revoked as the result of a conviction for a crime such as DUI for which license loss is mandatory or as the result of administrative action for a first-time, low BAC (below 0.15) failure of a test administered under the implied consent law. A person who has had his or her license suspended for one of these reasons may apply to the DOL for an occupational license only if he or she is engaged in an occupation or trade that makes driving essential, and:

- at least the first 30 days of the suspension or revocation has passed; and
- if the loss of license was through DOL action, it was for the driver's first implied consent law violation.

For either category of drivers, the applicant must also:

- meet certain requirements, including having insurance coverage or otherwise showing proof of financial responsibility;
- not have committed within the previous year an offense requiring loss of driving privileges;
- not have committed DUI, Vehicular Assault, or Vehicular Homicide within the previous seven years; and
- show proof of insurance.

The application fee for an occupational license is \$25.

Ignition Interlocks. Under legislation enacted in 1994, courts are given explicit authority to order that ignition interlocks or other devices be installed on the cars of certain drivers. Ignition interlocks are alcohol analyzing devices designed to prevent a person with alcohol in his or her system from starting a car. Other "biological or technical" devices may be installed for the same purpose. If a court orders the installation of one of these devices, the DOL is to mark the person's driver's license indicating that the person is allowed to operate a car only if it is equipped with such a device.

In some instances, the installation and use of interlocks are required. Those instances are cases in which a person has been convicted of or given a deferred prosecution for DUI. First-time DUI offenders with lower amounts of alcohol in their blood or breath, and persons granted a deferred prosecution who have no prior DUI conviction, are not subject to this mandatory provision. Use of a device is required for specified periods of time following the restoration of the person's driver's license. For first, second, and third required uses, the periods are respectively, one year, five years, and ten years.

Summary: Mandatory use of ignition interlocks is expanded with respect to DUI crimes, deferred prosecutions, implied consent law violations, and temporary restricted driver's licenses. A new temporary restricted license is created that is similar to an occupational license. Periods of license suspension and revocation are lengthened for some DUI convictions. However, periods of administrative and criminal suspensions or revocations arising out of the same incident are to be credited against each other on a day-for-day basis.

Implied Consent Law. All persons who lose driving privileges under the implied consent law and who are otherwise qualified are eligible for a "temporary restricted" license that is similar to an occupational license. Drivers who have lost their license either because they refused the BAC test or because they took the test and failed it, may, after a minimum period of license loss, apply to the DOL for a temporary restricted license. The DOL is to set these minimum periods of license loss after considering any applicable federal requirements for funding grants.

Occupational or Temporary Restricted Licenses. "Occupational" licenses are re-designated as "temporary restricted licenses" for persons who have lost their drivers' licenses for an offense for which license loss is mandatory. Among these offenses are alcohol-related offenses such as DUI as well as implied consent law violations.

An applicant for a temporary restricted license who has committed an alcohol-related offense must show proof of the installation of an ignition interlock device.

Driving While Under the Influence. Some DUI offenders who have refused to take the BAC test receive increased periods of revocation upon conviction. The periods of license loss for a first, second and third-time offender, respectively, are two years (instead of one), three years (instead of 900 days), and four years (unchanged).

Ignition Interlock. An interlock is required after the suspension or revocation of a license for any DUI offense, including a first-time, low BAC offense, as well as for any alcohol-related deferred prosecution, including a first deferred prosecution.

The DOL is required to have interlock vendor notification of an interlock installation before the Department may issue any license for which an interlock is required. The DOL must also suspend the license of a person required to use an interlock upon learning from the interlock vendor, or otherwise, that the required device is no longer functioning.

The application fee for an occupational or temporary restricted license is set at \$100.

Votes on Final Passage:

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

Effective: June 10, 2004

HB 2663
C 175 L 04

Requiring use of respectful language in the Revised Code of Washington regarding individuals with disabilities.

By Representatives Haigh, Armstrong, McCoy, Holmquist, O'Brien, Boldt, Morrell, Jarrett, Wallace, Delvin, Moeller, Priest, Darneille, Conway, D. Simpson, Kagi, Hunter, Clements, Wood, Sullivan, Dickerson, G. Simpson, Hunt, Skinner, Cody, Ormsby, Chase, Hankins, Pettigrew, Kenney, Tom, Nixon, Kessler, Miloscia, Linville, Romero, Roach and Hudgins.

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

Background: The Revised Code of Washington and the Washington Administrative Code both contain extensive references to various individuals with disabilities. With the exception of language used as a specific term of art for purposes of the criminal code and criminal sentencing, these references are generally not essential to describing the circumstances of the particular individual.

In some statutes, "mentally retarded" is used as a term of art and is specifically defined in the statute addressing sentencing for aggravated murder. Another

chapter discusses developmental disabilities and specifically defines "developmental disabilities." This definition is also used in the chapter concerning procedures for the criminally insane.

Most recent legislation has adopted terms that emphasize the individuality of people, no matter what their physical characteristics. Older legislative language utilized terms appropriate to the moment, some of which are neither appropriate nor specifically necessary for the law.

Summary: The Code Reviser is directed to avoid references to certain words that, frequently used to describe individuals with disabilities. The specific terms are disabled, developmentally disabled, mentally disabled, mentally ill, mentally retarded, handicapped, cripple, and crippled.

These terms are to be avoided in future laws as well as to be replaced in existing statutes as those statutes are amended by law. The replacement terms are individuals with disabilities, individuals with developmental disabilities, individuals with mental disabilities, individuals with mental illness, and individuals with mental retardation.

Agency orders must also reflect the changes in language. Agencies must use respectful language in creating new rules or amending old rules.

Votes on Final Passage:

House	95	0
Senate	48	0

Effective: June 10, 2004

ESHB 2675

C 238 L 04

Modifying electric utility tax credit provisions.

By House Committee on Technology, Telecommunications & Energy (originally sponsored by Representatives McMorris, Morris, Bush and Crouse).

House Committee on Technology, Telecommunications & Energy

House Committee on Finance

Senate Committee on Economic Development

Senate Committee on Ways & Means

Background: In 1999 the Legislature passed a law creating a number of tax incentives in rural counties. One of the incentives created a tax credit for light and power businesses that contribute to an electric utility rural economic development revolving fund.

In order to receive the tax credit, a light and power business must set up an electric utility rural economic development revolving fund that is devoted exclusively to funding projects, in qualifying rural areas, that are designed to: achieve job creation or business retention; add or upgrade nonelectrical infrastructure, health and

safety facilities, or emergency services; or make energy and water use efficiency improvements, including renewable energy development.

An electric utility rural economic development revolving fund must be governed by a board, appointed by the sponsoring electric utility, that meets certain statutory requirements. The board must have at least three members representing local businesses and community groups, or it must be a board of directors of an existing associate development organization serving the qualified rural area. Board members must live or work in the qualifying rural area served by the light and power business. The board is authorized to determine all criteria and conditions for expenditure of funds on qualifying projects.

A qualifying rural area is defined as a county with a population density of less than one hundred persons per square mile or a geographic region that receives electricity from a light and power company with 12,000 or fewer customers and with fewer than 26 meters per mile of distribution line.

The Legislature stated that its intent in creating this tax credit was to complement rural economic development efforts by creating a public utility tax offset program to help establish locally based electric utility revolving fund programs to be used for economic development and job creation.

Under the law, the tax credit is equal to 50 percent of a light and power business's contribution and is limited to \$25,000 per business annually. Total tax credits under the law are limited to \$350,000 annually. The ability to earn the tax credit expires December 31, 2005.

Summary: The expiration date of a tax credit for contributions to an electric utility rural economic development revolving fund is extended from December 31, 2005, to June 30, 2011. The period over which contributions are measured for purposes of determining the amount of tax credit allowed is changed from a calendar year to any fiscal year. A benchmark for measuring whether the tax credit has been effective in encouraging rural economic development is established at \$4.75 million in capital investment over a five year period.

Credits earned from expenditures made between January 1, 2004, and March 31, 2004, must not be considered in computing the statewide limitation of \$350,000 for the period July 1, 2004, through December 31, 2004. In addition, for the fiscal year ending June 30, 2005, the credit allowed per business is limited to \$37,500.

The requirement that a light and power business have fewer than 26 active meters per mile of distribution line in any geographic area in the state in order to qualify for the tax credit is eliminated.

Votes on Final Passage:

House	91	2	
Senate	45	0	(Senate amended)
House	96	1	(House concurred)

Effective: July 1, 2004

HB 2683
C 31 L 04

Changing provisions relating to providing notice of proposed rule changes.

By Representatives Haigh, Armstrong and Linville; by request of Governor Locke.

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

Background: The Administrative Procedure Act details procedures that state agencies are required to follow when adopting rules.

Pre-notice Inquiry. Agencies are required to solicit comments from the public on proposed rules before filing a notice of proposed rulemaking with the Code Reviser. The agency is required to prepare a statement of inquiry that:

- identifies the specific statute or statutes authorizing the agency to adopt rules on this subject;
- states why rules on the subject are needed and what they might accomplish;
- names other federal and state agencies that regulate this subject and describes process for coordination;
- describes the development process of the rule (i.e., negotiated rulemaking, pilot rulemaking, or agency study); and
- specifies how interested parties may participate in the process.

During the prenotice inquiry, agencies are encouraged to reach a consensus among interested parties through negotiated rulemaking, pilot rulemaking, or some other process before the proposed rule is published and an adoption hearing takes place. If such a process is not used, the agency is required to include a written justification in the rulemaking file.

Notice of Proposed Rule. When an agency is ready to hold a hearing on a proposed rule, it publishes a notice in the state register at least 20 days before the hearing. The publication constitutes the proposal of a rule. The notice must include such things as a description of the rule's purpose, citations of statutory authority, a summary of the rule of an explanation of whether the rule is the result of federal law or court action, a small business economic impact statement, and a cost benefit analysis, if required.

Agencies must have copies of the notice on file and available for public inspection. No later than three days after its publication in the state register, the agency must mail the notice on proposed rule adoption to each person, city, and county that has made a request for such notices. The notice must also be sent to the Joint Administrative Rules Review Committee (JARRC).

The agency is required to hold a public hearing on the proposed rule and must consider, summarize, and respond to any oral and written comments it receives. The agency may then withdraw the rule, modify it, or adopt the rule as proposed.

Interpretive and Policy Statements. Agencies are encouraged to convert long-standing interpretive or policy statements into rules. Any person may petition an agency requesting such a conversion and the agency must either deny the petition in writing, stating reasons for the denial, or initiate rulemaking proceedings. When an agency issues an interpretive or policy statement, it must submit a description of the statement to the Code Reviser for publication in the Washington State Register.

Agencies must maintain a roster of persons who have requested notification of interpretive and policy statements and must update the roster on a yearly basis. Copies of interpretive and policy statements are sent to the persons on the roster, and agencies may charge a nominal fee for this service.

Expedited Rulemaking. An expedited rule adoption process was established in 1997. Rules may be adopted under this process without preparation of a small business economic impact statement, publishing a statement indicating whether the rule constitutes a significant legislative rule, preparing a significant legislative rule analysis, making a pre-notice inquiry, or conducting a hearing. Notice is published indicating the use of the expedited rule adoption process. If any person files written objections to the use of this process within 45 days of the publishing of the notice, the use of the expedited rule adoption process stops, and the agency may proceed to adopt the proposed rules following the regular rule adoption process.

The expedited rule adoption process is generally limited to rules that do not have an effect on the general public, that are explicitly and specifically dictated by statute, and that, by reference, adopt changes in other laws or rules.

Summary: Pre-notice Inquiry. At the time the statement of inquiry is filed with the Code Reviser for publication, agencies have an option to provide the statement of inquiry, or a summary of the information contained in the statement, to those who have requested statements of inquiry.

Notice of Proposed Rule. A pilot project is established requiring at least 10 agencies, including the departments of Labor and Industries, Fish and Wildlife, Revenue, Ecology, Retirement Systems, and Health, to file copies of the notice of a proposed rule, including emergency rules and amendments and expedited adoption of rules, to the JARRC by electronic means for a period of four years. The Office of Regulatory Assistance must negotiate the details of the pilot among the agencies, the Legislature, and the Code Reviser.

Interpretive and Policy Statements. The requirement that agencies update the roster of persons requesting notifications of interpretive and policy statements on a yearly basis is changed to update the roster periodically.

Expedited Rulemaking. At the time the notice of expedited rulemaking is filed with the Code Reviser for publication, agencies have an option to send either the notice or a summary of the information in the notice to persons requesting notification of proposals for expedited rulemaking or of regular rulemaking.

Votes on Final Passage:

House	93	0
Senate	45	0

Effective: June 10, 2004

SHB 2685
C 61 L 04

Revising provisions relating to acceptable forms of identification for liquor sales.

By House Committee on Commerce & Labor (originally sponsored by Representatives Hudgins, McMorris, Conway and Kenney; by request of Liquor Control Board).

House Committee on Commerce & Labor
Senate Committee on Commerce & Trade

Background: Employees in state-run and contracted Washington liquor stores are required to check the identification of a customer whenever there is a question of whether the individual is at least 21 years old and is, therefore, legally entitled to purchase liquor.

Identification must show the person's date of birth and include both a signature and a photograph. Liquor store employees are instructed to use the date of birth and photograph to confirm age and identity. Employees of establishments licensed to sell alcoholic beverages, such as bars, restaurants, and grocery stores, follow the same procedure.

U.S. military identification cards issued to active duty, reserve, and retired military personnel and their dependents are among the officially issued forms of identification listed in statute as being acceptable for liquor store sales and, in rule, as being acceptable for licensed establishments.

The military recently adopted a new identification card that includes an embedded digital signature, rather than one that is visible.

Summary: For the purpose of proving that an individual seeking to purchase liquor is of legal age to do so, military identification that has an embedded rather than a visible signature is an acceptable form of identification. The Liquor Control Board may adopt regulations covering cards of identification.

Votes on Final Passage:

House	94	0
Senate	48	0

Effective: June 10, 2004

ESHB 2693
C 177 L 04

Modifying the taxation of timber on publicly owned land.

By House Committee on Finance (originally sponsored by Representatives Hinkle, McIntire, Cairnes, Fromhold and Holmquist).

House Committee on Finance
Senate Committee on Ways & Means

Background: The timber excise tax is paid when timber is harvested. The state tax rate equals 5 percent of the stumpage value. The tax applies to timber harvested on public and private lands. A county tax equal to 4 percent applies to harvests on private lands and is credited against the state tax. Therefore the effective rate on timber harvested from private land is 1 percent for the state and 4 percent for counties. The effective rate for timber harvested from public lands is 5 percent for the state. There is no county timber excise tax on timber from public lands. The state tax is deposited in the State General Fund. The local tax is distributed to property taxing districts within the county based on the value of commercial forest land.

Standing timber located on private lands is exempt from property tax. Standing timber located on public land is exempt from property tax until it is sold to a private person. The assessment date for property tax is January 1. Timber located on public land purchased by a timber harvester that is still standing on January 1 is subject to property tax. The property tax is distributed to the taxing districts in which the timber is located. The timber harvester's state timber excise tax liability is reduced by the amount of property taxes paid.

Summary: Counties are authorized to impose a 4 percent timber excise tax on timber harvested from public lands. The tax rate is phased-in over ten years starting at 1.2 percent. The county tax is credited against the state tax so that the timber harvester pays a total rate of 5 percent. The county timber excise tax is distributed to local taxing districts within the county.

Standing timber located on public land that is purchased by a private person is exempt from property tax. Purchasers of timber from the Department of Natural Resources are no longer required to provide proof of payment of property taxes before release of their performance bond.

Votes on Final Passage:

House 93 0
Senate 49 0

Effective: January 1, 2005

HB 2703
C 189 L 04

Increasing the minimum for bid requirements for materials or work for joint operating agencies.

By Representatives Armstrong, Cooper, Delvin and Blake.

House Committee on State Government
Senate Committee on Natural Resources, Energy & Water

Background: A joint operating agency is formed by two or more cities or public utility districts for the purpose of acquiring, constructing, operating, and owning plants, systems and other facilities for the generation and/or transmission of electric energy and power.

Purchases made by a joint operating agency in excess of \$5,000 for materials, equipment and supplies generally must be made by a sealed bid process. There are exceptions.

A competitive negotiation process may be avoided if a contractor has defaulted or if technical knowledge, experience, management, or staff, or specific time limits are needed to achieve economical operation of the project. In this process, a request for proposals stating the requirements to be met is issued, after which proposals are received. Negotiations are conducted in an effort to obtain the best and final offers of finalists. A fixed price or cost-reimbursable contract is awarded to the bidder whose proposal is the most advantageous in terms of the requirements set forth.

Purchases in excess of \$5,000 but less than \$75,000 may be made through a telephone or written quotation process. Quotations are received from at least five vendors, where practical, and awards are made to the lowest responsible bidder. In this process, the agency maintains a procurement roster of suppliers and manufacturers who may supply materials or equipment to the operating agency for the purpose of soliciting quotations. Bid opportunities are to be equitably distributed among those on the roster.

When it is determined that competition is not available or is impracticable, such as for replacement parts in support of specialized equipment, purchases may be made without competition. Purchases of any amount may be made without bidding in certain emergency conditions when it is determined that public safety, property damage, or serious financial injury would result if the purchase could not be obtained by a certain time through the sealed bid process.

Summary: The minimum dollar value of a purchase of materials, equipment, or supplies that must be made through a sealed bid process is changed from \$5,000 to \$10,000, exclusive of sales tax.

Votes on Final Passage:

House 95 0
Senate 45 0

Effective: June 10, 2004

SHB 2707
C 57 L 04

Regarding higher education branch campuses.

By House Committee on Higher Education (originally sponsored by Representatives Kenney, Priest, Sommers, Jarrett, McCoy, Chase and Hudgins).

House Committee on Higher Education
Senate Committee on Higher Education

Background: When the Higher Education Coordinating Board (HECB) published its first master plan for higher education in 1987, it concluded that existing upper division and graduate higher education programs did not fully meet the needs of the state. Affirming these findings, the 1989 Legislature established five branch campuses in growing urban areas, to be operated by the state's two public research universities. The University of Washington (UW) campuses are located in Tacoma and Bothell; the Washington State University (WSU) campuses are located in Vancouver, the Tri-Cities, and Spokane.

In 2002 and 2003, the Washington State Institute for Public Policy (Institute) was directed to examine the current and future role and mission of the branch campuses. The Institute's interim report concluded that branch campuses have been responding to their original missions to expand access to higher education and contribute to regional economic development. However, the Institute's final report pointed out that branch campuses are influenced by significant internal and external factors that may be moving them away from their original missions. The Institute also found that each branch campus is unique with a distinct local context, including academic programs, faculty expertise, student demographics, nearby industries, and neighboring higher education institutions.

The final report identified several opportunities for future legislative direction regarding branch campuses. Topics included:

1. *The designation of each branch campus as a research institution.* The Institute found that although the level of research at each branch varies widely, the research activity of most branch campuses falls somewhere between the state's research and comprehensive institutions. Nevertheless, the

state funds each branch campus as a research university.

2. *Improvement of collaboration among branch campuses and community and technical colleges.* The Institute found that collaboration occurs among branch campuses and community and technical colleges but is inconsistent. Research institutions and community colleges have markedly distinct academic programs, cultures, and students. Although the statute references a two-plus-two model of education, it does not specifically require the institutions to work together.
3. *Role of each branch campus in offering doctoral programs.* The authorizing statute refers to graduate education being offered at branch campuses but does not specify the level of graduate education. The HECB policy originally prohibited branch campuses from offering doctoral degrees because of their costs. Over time, this policy has been relaxed. The WSU Spokane campus received HECB approval for a Doctorate in Pharmacy in 1992. Other proposals have been discussed, but some legislators have questioned adding this activity to the branches' portfolio.
4. *Whether any branch campus needs to become a four-year institution.* The prospect of becoming a four-year institution is a key topic for branch campuses, with the possible exception of WSU Spokane. Faculty reward systems, academic culture, and community interests provide pressure to create a more traditional campus. A national consultant on the Institute study indicated that branch campuses in other states have tended to respond to these pressures by becoming four-year institutions.

Summary: The Legislature finds that branch campuses are responding to their original mission but that the policy landscape in higher education has changed. Each branch campus has evolved into a unique institution, and it is appropriate to assess this evolution to ensure that each campus is aligned with state goals and regional needs. The Legislature intends to recognize the unique nature of branch campuses, reaffirm the mission of each, and set the course for their continued future development. The Legislature also intends to identify each campus, not as a branch campus, but by its name.

The primary mission of branch campuses is stated: to expand access to baccalaureate and master's level graduate education in under-served urban areas in collaboration with community and technical colleges. However, the Legislature recognizes there are alternative models to achieve the primary mission. Some campuses may have additional secondary missions in response to regional needs. Some may be best suited to transition to a four-year comprehensive university; others should focus on continuous improvement of the two-plus-two model. At some campuses, an innovative combination

of instruction and research targeted to support regional economic development may be appropriate.

Branch campuses are directed to collaborate with community and technical colleges to develop articulation agreements, dual admissions policies, and other partnerships. Other possible collaboration includes joint development of curricula and degree programs, collocation of instruction, and faculty-sharing. Representatives of local independent institutions may be invited to participate in conversations about meeting baccalaureate and graduate education needs in under-served areas. The HECB must adopt performance measures to ensure a collaborative partnership between community and technical colleges and branch campuses.

Legislative intent is stated that each branch campus be funded commensurate with its unique mission, the degree programs offered, and the combination of instruction and research, but at a level less than a research university.

In consultation with the HECB, branch campuses may propose legislation authorizing practice-oriented or professional doctoral programs if: (a) unique research facilities and equipment are located near the campus; or (b) the campus can clearly demonstrate student and employer demand in the region, linked to economic development.

WSU Spokane is no longer considered a branch campus. WSU and Eastern Washington University must collaborate with one another and with local community colleges to provide educational pathways and programs to citizens in the Spokane area. Each remaining branch campus must make a recommendation to the HECB by November 15, 2004, on the future evolution of the campus. Recommendations must address the model of education and mission that best suit the campus; data that illustrates how baccalaureate and degree production will be increased; areas for possible improvement in partnerships with community and technical colleges; and an estimate of implementation costs. The HECB will review the recommendations in the context of statewide goals and present options to the Legislature by January 15, 2005.

Three sections of law pertaining to the original creation of branch campuses in 1989 are repealed.

Votes on Final Passage:

House	95	0	
Senate	48	0	(Senate amended)
House	95	0	(House concurred)

Effective: June 10, 2004

SHB 2708

C 58 L 04

Creating conditional scholarships for prospective teachers.

By House Committee on Higher Education (originally sponsored by Representatives Ormsby, Kenney, Cox, Fromhold, Moeller, Dickerson, Chase, Lantz, Morrell, Wood, Hudgins and Kagi).

House Committee on Higher Education
House Committee on Appropriations
Senate Committee on Higher Education

Background: *Conditional Scholarships:* The first conditional teachers scholarship program was enacted in 1987. Individuals could receive the scholarship for up to five years in the form of a loan. Repayment on the loan was forgiven at a rate of one year of repayment for every two years the recipient taught in a K-12 public school in Washington. The Higher Education Coordinating Board (HECB) administered the program. The Legislature provided \$300,000 per year for the program until 1994. The program is still in statute but is inactive due to lack of funding.

In recent years concern about a possible teacher shortage has reignited interest in incentives to encourage individuals to enter the teaching profession. Starting with the 2000 supplemental budget, the Legislature has provided conditional scholarships for classified K-12 employees to become teachers. For 2001-03 the Legislature also provided conditional scholarships to classified K-12 employees enrolled in certain alternative teacher certification programs. Statutory language or budget provisos creating these scholarships each used slightly different terms and conditions.

Shortage Areas: In a survey conducted in 2002 by the Office of the Superintendent of Public Instruction (OSPI), school districts reported shortages of teachers in special education, math, sciences, English as a second language, bilingual education, and several other subjects.

Summary: The laws pertaining to a future teachers conditional scholarship administered by the HECB are amended to include a priority for participants seeking certification or additional endorsement in math, science, technology, or special education. Selection criteria also emphasize bilingual ability and willingness to commit to providing teaching service in shortage areas. Shortage area means a shortage of teachers in a specific subject, discipline, or geographic area as defined by the OSPI. A specific list of approved education programs is replaced with general language permitting participants to teach in any K-12 school in Washington or other K-12 educational sites designated by the HECB. In addition to convening a separate selection committee, the HECB may use selection processes for similar students in

cooperation with the Professional Educator Standards Board or OSPI.

Rather than being set at \$3,000, the scholarship is the amount of tuition and fees paid by the participant, with a maximum equal to resident undergraduate tuition and fees at the University of Washington. If a participant teaches in a shortage area, one year of conditional scholarship is forgiven for every year of teaching. Recipients who fail to meet the teaching service obligation must repay not only the scholarship plus interest, but also an equalization fee that makes the debt owed by the student similar to the federal Stafford Student Loan program. Specific language pertaining to interest penalty rates, repayment periods, and deferments is removed from statute, and the HECB is authorized to adopt rules on these topics.

A conditional loan repayment program is created. The HECB may agree to repay federal student loans that a student has incurred in exchange for teaching service. Each year, the participant must provide evidence of teaching service in order to receive a loan repayment. The HECB may pay the participant directly or arrange to pay the holder of the student loan. The selection criteria, repayment limits, and ratio of loan repayment to required teaching service are the same as they are for the conditional scholarship program.

A future teachers conditional scholarship account is created in the custody of the State Treasurer, to be used for any new funds appropriated for the program and repayments from previous conditional scholarship programs. An appropriation is not required for expenditures from the account, and interest earned stays with the account.

Votes on Final Passage:

House	94	1	
Senate	46	0	(Senate amended)
House	95	0	(House concurred)

Effective: June 10, 2004

HB 2727

C 86 L 04

Requiring all insurers to file credit based rating plans.

By Representatives D. Simpson, Benson and Schual-Berke; by request of Insurance Commissioner.

House Committee on Financial Institutions & Insurance
Senate Committee on Financial Services, Insurance & Housing

Background: A Credit Score is a number insurance companies assign consumers based on their credit experiences, such as bill paying history, the number and type of accounts they have, late payments, collection actions, outstanding debt, and the age of their accounts.

The total number of points calculated produces a credit score that can range between 300 - 850. Credit scores may differ depending on the company, as each company weighs factors differently. Scoring formulas may be developed by a third-party vendor or by the insurer. Credit scoring formulas are the proprietary information of the insurer.

The Federal Fair Credit Reporting Act and Washington's 1993 Fair Credit Reporting Act allow insurance companies to obtain and use credit information in their underwriting practices. Insurers may use a credit score as one of the underwriting factors considered in determining whether to offer insurance coverage, whether to cancel or non-renew coverage, how much to charge for the insurance, and whether to place a person with one of its nonstandard affiliate (generally higher priced) insurers.

In 2002, the Legislature limited the manner in which insurance companies may use credit scoring. Insurance companies may not use credit history to cancel or non-renew personal insurance (auto, homeowners, and renter insurance). In addition, insurers may not deny coverage based on the following factors: the absence of a credit history, number of credit inquiries, collection accounts that are medically related, the initial purchase of a vehicle or house, the use of a particular type of credit, debit, or charge card, and the total available credit. In setting premiums, insurers may not consider the number of credit inquiries, collection accounts that are medically-related, the initial purchase of a vehicle or house, the use of a particular type of credit, debit, or charge card, the total available line of credit, and the absence of a credit history, unless the insurer has filed statistical data with the Insurance Commissioner (Commissioner) documenting that consumers without credit histories are more likely to file a claim. If credit history is in dispute, the insurer must re-issue or re-rate the policy once the dispute is resolved. If an adverse action is taken, the insurer must inform policyholders about the item in their credit history that impacted their overall credit score.

Every insurer that uses a credit scoring model to determine personal insurance rates or premiums must file the model with the Commissioner. Related rates, risk classification plans, rating factors, and rating plans must also be filed and approved.

Summary: Insurers that use credit history to determine personal insurance rates or eligibility for coverage must file rates and rating plans with the Commissioner for those lines of coverage for which credit scoring is used. This applies to a single insurer and to two or more affiliated insurers. An insurer's eligibility rules or guidelines, filed with the Commissioner, are not subject to public disclosure.

Votes on Final Passage:

House	94	0	
Senate	44	0	(Senate amended)
House	94	0	(House concurred)

Effective: June 10, 2004

HB 2765

C 47 L 04

Establishing an advisory council on early interventions for children who are deaf or hard of hearing.

By Representatives Dickerson, Kagi, McDermott, Moeller, Talcott, Chase, Conway, Kenney and Morrell.

House Committee on Children & Family Services
Senate Committee on Children & Family Services & Corrections

Background: As part of the House Children and Family Services Committee's 2003 interim plan, the committee assembled a Work Group on Deaf Education in Washington (Work Group) to consider the respective roles of, and the relationships among, the Washington School for the Deaf (WSD), local school districts, educational service districts, community services, and community resources in the delivery of effective education to hearing impaired children throughout the state, as well as the appropriate service delivery models for those children.

The Work Group consisted of the following: parents of a hearing impaired child; a hearing impaired adult; researchers on hearing impairment; a teacher of hearing impaired children; two members of the Board of Trustees of the WSD; a representative of the Office of the Governor; a representative of the Office of Superintendent of Public Instruction (OSPI); a representative of Washington Sensory Disabilities Services; a representative of a local school district; a representative of an educational service district; a representative of the Infant Toddler Early Intervention Program (ITEIP) in the Department of Social and Health Services (DSHS); four members of the Senate; a member of the House Education Committee; and the members of the House Children and Family Services Committee.

The Work Group held three meetings over the course of the interim at which a range of issues and topics were discussed, including current service delivery in the state from newborn hearing screening and early intervention services through the P-12 system, technological advances relating to hearing impairment, and the most recent research on outcomes and costs relating to hearing impairment.

At the final meeting of the Work Group, the members of the Work Group developed consensus statements, which reflect the basic principles agreed upon by all of the members of the Work Group, and goals and policy recommendations, which are based upon those

consensus statements. The goals of the Work Group include ensuring that appropriate early intervention services for children who are deaf or hard of hearing, spanning the spectrum of communication and educational options, are provided throughout the state, with the corresponding policy recommendation that statewide standards be developed by an advisory council for early intervention services and early intervention services providers specifically for children who are deaf or hard of hearing. The goals also include providing appropriate and timely counseling and information for parents of children who are deaf or hard of hearing throughout the state, with the corresponding policy recommendation that a pamphlet be created by an advisory council to be provided to parents by their children's pediatricians or audiologists upon diagnosis of hearing loss. This policy recommendation specifies that the pamphlet should contain information on the variety of interventions and treatments available for children who are deaf or hard of hearing, as well as resources for parent support, counseling, financing, and education.

Summary: There is established an advisory council in the DSHS for the purpose of advancing the development of a comprehensive and effective statewide system to provide prompt and effective early interventions for children in the state who are deaf or hard of hearing and their families.

Members of the advisory council must have training, experience, or interest in hearing loss in children. Membership must include, but not be limited to, the following: pediatricians; audiologists; teachers of the deaf and hard of hearing; parents of children who are deaf or hard of hearing; and representatives of the WSD, the ITEIP, the Department of Health, and the OSPI.

By January 1, 2005, the advisory council is required to develop statewide standards for early intervention services and early intervention services providers specifically related to children who are deaf or hard of hearing.

The advisory council is required to create a pamphlet to be provided to the parents of a child in the state who is diagnosed with hearing loss by their child's pediatrician or audiologist, as appropriate, upon diagnosis of hearing loss. The pamphlet must contain, at minimum, information on the following:

- the variety of interventions and treatments available for children who are deaf or hard of hearing; and
- resources for parent support, counseling, financing, and education related to hearing loss in children.

The pamphlet must be available for distribution by July 1, 2005.

Votes on Final Passage:

House	95	1	
Senate	48	0	(Senate amended)
House	94	0	(House concurred)

Effective: June 10, 2004

Prohibiting cyberstalking.

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Sommers, Lantz, Cody, Nixon, Morrell, Hankins, Tom, Kirby, Delvin, Mielke, Pearson, McMahan, Moeller, Dickerson, McIntire, Kenney, Kessler, Conway, Darneille, Sullivan, Schual-Berke, Kagi and Ormsby).

House Committee on Criminal Justice & Corrections
Senate Committee on Judiciary
Senate Committee on Technology & Communications

Background: Criminal 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
- the person 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 class C felony with a seriousness level of III if:

- the offender has a previous conviction for any of several listed crimes, including telephone harassment and stalking, 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 another person.

The portion of the crime of harassment relating to threatening to do an act that is intended to substantially harm the person threatened or another with respect to his or her mental health was held unconstitutionally vague and overbroad by the Washington Supreme Court in *State v. Williams*, 144 Wn.2d 197 (2001).

Stalking. A person is guilty of stalking if he or she, without lawful authority and under circumstances not amounting to a felony attempt of another crime:

- intentionally or repeatedly harasses or repeatedly follows another person (The definition of "harassment" in the stalking statute is the broader definition used in the context of civil anti-harassment protection orders, not the definition of "harassment" for purposes of criminal harassment.);
- the person being harassed or followed is placed in reasonable fear that the stalker intends to injure the

person, another person, or the property of the person or of another; and

- the stalker either: (a) intends to frighten, intimidate, or harass the person or (b) knows, or reasonably should know, that the person is afraid, intimidated, or harassed.

Stalking is generally a gross misdemeanor. However, the crime is a class C felony with a seriousness level of V if:

- the offender has a previous conviction for any of several listed crimes, including telephone harassment and harassment, against the same victim, members of the victim's family, or persons named in a no-contact or no-harassment order;
- the stalking violates any protective order of the person being stalked;
- the offender has a previous conviction for stalking;
- the offender was armed with a deadly weapon while committing the crime;
- the victim is or was a law enforcement officer, judge, juror, attorney, victim advocate, legislator, or community corrections officer, and the stalking was in retaliation for something done in the victim's official capacity or to influence the victim's actions in his or her official capacity; or
- The victim is a current, former, or prospective witness in an adjudicative proceeding and the offender stalked the victim as a result of the victim's testimony or potential testimony.

Telephone Harassment. A person is guilty of telephone harassment if he or she, with intent to harass, intimidate, torment, or embarrass any other person, makes a telephone call to the other person:

- using lewd, lascivious, profane, indecent, or obscene words or language, or suggesting the commission of any lewd or lascivious act;
- anonymously, repeatedly, or at an extremely inconvenient hour, whether or not conversation occurs; or
- threatening to inflict injury on the person or property of the person called or any member of his or her family or household.

Telephone harassment is generally a gross misdemeanor. However, the crime is a class C felony with a seriousness level of III if:

- the offender has a previous conviction for any of several listed crimes, including stalking and harassment, 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 another person.

Although the constitutionality of the state telephone harassment statute has never been addressed by the Washington Supreme Court, provisions in a Bellevue telephone harassment ordinance prohibiting "profane" words or language were held unconstitutionally over-

broad by the court in *City of Bellevue v. Lorang*, 140 Wn.2d 19 (2000).

Summary: A person is guilty of cyberstalking if he or she, with intent to harass, intimidate, torment, or embarrass any other person, and under circumstances not constituting telephone harassment, makes an electronic communication to the other person or a third party via the internet or electronic mail:

- using lewd, lascivious, indecent, or obscene words, images, or language, or suggesting the commission of any lewd or lascivious act;
- anonymously or repeatedly whether or not conversation occurs; or
- threatening to inflict injury on the person or property of the person contacted or any member of his or her family or household.

"Electronic communication" is defined as the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means. The term includes electronic mail, internet based communications, pager service, and electronic text messaging.

Cyberstalking is generally a gross misdemeanor. However, the crime is a class C felony with a seriousness level of III if:

- the offender has a previous conviction for any of several listed crimes, including stalking, harassment, and telephone harassment, 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 another person.

Cyberstalking is added to the list of crimes, a previous conviction for which causes harassment, stalking, telephone harassment, and cyberstalking to be elevated to a class C felony.

Votes on Final Passage:

House	97	0
Senate	47	0

Effective: March 24, 2004 (Sections 1, 2 and 4-8)
July 1, 2004 (Section 3)

SHB 2781

C 197 L 04

Changing provisions relating to expedited state agency review of development regulations.

By House Committee on Local Government (originally sponsored by Representatives Upthegrove, Schindler, Jarrett, Clibborn and Schual-Berke).

House Committee on Local Government
Senate Committee on Land Use & Planning

Background: The Growth Management Act (GMA) establishes a comprehensive land use planning framework for county and city governments in Washington.

Counties and cities meeting specific population and growth criteria are required to comply with the major requirements of the GMA. Counties not meeting these criteria may choose to plan under the GMA. Twenty-nine of 39 counties, and the cities within those 29 counties, are required to or have chosen to comply with the major requirements of the GMA (GMA jurisdictions).

GMA jurisdictions must adopt internally consistent comprehensive land use plans (comprehensive plans), which are generalized, coordinated land use policy statements of the governing body. GMA jurisdictions also must adopt development regulations that are consistent with and implement the comprehensive plan.

Comprehensive plans and development regulations are subject to continuing review and evaluation by the adopting county or city. With limited exceptions, however, amendments to a comprehensive plan may be considered by the governing body of the local jurisdiction no more frequently than once every year. Additionally, GMA jurisdictions must review and, if needed, revise their comprehensive plans and development regulations according to a statutory schedule.

The Department of Community, Trade, and Economic Development (CTED) provides technical and financial assistance to jurisdictions implementing the GMA. The CTED also adopts procedural criteria to assist counties and cities in adopting comprehensive plans and development regulations that meet the goals and requirements of the GMA.

Proposed amendments for permanent changes to an adopted comprehensive plan or development regulation must be submitted by the proposing jurisdiction to the CTED at least 60 days prior to final adoption. State agencies, including the CTED, may provide comments to the county or city on the proposed amendment during a public review process prior to adoption. Amendments must be transmitted to the CTED within 10 days after final adoption.

Summary: Counties and cities planning under the Growth Management Act (GMA) may request expedited review for any amendments for permanent changes to a development regulation. The Department of Community, Trade, and Economic Development (CTED) may, after receiving a request and consultation with other state agencies, grant expedited review if the CTED determines that expedited review does not compromise the state's ability to provide timely comments related to compliance with the goals and requirements of the GMA or on other matters of state interest. Counties and cities may adopt amendments for permanent changes to a development regulation immediately following the granting of the request for expedited review.

Votes on Final Passage:

House 93 0
Senate 43 1

Effective: June 10, 2004

ESHB 2784

C 237 L 04

Creating the small business incubator program.

By House Committee on Trade & Economic Development (originally sponsored by Representatives Pettigrew, Skinner, O'Brien, Conway, Hunt, Cooper, Cairnes, Eickmeyer, Jarrett, Sullivan, Kirby, G. Simpson, Ruderman, Hatfield, Moeller, Chase, Kenney, Morrell, Hudgins and Murray).

House Committee on Trade & Economic Development
House Committee on Appropriations
Senate Committee on Economic Development
Senate Committee on Ways & Means

Background: Business incubation is a dynamic process of business enterprise development. Incubators provide hands-on management assistance, access to financing and orchestrated exposure to critical business or technical support services. Most business incubators also offer entrepreneurial firms shared office services, access to equipment, flexible leases, and expandable space.

An incubation program's main goal is to produce businesses that are financially viable and freestanding when they leave the incubator, usually after two or three years. Approximately 30 percent of incubator clients graduate each year.

Some business incubators accept a mix of industries while others concentrate on industry niches. According to the National Business Incubation Association, 47 percent of business incubation programs identify themselves as mixed use. Thirty-seven percent of the incubators focus solely on technology companies. Seven percent of business incubation programs are dedicated to manufacturing.

Summary: The Washington Small Business Incubator and Assistance Act of 2004 creates the Small Business Incubator (SBI) program which will be administered by the Department of Community, Trade and Economic Development (DCTED).

The DCTED will award grants of up to \$3 million to qualified SBI organizations for the construction and equipment needs of the SBI facility. In order to receive the grant, the qualified SBI must show that it has the resources to complete the project in a timely manner and that the state grant is not the sole source of funds. In addition to the facilities funds, the DCTED may provide technical assistance, up to a maximum of \$125,000 per year, per facility, to a qualified SBI for support services and the operation of the SBI facilities.

A SBI is defined as a physical location that offers:

- space for start-up and expanding firms with viable products;
- the shared use of equipment and work areas;
- daily management support services essential to high-quality commercial operations; and

- technical assistance.

To qualify for money under the SBI Program, an SBI organization must be a nonprofit 501(c)(3) organization focused on developing small businesses in an economically distressed or disadvantaged area. It must also have a sound business plan and meet other standards developed by the DCTED, in conjunction with the Washington Association of Small Business Incubators.

An SBI Account is created in the custody of the State Treasurer. The DCTED will accept and receive grants, gifts, and pledges for the support of the SBI program.

Votes on Final Passage:

House	81	15	
Senate	46	0	(Senate amended)
House	89	7	(House concurred)

Effective: June 10, 2004

ESHB 2787

C 87 L 04

Providing immunity from liability for licensed health care providers at community health care settings.

By House Committee on Health Care (originally sponsored by Representatives Kessler, Campbell, Cody, Morrell, Schual-Berke, Clibborn, Moeller, Upthegrove and Kagi).

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

Background: The Good Samaritan Act provides immunity from liability for individuals who provide emergency care at the scene of an emergency without expectation of compensation. In 2003, the Good Samaritan Act was amended to include immunity provisions for physicians who volunteer health care services at public or nonprofit community clinics. These immunity provisions do not apply to acts or omissions that constitute gross negligence.

In 1997 the Congress passed the Volunteer Protection Act which provides immunity from liability for individuals volunteering their services for government or nonprofit entities as long as the volunteer does not commit an act or omission that constitutes gross negligence. In 2001 Washington passed immunity protections to enact more specific standards than the Volunteer Protection Act. In Washington, volunteers for a nonprofit entity only receive the immunity protection when the entity maintains a prescribed amount of liability insurance relative to its revenues.

Summary: Immunity coverage under the Good Samaritan Act for individuals volunteering health care services in certain health care settings is expanded beyond physicians to include all licensed health care providers regulated by certain disciplining authorities.

In addition to the immunity available at public and nonprofit clinics, a health care provider may be immune from liability when volunteering health care services at a for-profit corporation or hospital-based clinic that holds itself out to the public as having, and actually maintains, established hours on a regular basis for providing free health care services to the public. A health care provider may also be immune from liability when volunteering health care services at a for-profit corporation or hospital-based clinic through participation in a community-based program to provide access to such services to uninsured individuals. The health care provider's participation in the program must be conditioned upon providing health care services without compensation or the expectation of compensation.

Votes on Final Passage:

House	92	6	
Senate	49	0	(Senate amended)
House	96	0	(House concurred)

Effective: June 10, 2004

SHB 2788

C 184 L 04

Establishing priority for funds in the liability insurance program for retired primary care providers volunteering to serve low-income patients.

By House Committee on Health Care (originally sponsored by Representatives Kessler, Schual-Berke, Cody, Morrell, Clibborn, Campbell, Moeller, Darneille, Buck and Kagi).

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

Background: The Department of Health administers a program to purchase malpractice insurance for certain retired primary health care providers who volunteer their services at community clinics. In order to qualify, the provider must be a physician, naturopath, physician assistant, advanced registered nurse practitioner, dentist, or other health care provider whose profession is determined to be in short supply. Providers may only perform primary health care services which are limited to noninvasive procedures. Providers may not perform any obstetrical care or specialized care and procedures. Participating providers must practice at community clinics that are public or private nonprofit organizations.

Summary: The requirement that the Department of Health's retired primary care provider liability insurance purchasing program be available only to volunteers at public or private nonprofit community clinics is broadened to include any clinic serving low-income patients that is a public entity, private nonprofit corporation, or other established practice setting as defined by the Department of Health. If program funding does not

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cover all applicants, priority is given to providers practicing at public or nonprofit entities.

The definition of a primary care provider is broadened to include specialists practicing in a primary care capacity.

Votes on Final Passage:

House	88	10
Senate	49	0

Effective: June 10, 2004

HB 2794

C 63 L 04

Allowing licensees to pay for liquor using debit and credit cards.

By Representatives Condotta and Wood.

House Committee on Commerce & Labor
House Committee on Finance
Senate Committee on Commerce & Trade

Background: Washington operates 154 liquor stores directly and contracts with vendors to operate an additional 157. Spirits (hard liquor) may be sold only in these stores.

In 1997, the Legislature authorized purchases at state-operated liquor stores by individual consumers (anyone other than a licensee) using credit or debit cards. The legislation also permitted vendor-operated liquor stores to accept credit and debit cards from non-licensees. The following year, the Legislature directed the Liquor Control Board (Board) to pay for acquisition and maintenance of credit card machines at liquor stores through the Liquor Revolving Fund.

There are 3,056 restaurants licensed by the Board to sell beer, wine, and spirits for on-premises consumption. In the absence of authority to use credit and debit cards, restaurants and other organizations licensed by the Board either pay cash for purchases from state liquor stores or enter into a check signing agreement with the Board.

Summary: Restaurants and other organizations licensed by the Board may use credit or debit cards for liquor store purchases.

Votes on Final Passage:

House	93	3
Senate	46	2

Effective: June 10, 2004

ESHB 2797

C 192 L 04

Increasing access to health insurance options for certain persons eligible for the Federal Health Coverage Tax Credit under the Trade Act of 2002 (P.L. 107-210).

By House Committee on Health Care (originally sponsored by Representatives Morrell, Cody, Linville, G. Simpson, Edwards, Kenney and Ormsby; by request of Insurance Commissioner).

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

Background: One of the effects of international trade is domestic job loss and dislocation. To help workers who lose their jobs as a result of international trade, Congress enacted the Trade Act of 2002 (P.L. 107-210). The Trade Act provides a federal tax credit that subsidizes private health insurance coverage for displaced workers certified to receive certain trade adjustment assistance benefits and for persons over age 55 who receive benefits from the Pension Benefit Guaranty Corporation.

Summary: Subject to approval as a qualified plan, the Health Care Authority is authorized to offer the Basic Health Plan as a qualified plan for the federal Health Coverage Tax Credit Program. Eligible persons may enroll in the Basic Health Plan as a health coverage tax credit enrollee.

The Administrator of the Health Care Authority will collect premiums for the Basic Health Plan from health coverage tax credit eligible enrollees in an amount sufficient to cover the cost charged by the managed health care system provider, plus the administrative cost of providing the plan to the enrollee. The Administrator will establish a mechanism for receiving premium payments from the Internal Revenue Service for health coverage tax credit eligible enrollees. The Administrator is authorized to end the participation of persons eligible for the Basic Health Plan if the federal government reduces or terminates financial support for them. Carriers that serve subsidized Basic Health Plan enrollees are not required to serve health coverage tax credit enrollees.

Votes on Final Passage:

House	95	0
Senate	49	0 (Senate amended)
House	96	0 (House concurred)

Effective: January 1, 2005

SHB 2802

C 234 L 04

Establishing penalties for trading in nonambulatory livestock.

By House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Schoesler, Linville, Romero, Grant, Shabro, Schual-Berke, Rockefeller, Flannigan, Alexander, Hudgins, Anderson, Ruderman, Sump, Murray, Boldt, Darneille, Clements, Dickerson, Newhouse, Hunt, Lantz, McDermott, Kenney, Haigh, Clibborn, Kristiansen, Holmquist, Quall, O'Brien, Eickmeyer, Woods, Buck, Bailey, Kessler, G. Simpson, Morrell, Wallace, Lovick, Edwards, Benson, Pearson, Nixon, Armstrong, Hinkle, Wood, Moeller, Ahern, Roach, Cooper, McCoy, Cody, Conway, Kagi, Ormsby, Skinner, McMorris, Campbell, Sullivan, Chase, Santos and Condotta).

House Committee on Agriculture & Natural Resources
Senate Committee on Agriculture

Background: Federal Law. Interstate commerce in food and consumer products is subject to a variety of federal laws. Under federal law, the import, export, transport, treatment, and slaughter of livestock are regulated. In addition, food standards, food labeling, animal feed, and consumer products that include animal byproducts are regulated under federal law.

State Law. Washington's animal health laws authorize the Director of the Washington State Department of Agriculture (WSDA) to take actions to control animal disease. Among other powers, the WSDA Director may issue "hold orders" for up to seven days for disease control and other purposes, require permits for import of animals with or exposed to reportable diseases, and require immediate report of livestock infected with or exposed to certain diseases. Washington law also includes provisions for inspection and testing, health certification for animal importation, destruction of diseased animals, and disposal of animal carcasses. State law makes violation of the state animal health laws a gross misdemeanor and also authorizes civil enforcement actions for violations.

Further, state law includes standards for treatment of livestock and other animals. State law requires humane slaughter of livestock and imposes sanctions for violations. State animal cruelty statutes prohibit certain practices and activities involving animals, including transporting or confining animals in an unsafe manner. In addition, the animal cruelty statutes establish two classes of criminal violations. Animal cruelty in the first degree, a class C felony, involves intentionally inflicting substantial pain on, causing physical injury to, or killing an animal by a means that causes undue suffering. Animal cruelty in the second degree (a misdemeanor) is committed when a person knowingly, recklessly, or with criminal negligence inflicts unnecessary suffering or pain upon an animal. The state animal cruelty laws do

not apply to accepted husbandry practices that are used in the commercial raising or slaughtering of livestock.

Bovine Spongiform Encephalopathy. The December 2003 detection of Bovine Spongiform Encephalopathy (BSE) in a holstein cow in Washington became the first confirmed BSE case in the United States. BSE is a fatal neurological disorder affecting the brain and central nervous system of cattle and is part of a family of transmissible spongiform encephalopathies affecting humans and other animals. According to the federal Centers for Disease Control and Prevention (CDC), evidence suggests a causal relationship between outbreaks of BSE in European cattle and a human disease known as new variant Creutzfeldt-Jakob disease (vCJD). Both BSE and vCJD are invariably fatal brain diseases with long incubation periods caused by an unconventional transmissible agent. There is no known cure or treatment for either BSE or vCJD.

Summary: Transport or accepting delivery of live nonambulatory livestock is a criminal violation of the state's animal cruelty laws under certain circumstances. Any person who knowingly transports or accepts delivery of live nonambulatory livestock to, from, or between any livestock market, feedlot, slaughtering facility, or similar facility that trades in livestock is guilty of a gross misdemeanor. The transport of each nonambulatory livestock animal is a separate and distinct violation. However, livestock that was ambulatory before transport to a feedlot and became nonambulatory through injury during transport may be unloaded and placed in a separate pen at the feedlot for rehabilitation.

"Nonambulatory livestock" is defined for purposes of the criminal violation as cattle, sheep, swine, goats, horses, mules, or other equine that cannot rise from a recumbent position or cannot walk. The definition includes those livestock with broken appendages, severed tendons or ligaments, nerve paralysis, a fractured vertebral column, or metabolic conditions.

Nonambulatory livestock must be humanely euthanized before transport to, from, or between livestock markets, feedlots, slaughtering facilities, or similar facilities trading in livestock.

Votes on Final Passage:

House	96	0	
Senate	49	0	(Senate amended)
House	94	2	(House concurred)

Effective: March 31, 2004

HB 2811
C 191 L 04

Modifying local government permit processing provisions.

By Representatives Jarrett, Upthegrove, Priest, Romero, Shabro, Moeller, Clibborn, Linville, Edwards, Tom, Sullivan and Woods.

House Committee on Local Government
Senate Committee on Land Use & Planning

Background: The Growth Management Act (GMA) establishes a comprehensive land use planning framework for county and city governments in Washington. Counties and cities meeting specific population and growth criteria are required to comply with the major requirements of the GMA. Counties not meeting these criteria may choose to plan under the GMA. Twenty-nine of 39 counties, and the cities within those 29 counties, are required to or have chosen to comply with the major requirements of the GMA (GMA jurisdictions).

GMA jurisdictions must adopt internally consistent comprehensive land use plans (comprehensive plans), which are generalized, coordinated land use policy statements of the governing body. GMA jurisdictions also must adopt development regulations that are consistent with and implement the comprehensive plan.

Development regulations adopted by GMA jurisdictions must establish time periods for local government actions on specific project permit applications, a term defined by statute to include any land use or environmental permit or license required from a local government for a project action. The adopted development regulations also must provide timely and predictable procedures to determine whether a completed application meets the requirements of those regulations and must specify the contents of a completed project permit application. By statute, the time periods for local government actions on specific complete project permit applications or types should not exceed 120 days.

Counties subject to the "buildable lands" provisions of the GMA (Snohomish, King, Pierce, Kitsap, Thurston, and Clark Counties) and the cities within those counties with populations of at least 20,000 must comply with specific requirements related to project permits, including identifying the types of project permit applications for which decisions are issued, establishing deadlines for issuing final decisions, and establishing minimum requirements for complete applications that are consistent with the statutory 120-day standard.

Expired statutory provisions required these same jurisdictions to prepare at least two annual performance reports according to specified minimum requirements. The reports were required to include the number of complete applications received, the number of complete applications received during the year for which a notice of final decision was issued before the established dead-

line, and other information. In addition, these jurisdictions were required to provide notice of and access to the reports through the county's or city's web site or other reasonable methods. The performance reporting and public notification requirements expired on September 1, 2003, and July 1, 2003, respectively.

The Department of Community, Trade, and Economic Development (CTED) provides technical and financial assistance to jurisdictions implementing the GMA. The CTED also adopts procedural criteria to assist counties and cities in adopting comprehensive plans and development regulations that meet the goals and requirements of the GMA.

Summary: Development regulations adopted according to the Growth Management Act (GMA) must establish and implement time periods for local government actions for each type of project permit application. The time periods for local government actions for each type of complete project permit application should not exceed 120 days and the development regulations must, for each type of permit application, specify the contents of a completed project permit application necessary for complete compliance with the related time periods and procedures.

Counties subject to the "buildable lands" provisions of the GMA and the cities within those counties with populations of at least 20,000 must produce annual reports by project permit application type that comply with specified minimum criteria. The minimum criteria must include the mean processing time and the number standard deviation from the mean.

Jurisdictions subject to the reporting requirements must post electronic facsimiles of the annual performance reports through the county's or city's web site. Web site postings indicating that reports are available by contacting the appropriate department or official do not comply with the specified requirements.

The Department of Community, Trade, and Economic Development (CTED) must work with counties subject to the "buildable lands" provisions of the GMA and certain cities within those counties to review the potential implementation costs of specified reporting requirements. Additionally, the CTED, in cooperation with local governments, must prepare a report summarizing the projected costs, together with recommendations for related state funding assistance, for submission to the Governor and the appropriate committees of the Legislature by January 1, 2005.

Votes on Final Passage:

House	93	0	
Senate	45	0	(Senate amended)
House	95	0	(House concurred)

Effective: June 10, 2004

HB 2817
C 88 L 04

Regulating insurance investments in limited liability companies formed to develop real property.

By Representatives Hatfield and Newhouse.

House Committee on Financial Institutions & Insurance
Senate Committee on Financial Services, Insurance & Housing

Background: Insurers may invest funds only as specifically authorized in the insurance code. With the exception of real estate and mortgage loans, all investments must be interest bearing or interest accruing or dividend or income paying. An insurer may invest in securities, real property, mortgage loans, bonds, and other investments, subject to certain limitations.

An insurer may own and invest in its home office and branch office buildings in an aggregate amount not exceeding 10 percent of its assets, unless approved by the Insurance Commissioner (Commissioner). An insurer may own real property acquired in satisfaction of a loan, mortgage, lien, judgment or other debt previously owed to the insurer. An insurer may invest, in the aggregate, no more than 3 percent of its assets in the following types of real property: required for corporate offices; received as a gift or devise; acquired in exchange for other real property; acquired through a lawful merger or consolidation with another insurer; or, with approval of the Commissioner, real property purchased to protect or enhance the value of the insurer's other real property.

An insurer may invest, in the aggregate, no more than 10 percent of its assets or 50 percent of its surplus less capital and other liabilities (whichever is less). A mutual insurer may invest, in the aggregate, no more than 10 percent of its assets or 50 percent of its surplus over and above the minimum required surplus amount (whichever is less).

An insurer may not invest more than 1 percent of its assets in any one investment.

A Limited Liability Company (LLC) is a relatively new business structure authorized in Washington in 1994. LLCs provide owners limited personal liability for the LLC's debts and actions. LLCs are formed by one or more individuals or entities through a special written agreement. The agreement details the organization of the LLC, including provisions for management, assignability of interests, and distribution of profits or losses.

Summary: An insurer may invest in a limited liability company in order to develop its real property so long as the investment does not amount to more than 4 percent of its assets.

Votes on Final Passage:

House	95	0
Senate	43	1

Effective: June 10, 2004

SHB 2830
C 49 L 04

Authorizing a fee for the review of driving records.

By House Committee on Transportation (originally sponsored by Representatives Hudgins, Jarrett, Hatfield, Mielke, Wallace and Nixon).

House Committee on Transportation
Senate Committee on Highways & Transportation

Background: The Department of Licensing (DOL) may provide certified abstracts of driving records covering three years or less to a driver's prospective or current insurance company upon request. The fee for each abstract is \$5. The insurance company or its agent may use the driving record exclusively for its own motor vehicle or life insurance underwriting purposes and may not divulge any of the information to a third party.

Summary: The Director of the DOL is authorized to enter into a contractual agreement with an insurance company or its agent for the purpose of identifying driving records of existing policy holders that have changed during a specified period of time. The fee for this service must be set at a level that will not result in a net loss to the state.

Votes on Final Passage:

House	98	0
Senate	47	0

Effective: June 10, 2004

HB 2838
C 89 L 04

Regulating capital calls by domestic mutual insurers.

By Representatives Benson and Schual-Berke.

House Committee on Financial Institutions & Insurance
Senate Committee on Financial Services, Insurance & Housing

Background: The Insurance Commissioner (Commissioner) is responsible for the licensing and regulation of domestic mutual insurance companies. A domestic mutual insurer is an insurance company that is headquartered in this state, owned by its members, and operated in their interest. The members must be state residents. The policies issued by a domestic mutual insurer must cover lives, property, or risks located in Washington.

The members of a domestic mutual insurer may be required to pay amounts in excess of their policy premiums under certain circumstances. Each member may have a contingent liability for the discharge of the insurer's obligations of between one and five additional premiums at the annual premium rate and for a one-year term. The contingent liability must be stated in the insurer's articles of incorporation, and the policy must

contain a statement of the contingent liability. A domestic mutual insurer may, with the Commissioner's approval, make an assessment on policyholders holding policies within the preceding 12 months that provide for contingent liability if: (1) the insurer's assets are less than its liabilities and the minimum required surplus; and (2) the deficiency is not cured from other sources. The assessment may be made in the amount the Commissioner determines is needed to make the insurer fully solvent, subject to certain limitations.

Insurers must pay to the Commissioner an annual premium tax equal to 2 percent of all premiums collected or received during the preceding calendar year for policies on risks or property resident, situated, or to be performed in this state.

Any person forming an insurer or affiliated entities must obtain a solicitation permit from the Commissioner before advertising or soliciting or receiving any funds, agreement, stock subscription, or membership. Certain requirements for obtaining a solicitation permit also apply to solicitation or receipt of funds after an insurer receives a certificate of authority or completes its initial organization and financing.

Summary: In addition to their statutory assessment authority, domestic mutual insurers are authorized to increase their surpluses by issuing capital calls. A domestic mutual insurer may require policyholders or applicants for insurance to pay a capital call amount – a sum in addition to the premium payment – to be eligible to renew a policy or to be issued a new policy. The insurer may not cancel or deny benefits under an existing policy if a policyholder does not pay the call amount.

Before issuing a capital call, a domestic mutual insurer must have adopted articles of incorporation or documents authorizing capital calls. At least 90 days before issuing the capital call, the insurer also must provide information regarding the insurer's authority to issue a capital call to every policyholder. For any capital call issued on or after January 1, 2006, the insurer must include information regarding the insurer's authority to issue a capital call in every policyholder's policy. This information must be provided at least one full policy renewal cycle before a capital call is issued.

The insurer must provide a notice to the Commissioner of its intent to issue a capital call at least 90 days before issuance. This notice of intent must include:

- the specific purpose(s) of the capital call;
- the total amount intended to be raised for each stated purpose;
- the grounds the insurer relied upon to determine that the capital call is the best available option for raising capital;
- the alternative methods of raising capital the insurer considered, and the reasons for rejecting each alternative in favor of the capital call;

- an annual accounting of all rate filings and actions, total underwriting losses, and total dividends paid in the 10 years preceding filing of the notice of intent; and
- a complete application for a solicitation permit as required by state law.

The Commissioner must approve the policy or insuring instrument, capital call, and solicitation permit before a capital call is issued. The insurer must provide any additional information the Commissioner deems useful or necessary to evaluate the proposed capital call. The Commissioner may deny a capital call if it is not in the best interest of the insurer, policyholders, or citizens of the state. In making this determination, the Commissioner may consider factors such as the insurer's financial health, impact on the marketplace, alternative means of raising capital, frequency of previous capital calls, effect of raising premiums instead of issuing the capital call, impact on state revenue, or any other factor the Commissioner deems proper.

Funds raised by a capital call are not premiums for the purposes of determining premium taxes under state law.

Votes on Final Passage:

House	98	0
Senate	47	0

Effective: March 22, 2004

SHB 2849
C 38 L 04

Eliminating credentialing barriers for sex offender treatment providers.

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Kagi, Cody, Campbell, Bush and Schual-Berke; by request of Department of Health).

House Committee on Criminal Justice & Corrections
Senate Committee on Children & Family Services & Corrections

Background: Sex offender treatment providers are certified by the Department of Health (DOH) after completing the necessary education, experience, and examination requirements. Only certified sex offender treatment providers may provide:

- evaluations for offenders eligible for the Special Sex Offender Sentencing Alternative (SSOSA) and the Special Sex Offender Disposition Alternative (SSODA);
- treatment to convicted or adjudicated sex offenders who are sentenced and ordered into treatment as part of a court order; and
- treatment to sexually violent predators released to a less restricted alternative (LRA) unless specified

exceptions apply. A certified sex offender treatment provider may not provide treatment to sexually violent predators if the provider has been convicted of a sex offense or restricted from practicing any health care profession.

A certified sex offender treatment provider is not liable in a civil action for damages for the injuries or death of another caused by a sexually violent predator or level III sex offender receiving treatment from the provider if the provider is acting within the course of his or her duties and the provider's act or omission did not constitute gross negligence or willful or wanton misconduct. This limited liability does not affect the provider's civil liability for damages caused by the provider's breach of any duty to warn or protect imposed by law. The limited liability does not affect the state's civil liability for damages for injuries or death of another. The certified sex offender treatment provider must report any expressions of intent to harm or other predatory behavior, whether or not there is an ascertainable victim, in progress reports. A certified sex offender treatment provider acts within the scope of his or her profession when he or she provides services to the Department of Corrections (DOC) by identifying and notifying the DOC of risk factors of sex offenders who are not amenable to treatment but who are required under court order to receive treatment.

In 1991 the DOH adopted rules that allowed affiliated sex offender treatment providers (sex offender treatment providers who are "in-training") to become certified. Certified affiliates meet all the requirements that full certified providers meet, except for the clinical experience.

Summary: The DOH is authorized to issue affiliate sex offender treatment provider certifications, determine minimum education, experience, and training requirements, and deny certification in accordance with the Uniform Disciplinary Act.

A certified affiliate sex offender treatment provider is a licensed, certified, or registered health professional who is certified as an affiliate to examine and treat sex offenders and sexually violent predators under the supervision of a certified sex offender treatment provider.

The DOH has the authority to issue an affiliate certificate to any person who:

- successfully completes the education requirements or other alternative training that meets the criteria and approval of the DOH;
- successfully completes the examination administered by the DOH;
- shows proof that he or she is being supervised by a certified sex offender treatment provider;
- has not engaged in unprofessional conduct or has not been unable to practice with reasonable skill and safety as a result of a physical or mental impairment; and

- has met any other requirements as established by the DOH that impact the competence of the sex offender treatment provider.

Similar to certified sex offender treatment providers, affiliate sex offender treatment providers may provide treatment to sex offenders. However, only certified affiliate sex offender treatment providers that have completed at least 50 percent of the required hours under the supervision of a certified provider may perform evaluations for offenders eligible for the SSOSA and the SSODA programs as well as provide treatment to convicted level III sex offenders and sexually violent predators. All other affiliate treatment providers are prohibited from providing evaluations and treatment to such sex offenders.

The same liability standards that relate to certified sex offender treatment providers also pertain to affiliate sex offender treatment providers.

Technical changes are made to statutes referencing certified sex offender treatment providers to include certified affiliate sex offender treatment providers.

Votes on Final Passage:

House	95	0
Senate	44	0

Effective: July 1, 2004

HB 2859

C 27 L 04

Authorizing projects recommended by the public works board.

By Representatives Wallace, Boldt, Dunshee, Orcutt, Lantz, Hankins, Alexander, Linville, Eickmeyer, Murray, Morrell, Upthegrove and Schual-Berke.

House Committee on Capital Budget
Senate Committee on Ways & Means

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

The Account receives dedicated revenue from utility and sales taxes on water, sewer service and garbage collection, a portion of the real estate excise tax, and loan repayments.

The Public Works Assistance Account appropriation is made in the Capital Budget, but the project list is submitted annually in separate legislation. The CTED received an appropriation of approximately \$261 million from the Public Works Assistance Account in the 2003-05 Capital Budget. The funding is available for public works project loans in the 2004 and 2005 loan cycles. Each year, the Public Works Board is required to submit a list of public works projects to the Legislature for approval. The Legislature may remove projects from the list, but it may not add any projects or change the order of project priorities. Legislative approval is not required for pre-construction activities, planning loans, or emergency loans.

Summary: As recommended by the Public Works Board, 79 public works project loans totaling \$236.3 million are authorized for the 2004 loan cycle. The 79 authorized projects fall into the following categories:

- 27 domestic water projects totaling \$57.2 million;
- 29 sanitary sewer projects totaling \$110.4 million;
- three storm sewer projects totaling \$8.6 million;
- 19 road projects totaling \$59.2 million; and
- one bridge project totaling \$1 million.

Votes on Final Passage:

House	95	0
Senate	46	0

Effective: March 22, 2004

SHB 2878
C 79 L 04

Making changes to county treasurer statutes.

By House Committee on Local Government (originally sponsored by Representatives Romero, Alexander and Hunt).

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

Background: Authority and duties of county treasurer. The county treasurer (treasurer) operates under the authority of various state statutes relating to the receipt, processing, and disbursement of funds. The treasurer is the custodian of the county's money and the administrator of the county's financial transactions. In addition to his or her duties relating to county functions, the treasurer provides financial services to special purpose districts and other units of local government, which include responsibility for the receipt, disbursement, investment and accounting of the funds of each of these entities. The treasurer is also responsible for the collection of various taxes, including legal proceedings to collect past due amounts. Furthermore, the treasurer has other miscellaneous duties such as conducting bond sales and sales of surplus county property.

Personal property tax assessments. State law allows property taxes to be levied on broad categories of personal property owned by commercial and business interests. The county assessor is required to make a list of all persons in the county that are subject to the assessment of such personal property taxes. The listed persons must, in turn, make detailed written disclosures to the assessor regarding the personal property that is subject to assessment. A person who fails or refuses to make the requisite disclosures may be subject to monetary penalties which are added to the amount of the tax assessed against the taxpayer. Such penalties are collected in the same manner as the underlying tax.

Personal property tax liens. Taxes owed on personal property are treated as a lien upon the property subject to taxation. In any determination of the legal rights of various creditors who may have claims relating to personal property that is subject to a tax lien, the satisfaction of the tax lien has priority over the satisfaction of a mortgage, judgment, debt, or other legal obligation. Until such time as the taxes and interest are paid in full, it is unlawful for a person to remove from the county any property that is subject to a tax lien.

Summary: Disposition of a decedent's unclaimed property. The responsibility for the public auctioning of unclaimed property found upon the body of decedent is shifted from the county treasurer to the county coroner. The coroner is required to comply with specified procedures with respect to the disposition of unclaimed property, other than money, found upon the body of a decedent.

Administration of county investment pool. The county treasurer may, without regard to budget limitations, use funds deducted from an authorized county investment pool to create a revolving fund to pay the administrative costs of running the pool.

Back taxes owed on destroyed mobile home or trailer. Upon a property owner's filing of the requisite affidavit with the county assessor attesting to the destruction of a mobile home or trailer, the mobile home or trailer must be removed from the tax rolls and any outstanding taxes must be removed by the treasurer.

Distribution of personal property tax penalties. The penalties collected for failure to meet disclosure requirements with respect to taxable personal property must be distributed by the county treasurer in the same manner as other property tax interest and penalties.

Personal property subject to tax liens. A technical amendment is made to the language of the personal property tax lien statute so as to delete the word "priority" from the phrase "priority lien." This amendment makes the language of the statute consistent with other internally-referenced statutes pertaining to the creation and enforcement of tax liens.

Real property tax foreclosure proceedings. The law relating to real property tax foreclosures is clarified by specifying that:

- prior to refunding excess funds derived from a real property tax foreclosure sale, a county treasurer is responsible for paying only those water-sewer district liens that are "recorded"; and
- if no claim is made for excess tax foreclosure sale funds during the three-year period following such sale, all claims to such funds by property owners are extinguished.

Excise tax assessments. Certain municipalities are allowed to impose an excise tax for the furnishing of lodging at a rate not exceeding the rate imposed by the municipality as of January 31, 1999. The effect of this amendment is to extend the date used as a reference point for determining the maximum tax rate from January 1, 1999, to January 31, 1999.

The provision governing excise taxes on lodging is amended to specify that all of the provisions in certain sections of the state excise tax code, relating to the procedures and schedules for the collection of excise taxes, apply to excise taxes on lodging.

Votes on Final Passage:

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

Effective: June 10, 2004

ESHB 2891

C 113 L 04

Modifying public utility district provisions.

By House Committee on Local Government (originally sponsored by Representatives Grant and Mastin).

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

Background: Washington law authorizes the creation of a county-wide public utility district (PUD). The territorial limits of a county-wide PUD are co-extensive with those of the county and include all of the cities within that county that do not already own or operate all utilities that a PUD is authorized to provide.

When a county-wide PUD is first formed in a county with three legislative authority districts, one PUD commissioner is chosen from each of the three legislative authority districts.

The PUD commissioners may change the boundaries of the PUD, subject to certain legal requirements. The boundaries may not be changed more often than once in four years.

Summary: In a county with a federal nuclear reservation within its boundaries, voting precincts are included

in a PUD if they receive at least one utility service (electricity, water, or sewer) from the PUD. Voting precincts in this area are withdrawn from a PUD if a city provides at least one of these services for the voting precinct and the PUD does not provide any of these services.

In order to determine which voting precincts are affected by these requirements, the city and the PUD must provide lists of their customers affected by the act within 10 days of the act's effective date. For those voting precincts that meet these requirements in the future, the lists must be provided within 30 days. The county auditor then has 10 days to determine which voting precincts would have to be included or withdrawn from the PUD. The PUD has 10 days to revise the boundaries of the PUD.

Taxes or assessments levied or assessed before the withdrawal of certain precincts would remain as liens, as would those levies or assessments made to pay or secure an obligation of the PUD duly incurred or issued before the withdrawal.

Votes on Final Passage:

House	93	0
Senate	46	0

Effective: March 24, 2004

SHB 2904

C 193 L 04

Modifying estate adjudication provisions.

By House Committee on Judiciary (originally sponsored by Representatives Lovick, Moeller, Kirby, McMahan and Newhouse; by request of Department of Social and Health Services).

House Committee on Judiciary
Senate Committee on Judiciary

Background: "Probate" is the administration of a dead person's estate under a court's supervision. Washington's probate code covers estates whether or not the decedent has left a will. The probate code provides procedures for transferring a decedent's property and for protecting various potentially competing interests in that property. These interests may be held by family members, joint owners, creditors, and taxing authorities.

Washington's probate code requires that personal representatives be appointed to administer an estate after a person's death. The personal representative is required to publish a general notice to creditors who may have a claim against the estate. If the representative does not publish a general notice, then the representative is required to mail notice of his or her appointment and the pending probate proceedings to the Washington Department of Social and Health Services' Office of Financial Recovery (DSHS).

In some instances, however, no personal representative is appointed to administer an estate, and probate is never initiated. In this case, a person may petition the court for an adjudication of testacy or intestacy and heirship in order to transfer a decedent's property. A person transferring property under such an adjudication is released from liability to the same extent as the person would be if he or she had dealt with a personal representative. The person who obtains the adjudication must only provide notice to the potential heirs, legatees, or devisees of the estate. As a result, estate property may be transferred to the heirs before the DSHS and other creditors are able to collect the decedent's debts.

The DSHS pays more than one hundred million dollars each year to defray the long-term care expenses of the elderly. Federal and state statutes require the DSHS to recover these payments from the estates of deceased elderly recipients of such services.

Summary: When no personal representative has been appointed, the person obtaining the adjudication of testacy, intestacy, or heirship must, within 30 days, provide notice of the adjudication to the Washington Department of Social and Health Services' Office of Financial Recovery along with the decedent's name and social security number.

Any person paying, delivering, transferring, or issuing property to the heir of an estate is not released from liability for assets transferred from the estate until four months after providing notice of adjudication.

Votes on Final Passage:

House	95	2
Senate	49	0

Effective: June 10, 2004

ESHB 2905

C 196 L 04

Modifying provisions for type 1 limited areas of more intensive rural development.

By House Committee on Local Government (originally sponsored by Representatives Hatfield and Jarrett).

House Committee on Local Government
Senate Committee on Land Use & Planning

Background: The Growth Management Act (GMA) establishes a comprehensive land use planning framework for county and city governments in Washington. Counties and cities meeting specific population and growth criteria are required to comply with the major requirements of the GMA. Counties not meeting these criteria may choose to plan under the GMA. Twenty-nine of 39 counties, and the cities within those 29 counties, are required to or have chosen to comply with the major requirements of the GMA (GMA jurisdictions).

Comprehensive Land Use Plans. Among numerous planning requirements, GMA jurisdictions must adopt internally consistent comprehensive land use plans (comprehensive plans), which are generalized, coordinated land use policy statements of the governing body. Each comprehensive plan must include certain elements, including land use, housing, transportation, and rural elements.

The rural element of a comprehensive plan must specify provisions for lands not designated for urban growth, agriculture, forest, or mineral resources. Such provisions include:

- allowing counties to consider local circumstances when establishing patterns of rural densities and uses;
- permitting specific development, varieties of densities, uses, essential public facilities, and rural government services;
- requiring measures governing rural development, including measures to protect an area's rural character; and
- permitting limited areas of more intensive rural development (LAMIRDs), including necessary public facilities and public services to serve limited areas.

Limited Areas of More Intensive Rural Development. Subject to GMA requirements, counties may permit three types of LAMIRDs providing for the following:

- *Rural Development* – allowing the infill, development, or redevelopment of existing commercial, industrial, residential, or mixed-use areas.
- *Recreational and Tourist Uses* – allowing intensification of development on lots containing, or new development of, small-scale recreational or tourists uses.
- *Nonresidential/Cottage Industry* – allowing intensification of development on lots containing isolated nonresidential uses or new development of isolated cottage industries and isolated small-scale businesses.

Summary: Any development or redevelopment within the first type of limited areas of more intensive rural development (i.e., rural development LAMIRDs), other than an industrial area or an industrial use within a mixed-use or industrial area, must be principally designed to serve the existing and projected rural population. Any development or redevelopment within this type of LAMIRD in terms of building size, scale, use, or intensity must be consistent with the character of the existing areas. Development or redevelopment may include changes in use from vacant land or a previously existing use if the new use conforms to specific requirements of the Growth Management Act.

Votes on Final Passage:

House 93 0
 Senate 46 0

Effective: June 10, 2004

SHB 2908

C 188 L 04

Strengthening accountability for salvage vehicles.

By House Committee on Transportation (originally sponsored by Representatives Mielke, O'Brien, Ahern, Pearson and Boldt).

House Committee on Transportation

Senate Committee on Highways & Transportation

Background: When a vehicle is wrecked beyond repair or declared a total loss, the owner must surrender the title and registration to the Department of Licensing (DOL) within 15 days of the accident. Once the title is surrendered to the DOL on the grounds of being a total loss, the vehicle is considered a "salvage vehicle." If the salvage vehicle is rebuilt, the DOL is required to issue a special title and registration with the words "WA Rebuilt" displayed across the front of the document. After inspecting the rebuilt vehicle, the Washington State Patrol (WSP) inscribes a marking on the inside of the driver's side door indicating that the vehicle was previously destroyed or declared a total loss.

To be designated as a salvage vehicle, the vehicle must be damaged to the extent that the cost of repairs plus the salvage value make the vehicle uneconomical to repair and (1) must have a model year designation of a calendar year that is less than six years before the calendar year in which the vehicle was wrecked, destroyed, or damaged, unless (2) it has a model year designation of a calendar year that is less than 20 years before the calendar year in which the vehicle was wrecked, destroyed, or damaged and has a fair market value of at least \$6,500 prior to being destroyed.

The WSP does not have specific rulemaking authority relating to salvage vehicles and salvage vehicle inspections.

Summary: A physical examination is required for vehicles declared totaled or salvage under Washington law. The physical examination is also required for salvage vehicles from other states that have not been rebuilt or repaired within the jurisdiction of that state.

An inspection must verify that the vehicle identification number is genuine and agrees with the number shown on the original documents supporting the vehicle purchase or ownership. If the vehicle to be inspected has been rebuilt or repaired, all invoices, including retail sales or use tax, must be shown at the time of inspection. If the presenter is unable to provide proof of ownership

for the vehicle or major component parts, an inspection must be completed for ownership-in-doubt purposes.

A vehicle must have all damaged major component parts replaced or repaired, and the vehicle presented for inspection must meet all lighting and equipment standards specified by statute.

Votes on Final Passage:

House 93 0
 Senate 45 0

Effective: June 10, 2004

SHB 2910

C 35 L 04

Authorizing special license plates for fire fighters and paramedics.

By House Committee on Transportation (originally sponsored by Representatives G. Simpson, Cooper, Woods, Hinkle and Conway).

House Committee on Transportation

Senate Committee on Highways & Transportation

Background: The Special License Plate Review Board (SLPRB) was created in 2003. The SLPRB is charged with reviewing special license plate applications from groups requesting the creation of a special license plate series. Upon review and approval, the SLPRB forwards the application to the Legislature.

On January 26, 2004, the SLPRB formally approved the Washington State Council of Fire Fighters' license plate application.

Summary: Beginning with vehicle registrations due or to become due in January 2005, the Department of Licensing (DOL) must issue a special license plate displaying a symbol denoting professional fire fighters and paramedics. Applicants must provide proof of membership in the Washington State Council of Fire Fighters (WSCFF).

An applicant for a professional fire fighters and paramedics license plate must pay an initial fee of \$40 and a renewal fee each year thereafter of \$30. The initial revenue generated from the plate sales must be deposited into the Motor Vehicle Account until the state has been reimbursed for the implementation costs. Upon reimbursement, the revenue must be deposited into the Washington State Council of Fire Fighters Benevolent Fund Account.

The DOL must enter into a contract with a qualified nonprofit organization requiring that the organization use the revenue generated by the license plate sales to disseminate funds for charitable purposes on behalf of members of the WSCFF, their families, and others deemed in need.

SHB 2919

Votes on Final Passage:

House 98 0
Senate 49 0

Effective: June 10, 2004

SHB 2919

C 106 L 04

Adjusting ORV fees.

By House Committee on Fisheries, Ecology & Parks (originally sponsored by Representatives Condotta, Cooper and Hinkle).

House Committee on Fisheries, Ecology & Parks
House Committee on Capital Budget
Senate Committee on Parks, Fish & Wildlife
Senate Committee on Ways & Means

Background: Persons wishing to operate an off-road vehicle (ORV) in Washington must obtain an ORV use permit from the Department of Licensing (DOL) or an authorized agent. There are several exceptions to the ORV use permit requirement, including ORVs operated by federal, state, or local governments and ORVs operated on lands owned or leased by the operator. In addition, ORVs registered as vehicles for valid operation on state highways are not required to obtain an ORV use permit.

An annual ORV use permit or a renewal costs \$5. Temporary ORV use permits, which are valid for 60 days, cost \$2.

After retaining sufficient funds to cover administrative expenses for the DOL, moneys collected for ORV use permits are deposited in the Nonhighway and Off-road Vehicle Program Activities (NOVA) account, along with NOVA funds from the motor vehicle fuel tax refund. The Interagency Committee for Outdoor Recreation (IAC) oversees the NOVA grant program, providing funding for the development and management of ORV and nonhighway road recreation facilities. Moneys from ORV permit use fees may only be expended for ORV recreation facilities.

Summary: ORV use permit fees are modified for registrations that are due on or after November 1, 2004. The fee for an annual ORV use permit or a renewal is increased from \$5 to \$18. Temporary 60 day ORV use permit fees are increased from \$2 to \$7.

Votes on Final Passage:

House 80 16
Senate 41 8

Effective: June 10, 2004

SHB 2929

C 235 L 04

Providing temporary tax relief for Washington beef processors.

By House Committee on Finance (originally sponsored by Representatives Schoesler, Grant, Chandler, Linville, Delvin, Cairnes, Sump, Mastin, Newhouse, Morris, Holmquist, Ericksen, McDonald, Clements, Conway, Condotta, Hinkle, Skinner, Armstrong, Kristiansen, Hatfield, Kirby, Sullivan, Pearson, Shabro and Hankins).

House Committee on Finance
Senate Committee on Agriculture
Senate Committee on Ways & Means

Background: Washington's major business tax is the business and occupation (B&O) tax. The B&O tax is imposed on the gross receipts of business activities conducted within the state, without any deduction for the costs of doing business. The tax is imposed on the gross receipts from all business activities conducted within the state. Although there are several different rates, the most common rates are 0.471 percent for retailing, 0.484 percent for wholesaling, and 1.5 percent for service activity. Businesses that are involved in more than one kind of business activity are required to segregate their income and report under the appropriate tax classification based on the nature of the specific activity.

The slaughtering, breaking, processing, and wholesaling of perishable meat products is taxable at a rate of 0.138 percent when the product is sold at wholesale only and not at retail.

On December 23, 2003, a Washington cow that had been imported from Canada tested positive for Bovine Spongiform Encephalopathy (BSE). On December 24, 2003, Japan, Mexico, the Republic of Korea, and many other nations banned imports of U.S. beef. For the first 11 months of 2003, Japan, Mexico, and the Republic of Korea imported nearly 2 billion pounds of beef from the U.S. These three countries represent over 80 percent of U.S. beef exports.

Summary: A B&O tax deduction is allowed for the slaughtering, breaking, processing, and wholesaling of perishable beef products for firms that slaughter cattle. The deduction is available until Japan, Mexico, and the Republic of Korea lift import bans on beef and beef products from the United States.

Votes on Final Passage:

House 96 0
Senate 40 9 (Senate amended)
House 79 17 (House concurred)

Effective: March 31, 2004

ESHB 2933

C 3 L 04

Clarifying collective bargaining processes for individual providers.

By House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Cody, Benson, Ormsby, O'Brien, Sullivan, Wood and Morrell).

House Committee on Commerce & Labor
Senate Committee on Ways & Means

Background: Long-term Care Services. The state contracts with agency and individual home care workers to provide long-term care services for elderly and disabled clients who are eligible for publicly funded services through the Department of Social and Health Services' (DSHS) Aging and Adult Services and Developmental Disabilities programs. These services are provided through the Medicaid Personal Care program, state-funded programs such as Chore, or under a home and community-based waiver granted by the federal Department of Health and Human Services, which allows the program to continue receiving federal Medicaid funds. Home care workers provide DSHS clients with personal care assistance with various tasks such as toileting, bathing, dressing, ambulating, meal preparation, and household chores. These individual home care workers are hired and fired by the client, but are paid by the DSHS.

Initiative 775 – Collective Bargaining for Individual Home Care Workers. In November 2001 the voters enacted Initiative Measure No. 775 (I-775). Under the initiative, consumers of services retain the right to select, hire, supervise the work of, and terminate any individual home care worker providing them with services, while the DSHS pays the unemployment insurance contributions to cover these workers. I-775 also provides individual home care workers with collective bargaining rights under the Public Employees' Collective Bargaining Act (PECBA). The Home Care Quality Authority (HCQA) was created as an agency of state government to provide oversight of home care services and, solely for purposes of collective bargaining, to function as the "public employer" of approximately 26,000 individual home care workers. I-775 states that the individual home care workers are not, because of these provisions, employees of the state for any purpose.

Individual home care workers do not have the right to strike and are covered by the binding interest arbitration provisions of the PECBA.

Under I-775, the Governor must submit a request to the Legislature for the funds and any legislative changes necessary to implement a collective bargaining agreement covering individual home care workers within 10 days of the agreement's ratification. The Legislature may only approve or reject the submission of the request for funds as a whole. If the Legislature rejects or fails to

act on the submission, the collective bargaining agreement will be reopened solely for the purpose of renegotiating the funds necessary to implement the agreement.

In August 2002 the individual home care workers voted to unionize. An initial contract submitted to the Legislature in January 2003 was returned to the parties for renegotiation after the Legislature rejected the contract in the 2003-2005 Operating Budget.

Initiative 775 – Agency Liability for Conduct of Individual Home Care Workers. I-775 provides that the HCQA, the Areas Agencies on Aging, or their contractors, may not be held vicariously liable for the action or inaction of an individual home care worker.

In a tort case, the defendant is generally not responsible for the negligent acts of third persons. However, the defendant may be held vicariously liable for actions of others. For example, the defendant might be held liable for the action or inaction of his or her agent who is acting within the scope of the agency relationship.

Generally, a defendant in a tort case is responsible only for his or her own percentage of fault in causing the plaintiff's harm. In some instances, however, multiple defendants may be "jointly and severally" liable for the whole of the plaintiff's damages. This joint and several liability means that any one defendant may be required to pay all of the damages.

Although, at common law, states have sovereign immunity from tort liability, the Legislature has adopted a broad waiver of state sovereign immunity. The courts, however, have limited government liability in some circumstances. These limits are referred to as the "public duty doctrine." There are a number of exceptions to the public duty doctrine, including that a governmental entity is not protected from liability if the governmental entity had a special relationship with the injured person. A special relationship arises where: (1) there is direct contact or privity between the public official and the injured plaintiff which sets the latter apart from the general public; (2) there are express assurances given by the public official; and (3) the plaintiff justifiably relies on the assurances.

Summary: Collective Bargaining Responsibilities. The responsibilities for collective bargaining with representatives of individual home care workers are modified. For purposes of the bargaining law, the Governor is the "public employer." To accommodate the state's role as payor of the community-based services provided to consumers and to ensure coordination with state employee collective bargaining and the coordination necessary for bringing funding requests to the Legislature, the public employer is represented for bargaining purposes by the Governor or the Governor's Labor Relations Office (Office). The Governor or Office must periodically consult with the HCQA during collective bargaining to communicate on issues relating to services received by consumers.

It is expressly stated that the collective bargaining law governs the collective bargaining relationship, not the employment relationship, between the parties. The individual home care workers who are "public employees" only for collective bargaining purposes are not, for that reason, employees of the state, its political subdivisions, or an Area Agency on Aging for any purpose. Individual home care workers are not to be considered state employees as a result of the state assuming responsibility for individual home care worker's unemployment insurance. Individual home care workers are expressly excluded from the statutory provisions that apply to state employees, such as civil service, pension programs, and other employee benefit programs.

Individual home care worker wages, hours, and working conditions are determined solely through collective bargaining. Except for the HCQA, no state agency may establish policies or rules governing wages or hours of individual home care workers. However, these provisions do not modify:

- the DSHS's authority to establish a consumer's plan of care and determine the hours of care for which a consumer is eligible;
- the DSHS's authority to terminate individual home care worker contracts for not adequately meeting the needs of a particular consumer or to deny contracts with individual home care workers;
- the consumer's right to assign hours to one or more individual home care workers within the maximum hours in the plan of care;
- the consumer's right to select, hire, terminate, supervise, and determine the conditions of employment for each individual home care worker providing services to the consumer; the DSHS's obligation to comply with conditions of the federal Medicaid waiver and to ensure federal financial participation; and
- the Legislature's right to make program modifications, including standards of eligibility of consumers and providers and the nature of services provided. This right must be reserved in any collective bargaining agreement.

If any part of a collective bargaining agreement is found to be in conflict with federal requirements that are a condition to the allocation of federal funds to the state, the conflicting part of the agreement is inoperative.

Collective Bargaining Process. Collective bargaining for home care worker agreements must begin by May 1 of the year before the year in which an existing collective bargaining agreement expires.

The Governor's submission of a request for funding to implement a collective bargaining agreement covering individual home care workers must be submitted as part of the Governor's budget proposal to the Legislature. Before the request may be submitted, the request must:

- (1) be submitted to the Office of Financial Management (OFM) by October 1 prior to the legislative session at which the request will be considered, and
- (2) be certified by the Director of the OFM as being feasible financially for the state or reflect the binding decision of an arbitration panel.

The Governor must periodically consult with the Joint Employment Relations Committee regarding appropriations necessary to implement the compensation and fringe benefit provisions of a collective bargaining agreement and, on completing negotiations, advise the Committee of the elements of the agreement and any legislation necessary to implement the agreement.

When an arbitration panel determines a dispute arising from a bargaining impasse involving individual home care workers, the panel must consider, in addition to other factors, the financial ability of the state to pay for compensation and fringe benefit provisions. The decision of an arbitration panel is not binding on the Legislature and, if the Legislature does not fund the compensation and fringe benefit provisions of the arbitrated agreement, the decision is not binding on the HCQA or the state.

If a significant revenue shortfall occurs after the Legislature approves an agreement's compensation and fringe benefit provisions, the parties must negotiate a mutually agreed to modification of the agreement.

Liability. The state and the DSHS, as well as the HCQA and Area Agencies on Aging, and their contractors, are not vicariously or jointly liable for the action or inaction of an individual home care worker. The fact that the following circumstances exist does not constitute a special relationship with the consumer: (1) a collective bargaining agreement; (2) placement of a home care worker on the referral registry; or (3) the development or approval of a plan of care for a consumer who chooses to use an individual home care worker or the provision of case management services to that consumer.

Votes on Final Passage:

House	95	0	
Senate	48	0	(Senate amended)
House	95	0	(House concurred)

Effective: March 9, 2004

HB 2934
C 169 L 04

Limiting homeowners' associations' restrictions on the display of the flag.

By Representatives Wallace, Clements, Jarrett, Sump, Orcutt, Darneille, Moeller, Hudgins, Hunt, Boldt, Morrell, Campbell, Sullivan, Linville, Condotta, Newhouse, Shabro and Kenney.

House Committee on Judiciary
Senate Committee on Financial Services, Insurance & Housing

Background: Homeowners' associations generally levy and collect assessments, manage and maintain common property for the benefit of the residents, and enforce covenants that govern developments. The authority to carry out these functions generally comes from governing documents, such as the declaration of covenants, conditions, and restrictions.

Restrictive covenants are generally recorded in property deeds and may regulate such broad issues as the architectural designs of homes, the size of mailboxes, and the placement of satellite dishes or antennas. A person who purchases property within a subdivision governed by a homeowners association and subject to restrictive covenants becomes a member of the association and generally must abide by the restrictive covenants.

Both the state and federal Constitutions provide that no state shall pass a law impairing the obligation of contracts. Washington courts have held that the state and federal contract clauses are substantially the same and are given the same effect.

A contract is impaired if the statute alters its terms, imposes new conditions, or lessens its value. Even if a substantial impairment of contract occurs, it may not be unconstitutional if it was reasonable and necessary to achieve a legitimate public purpose. A court will compare the level of impairment with the public purposes sought to be advanced by the law.

A retroactive statute is unconstitutional under the due process or contract clauses if the statute is unfair or unreasonable. The test of the constitutionality of retroactive legislation is whether a party has changed position in reliance upon the previous law or whether the retroactive law defeats the reasonable expectations of the parties.

Recently, several states such as Arizona, Florida, and California, have enacted legislation stating that a homeowners' association may not prohibit its residents from displaying the American flag.

Summary: A homeowners' association's governing documents may not prohibit the outdoor display of the United States flag by an owner or resident if the flag is displayed in a manner consistent with federal flag display laws. The association may have reasonable rules

and regulations regarding the placement and manner of display of the United States flag.

In addition, a homeowners' associations' documents may not prohibit the installation of a flagpole for the display of the United States flag. The association may have reasonable rules and regulations regarding the location and size of the flagpole.

"Flag of the United States" means the flag, as defined under the federal flag display laws, that is made of fabric, cloth, or paper and that is displayed from a staff or flagpole or in a window. It does not include a flag depiction made of lights, paint, roofing, siding, paving, materials, or any similar building, landscaping, or decorative component.

The act applies retroactively to any governing documents in effect at the time the act becomes effective.

Votes on Final Passage:

House	94	0	
Senate	47	0	(Senate amended)
House			(House refused to concur)
Senate	47	0	(Senate receded)

Effective: June 10, 2004

EHB 2968
C 241 L 04

Providing excise tax deductions for governmental payments to nonprofit organizations for salmon restoration.

By Representatives Linville, Quall and Rockefeller.

House Committee on Finance
Senate Committee on Ways & Means

Background: Washington's major business tax is the business and occupation (B&O) tax. The B&O tax is imposed on the gross receipts of business activities conducted within the state, without any deduction for the costs of doing business. Businesses must pay B&O tax even though they may not have any profits or may be operating at a loss. Since the B&O tax is not based on profit, nonprofit organizations are not automatically exempt from B&O tax. An exemption from federal income tax does not automatically provide an exemption from state and local taxes. Specific B&O exemptions exist for several types of nonprofit organizations. The eligibility conditions vary for each exemption.

For the B&O tax, a deduction is like an exemption, except in the manner in which it is reported on the taxpayer's return. For an exemption, the taxpayer does not report the exempt income at all. For a deduction, the taxpayer shows the deduction as a reduction from taxable gross income.

Summary: For the B&O tax, a nonprofit organization is allowed a deduction from taxable gross income for government grants received to support salmon restoration purposes.

SHB 2984

Votes on Final Passage:

House 96 0
Senate 49 0

Effective: March 31, 2004

SHB 2984

C 36 L 04

Requiring child fatality reviews for children involved in the child welfare system.

By House Committee on Children & Family Services (originally sponsored by Representatives Shabro, Kagi, Bush, Darneille, Dickerson, Roach, Rodne, Bailey, Boldt, Campbell, Nixon, McDonald, Kenney, Armstrong, Woods, Chase and Hunter).

House Committee on Children & Family Services
Senate Committee on Children & Family Services & Corrections

Background: Local health departments are authorized by law to conduct child mortality reviews. A child mortality review consists of a process for examining factors that contribute to deaths of children under 18 years of age. The process may include the following:

- a systematic review of medical, clinical, and hospital records;
- home interviews of parents and caretakers of children who have died;
- analysis of individual case information; and
- review of this information by a team of professionals in order to identify modifiable medical, socioeconomic, public health, behavioral, administrative, educational, and environmental factors associated with the death.

Separate from the child mortality review, the Children's Administration (CA) of the Department of Social and Health Services (DSHS) conducts internal child fatality reviews when any of the following criteria are met with reference to the death of a child:

- the child's family had an open case with the CA at the time of death;
- the child's family received any services from the CA within the 12 months preceding the death, including a referral for services that did not result in an open case; or
- the death occurred in a home or facility licensed to care for children.

The purpose of the CA's child fatality review process is to conduct an examination of the handling of a case to determine whether or not agency policies, procedures, and practices were properly followed.

Summary: The DSHS is required to conduct a child fatality review in the event of an unexpected death of a minor in the state who is in the care of, or receiving child welfare services from, the DSHS or has been in care of,

or receiving child welfare services from, the DSHS within one year preceding the death.

Upon conclusion of the child fatality review, the DSHS is required to issue a report on the results of the review to the appropriate committees of the Legislature and to make copies of the report available to the public upon request.

The DSHS is required to develop and implement procedures to carry out these requirements.

Votes on Final Passage:

House 93 0
Senate 47 0

Effective: June 10, 2004

SHB 2985

C 173 L 04

Providing for individual health insurance for retired and disabled public employees.

By House Committee on Health Care (originally sponsored by Representatives Cody, Campbell, Kenney, Dickerson and Rockefeller).

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

Background: In 2002 the Legislature enacted legislation requiring political subdivisions to offer retirees and disabled employees access to group health insurance coverage. The legislation took effect on January 1, 2003, but political subdivisions were allowed up to one year from this date to come into compliance. The legislation established a mandate for the political subdivision to offer access to health coverage, but did not require health carriers to offer such coverage. Following the passage of the legislation in 2002, health carriers have declined to offer group policies for public retirees and disabled employees, and political subdivisions have not been able to offer any alternatives to their retirees or disabled employees.

Summary: If political subdivisions are unable to offer access to group health insurance for their retirees and disabled employees, they must assist their retirees and disabled employees in applying for individual health benefit plans. Assistance may include developing standardized information on the availability and cost of individual health benefit plans, application packages, and health benefit fairs. The Office of the Insurance Commissioner must make available health benefit plan information, including a list of carriers that offer individual coverage, rates and how to apply.

Members of the Washington Law Enforcement Officers' and Fire Fighters' Retirement System Plan 2 are included in the public employee retirees and disabled employees who must be assisted.

Votes on Final Passage:

House 95 0
 Senate 49 0

Effective: March 26, 2004

EHB 2987

C 90 L 04

Offering motorcycle or motor-driven cycle insurance.

By Representatives Roach, G Simpson, Dunshee, Murray, Anderson, Hatfield, Cairnes, Delvin, Buck and Woods.

House Committee on Financial Institutions & Insurance
 Senate Committee on Financial Services, Insurance & Housing

Background: Automobile insurance must include coverage for damages resulting from underinsured motor vehicles. An insurer must provide protection for insureds who are legally entitled to recover damages for bodily injury, death, or property damage from owners or operators of underinsured motor vehicles, hit-and-run motor vehicles, and phantom vehicles. This coverage requirement does not apply to insureds operating a motorcycle or motor-driven cycle.

Summary: An insurer who elects to write underinsured motor vehicle coverage for motorcycles or motor-driven cycles must provide information to prospective insureds about underinsured motor vehicle coverage.

Votes on Final Passage:

House 93 0
 Senate 48 0

Effective: June 10, 2004

SHB 2988

C 181 L 04

Protecting the rights of foster parents.

By House Committee on Children & Family Services (originally sponsored by Representatives Boldt, Clements, Pearson, Bailey and McMahan).

House Committee on Children & Family Services
 Senate Committee on Children & Family Services & Corrections

Background: House Bill 1102, relating to foster parents rights, was enacted in 2001 with a partial veto by the Governor. House Bill 1102 provided that foster parents have the right to be free of coercion, discrimination, and reprisal in serving foster children, including the right to voice grievances about treatment furnished or not furnished to the foster child.

Two sections of the bill were vetoed by the Governor. One of those two vetoed sections provided that no Department of Social and Health Services (DSHS) employee may retaliate against a foster parent or in any other manner discriminate against any foster parent because:

- the foster parent made a complaint with the Office of the Family and Children's Ombudsman (OFCO), the Attorney General, law enforcement agencies, or the DSHS, provided information, or otherwise cooperated with the investigation of such a complaint;
- the foster parent has caused to be instituted any proceedings under or related to Title 13 RCW, relating to juvenile courts and juvenile offenders;
- the foster parent has testified or is about to testify in any proceedings under or related to Title 13 RCW, relating to juvenile courts and juvenile offenders;
- the foster parent has advocated for services on behalf of the foster child;
- the foster parent has sought to adopt a foster child in the foster parent's care; or
- the foster parent has discussed or consulted with anyone concerning the foster parent's rights under chapter 74.13 RCW, relating to child welfare services, chapter 74.15 RCW, relating to the care of children, expectant mothers, and developmentally disabled, or chapter 13.34 RCW, relating to dependencies.

Summary: A foster parent may file a complaint with the OFCO if the foster parent believes that a DSHS employee has retaliated or in any other manner discriminated against the foster parent because:

- the foster parent made a complaint with the OFCO, the Attorney General, law enforcement agencies, or the DSHS, provided information, or otherwise cooperated with the investigation of such a complaint;
- the foster parent has caused to be instituted any proceedings under or related to Title 13 RCW, relating to juvenile courts and juvenile offenders;
- the foster parent has testified or is about to testify in any proceedings under or related to Title 13 RCW, relating to juvenile courts and juvenile offenders;
- the foster parent has advocated for services on behalf of the foster child;
- the foster parent has sought to adopt a foster child in the foster parent's care; or
- the foster parent has discussed or consulted with anyone concerning the foster parent's rights under chapter 74.13 RCW, relating to child welfare services, chapter 74.15 RCW, relating to the care of children, expectant mothers, and developmentally disabled, or chapter 13.34 RCW, relating to dependencies.

The OFCO is required to include in its annual report its recommendations regarding complaints filed by foster parents who believe that a DSHS employee has retaliated

or in any other manner discriminated against them. The OFCO is also required to identify trends which may indicate a need to improve relations between the DSHS and foster parents.

The DSHS is required to develop procedures for responding to recommendations of the OFCO as a result of any and all complaints filed by foster parents who believe that a DSHS employee has retaliated or in any other manner discriminated against them.

Votes on Final Passage:

House	93	0	
Senate	47	0	(Senate amended)
House			(House refused to concur)
Senate	49	0	(Senate amended)
House	96	0	(House concurred)

Effective: June 10, 2004

EHB 3036
C 168 L 04

Modifying unclaimed property laws for gift certificates.

By Representatives Hunter, Cairnes, Roach and Nixon.

House Committee on Finance

Senate Committee on Financial Services, Insurance & Housing

Background: The Uniform Unclaimed Property Act governs the disposition of intangible property that is unclaimed by its owner. A business that holds unclaimed intangible property must transfer it to the Department of Revenue (DOR) after a holding period set by statute. The holding period varies by type of property, but for most unclaimed property the holding period is three years. After the holding period has passed, the business in possession of the property transfers the property to the DOR.

The DOR is required to find the rightful owner of abandoned property turned over to the state, if possible. The DOR sends notices to the last known addresses of owners, places advertisements with names of owners in newspapers, sends press releases to television and radio stations, and undertakes other efforts to find owners. The DOR is not required to publish or mail notices when the property value is less than \$75. Abandoned property turned over to the DOR is deposited to the State General Fund. However, the owner of unclaimed property may still come forward and obtain reimbursement from the State General Fund at any time.

Abandoned property is turned over from many sources, including retailers. The types of abandoned property that must ultimately be turned over to the state include gift certificates. In recent years, the DOR has received about \$2.7 million annually in abandoned gift certificate property.

When abandoned gift certificates are transferred to the state, the value that must be reported is the value paid by the purchaser, without any consideration of fees or charges that may have been deducted. This requirement is different than that for some other forms of unclaimed property, such as bank accounts, for which dormancy fees are allowed if there is a contract between the holder of the property and the owner, and if the holder regularly imposes such charges. Gift certificates and other abandoned property are not subject to expiration and may be claimed at any time.

Gift cards or stored value cards are instruments that contain value and that may be redeemed for goods or services sold by the retailer. Some gift cards are issued with dormancy fees, inactivity charges, or other service charges. Such fees are typically activated if no activity has occurred on the card following an established amount of time after the purchase, first use, or most recent use of the card. The fees are deducted from the remaining balance on the card, typically on a monthly basis. Gift cards may also be issued with expiration dates, which eliminate any remaining stored value on the card on a specific date.

Gift cards are not explicitly addressed under the Uniform Unclaimed Property Act. The DOR has issued interpretive materials providing that, for unclaimed property purposes, such cards are a form of gift certificate, and the amount that would be presumed abandoned is the balance on the card at the time that value was added most recently to the card.

In recent years, the use of gift cards has become widespread, relative to the use of traditional gift certificates. The Consumers Union reported that about \$45 billion in gift cards was purchased nationwide in 2003. Some states, including California and Massachusetts, have enacted laws to address issues relating to inactivity charges and expiration dates.

Summary: Abandoned property on gift certificates is exempt from the Uniform Unclaimed Property Act under certain conditions. A gift certificate is defined to mean a record evidencing a promise by a seller to provide goods or services for the value of the record. Gift certificates include gift cards.

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. Several exceptions are provided from this prohibition, as long as the expiration date is clearly legible on the certificate. Exceptions are allowed for gift certificates issued pursuant to awards or loyalty programs or for gift certificates donated to charity for use by the charity in providing charitable services. A third exception is provided for gift certificates donated to charities for fund raising purposes, if the expiration date is at least one year from issuance by the charity. A fourth exception is provided for gift certificates sold by an

artistic or cultural organization, if the expiration date is at least three years from date of issuance and if the remaining value of certificates at the time of expiration accrues to the benefit of the organization.

If there is a balance on a gift certificate, then that balance must be made available as cash or gift certificate at the option of the retailer. If the balance is less than \$5, the balance must be made available as cash if demanded by the consumer.

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 6 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.

The requirement that the date be clearly legible on the certificate may be met by affixing a sticker with the date onto the certificate.

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 certificates if stolen, pay interest on unredeemed balances, or maintain separate accounts to cover the value of gift certificates. Gift certificates do not create an interest in any property of the issuer or create a fiduciary relationship with the issuer.

The new requirements do not apply to gift certificates that are issued by financial institutions and usable with multiple unaffiliated sellers. In a dissolution of a business association, an issuer is not required to honor a gift certificate if the certificate has been presumed abandoned and delivered to the DOR.

Votes on Final Passage:

House	94	0
Senate	49	0

Effective: June 10, 2004

July 1, 2004 (Sections 13 and 14)

January 1, 2005 (Sections 15 and 16)

HB 3045

C 198 L 04

Directing the board of natural resources to exchange certain common school trust land.

By Representatives Veloria, Skinner, Dunshee, Kenney, Campbell, Haigh, McDermott, Hankins, Miloscia, Kirby, Lovick, Sullivan, G. Simpson, Rockefeller, Cooper, Santos, Cairnes, Benson, Eickmeyer, Murray, Jarrett, Mastin, Grant, Anderson, Cody, Upthegrove, Chase, Morrell, Tom and O'Brien.

House Committee on Capital Budget

Senate Committee on Ways & Means

Background: The State Board for Community and Technical Colleges oversees 34 institutions, including South Seattle Community College. Community and technical colleges own and lease a variety of facilities related to their education mission.

At the time of statehood, the federal government gave Washington lands to be held in trust for several specified purposes. These include lands for common schools, a state capitol, and lands for charitable, educational, penal, and reformatory institutions purposes. These lands are overseen by the Board of Natural Resources and administered by the Department of Natural Resources. There are approximately 1.75 million acres of common school trust lands and approximately 70,000 acres of charitable, educational, penal, and reformatory institutions trust lands. Income from these trust lands is appropriated in the capital budget, the former for common school construction and the latter for capital programs/facilities of the Department of Social and Health Services and the Department of Corrections.

In 1985, legislation required the Board of Natural Resources to exchange common school trust lands on which three community and technical colleges were located with charitable, educational, penal, and reformatory institutions trust lands (CEPRI trust lands), so that the community and technical colleges could use the CEPRI trust lands at no cost.

Summary: The Board of Natural Resources must exchange the "Hats and Boots" parcel adjacent to the Duwamish Training Center branch of South Seattle Community College, which is currently common school trust land, with land of equal value in the CEPRI trust. After the exchange, which will make the "Hats and Boots" parcel CEPRI trust land, the Board of Natural Resources must lease this parcel to the State Board for Community and Technical Colleges for \$1 per year. The transfer must be done by December 1, 2004. Access to the training facilities established at the Duwamish Training Center must be provided to apprenticeship programs without regard to union affiliation.

SHB 3051

Votes on Final Passage:

House	95	1	
Senate	47	0	(Senate amended)
House	95	0	(House concurred)

Effective: March 29, 2004

SHB 3051

C 64 L 04

Revising notice provisions for proceedings involving Indian children.

By House Committee on Juvenile Justice & Family Law (originally sponsored by Representatives Pettigrew, Cairnes, Santos, McCoy, Sump, Linville, Buck, Chase and Upthegrove).

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

Background: The Congress passed the Indian Child Welfare Act (ICWA) "to protect the best interests of Indian children and to promote the stability and security of the Indian tribes." The ICWA contains numerous substantive and procedural provisions.

The ICWA applies to any state court custody proceeding that can or does result in the placement of an Indian child in a home other than the child's parent or Indian custodian. The ICWA does not apply in most juvenile delinquency proceedings (offenses that if committed by an adult would be a crime), but does apply to status offenses like truancy. The ICWA also does not apply in custody disputes in dissolutions as long as custody is awarded to one of the parents. The ICWA does not apply when the parent makes voluntary placements, as long as the placements are based on written agreement and it is clear that the parent has the right to regain custody on demand.

Under the ICWA, when the court knows or has reason to know that an Indian child is involved in the proceeding, the petitioning party must notify the parent or Indian custodian and the child's tribe, by registered mail with return receipt requested, of the proceedings and their right to intervene. If the identity or location of the parent or custodian and the tribe cannot be determined, the notice must be given to the Secretary of the Interior, who has 15 days after receipt of the notice to provide notice to the parent or Indian custody and the tribe. Under the ICWA, a custody proceeding involving an Indian child may not begin until 10 days after the tribe has received notice, and the tribe may request an additional 20 days to prepare for such proceedings.

There are a variety of state court proceedings that could result in a child being placed with someone other than the child's parent. There are: (a) dependency proceedings; (b) third party custody proceedings; (c)

adoptions, which include voluntary or involuntary termination of parental rights and sometimes pre-adoption placements; and (d) children in need of services (CHINS) and at-risk youth (ARY) petitions.

The third party custody, adoption, and dependency statutes provide that petitions filed in those proceedings must contain a statement alleging whether the ICWA applies. In adoption cases, the adoption facilitator must file a sworn statement documenting efforts to determine whether the ICWA applies.

Failure to verify whether the child is an Indian child, as defined under the ICWA, can jeopardize the validity of subsequent proceedings pertaining to the child.

Summary: Notice provisions regarding the ICWA are added to the statutes dealing with third party custody proceedings, adoptions, dependencies, and CHINS and ARY proceedings.

Whenever the court or petitioner knows or has reason to know that an Indian child is involved, the petitioning party must promptly give notice to the child's parent or Indian custodian and the child's Indian tribe. Notice must be by certified mail, return receipt requested. If the identity or location of the parent or Indian custodian or the tribe cannot be determined, notice must be given to the Secretary of the Interior. If the child may be a member of more than one tribe, notice must be sent to all tribes the petitioner has reason to know may be affiliated with the child. The notice must contain a statement notifying the parent or Indian custodian and the tribe of the pending proceeding and notify the tribe of the tribe's right to intervene and/or request that the case be transferred to tribal court.

A provision is added to the adoption statutes stating that no termination, relinquishment, or placement proceeding shall be held until at least 10 days after receipt of notice by the tribe. The tribe may request an additional 20 days to prepare for the proceeding.

Votes on Final Passage:

House	96	0
Senate	44	0

Effective: June 10, 2004

SHB 3055

C 68 L 04

Providing uniformity for admissibility of alcohol tests.

By House Committee on Judiciary (originally sponsored by Representatives Holmquist, Carrell and O'Brien).

House Committee on Judiciary
Senate Committee on Judiciary

Background: Any person who operates a motor vehicle in this state is deemed to have given consent for a blood or breath alcohol concentration (BAC) test if he or she is arrested for driving while under the influence of alcohol

or drugs (DUI). This provision in the state's motor vehicle code is known as the implied consent law.

A so-called "per se" violation of the DUI law consists of operating a motor vehicle while having a BAC of 0.08 or more for persons over the age of 21, or having a BAC of 0.02 or more for younger drivers. (The BAC measurement is of either grams of alcohol per 210 liters of breath, or grams of alcohol per 100 milliliters of blood.) A per se violation may result in criminal or civil sanctions, or both.

If an arresting officer has reasonable grounds to believe a driver has committed DUI, the officer may request that the driver take a BAC test. If the driver refuses the test, his or her driver's license will be administratively suspended or revoked by the Department of Licensing (DOL). If the driver submits to the test and fails it, i.e., registers above the legal BAC limit, the DOL will also administratively suspend or revoke the license.

The arresting officer is required to inform the driver of his or her right to refuse the BAC test and of the right to have an independent test done. The officer is also required to warn the driver of some of the consequences of his or her decision regarding taking or refusing the test. Specifically, the driver must be told:

- his or her license will be revoked if the driver refuses the test; and
- his or her license will be suspended or revoked if the driver takes the test and fails it by having a BAC of over 0.08 in the case of a person 21 or older or over 0.02 in the case of a person under 21.

The implied consent law also allows the police to offer a blood test instead of a breath test under certain circumstances. The consequences for refusal of such a blood test are the same as for refusing a breath test. The circumstances under which a person may be offered a blood test instead of a breath test include:

- The driver is incapable of providing a breath test due to physical injury, incapacity, or limitation.
- The driver is being treated in a hospital, clinic, doctor's office, emergency medical vehicle, ambulance, or other similar facility where a breath testing instrument is not present.
- There are reasonable grounds to believe the driver is under the influence of drugs.

The implied consent law also allows the police to administer a breath or blood test against the will of a driver under certain circumstances. These circumstances include:

- The driver is unconscious.
- The driver is under arrest for vehicular assault or homicide.
- The driver is under arrest for DUI and was involved in an accident in which another person suffered serious bodily injury.

Withdrawal of blood for a blood test may be done only by a physician, registered nurse or qualified techni-

cian. Analysis of blood must be done in accordance with methods approved by the state toxicologist and must be done by a person with a permit from the state toxicologist.

The BAC test results, or the fact of refusal to take a test, are admissible in any civil or criminal action arising out of an alleged DUI incident. Even if the test results show a BAC below 0.08 (or below 0.02 for a person under 21), the results may be introduced along with other evidence to prove that the driver was under the influence.

Summary: Search Warrants. Nothing in the implied consent law prevents a police officer from getting a search warrant in order to obtain breath or blood evidence samples.

Absence of Breath Testing Equipment. The absence of a breath testing device is no longer necessary before a police officer may request a blood test in lieu of a breath test when a driver is being treated in a hospital, clinic, doctor's office, emergency medical vehicle, ambulance, or other similar facility.

Implied Consent Warning. The implied consent warning to be given at the time of arrest need only be "substantially" the same as the wording of the implied consent statute.

Drawing Blood. The category of person who may withdraw blood samples is expanded to include licensed practical nurses, nursing assistants, physician assistants, first responders, emergency medical technicians, health care assistants, or any trained technician.

Admissibility of Breath Test Results. Breath test results are admissible in a judicial or administrative proceeding if the test was performed by an instrument approved by the state toxicologist, and prima facie evidence is presented that:

- the test was done by a person authorized by the toxicologist;
- the person tested did not vomit, eat, drink, smoke, or have any foreign substance in his or her mouth for at least 15 minutes before the test;
- the temperature of the test simulator solution was at the appropriate level as measured by a thermometer approved by the toxicologist;
- the internal standard test produced a "verified" message;
- two samples agreed to within a specified limit;
- the simulator test was within a specified range; and
- blank tests showed a .000 result.

A prima facie showing is one that provides evidence "of sufficient circumstances that would support a logical and reasonable inference of the facts sought to be proved." Any prosecution evidence regarding the foundational facts of a breath test will be assumed to be true, and all reasonable inferences from that evidence are to be construed in a light most favorable to the prosecution.

Defense challenges to the reliability or accuracy of a breath test may not be used to prevent the introduction of

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the evidence once the prosecution has made a prima facie case. However, evidence presented by the defense in making such a challenge may be considered by the trier of fact in determining the weight to be given to the breath test results.

Votes on Final Passage:

House 93 0
Senate 48 0

Effective: June 10, 2004

SHB 3057

C 92 L 04

Conforming the social security offset provisions of Title 51 RCW to the modified federal social security retirement age and continuing to allow the state to implement an offset otherwise imposed by the federal government.

By House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Wood, McCoy, Kenney, Condotta and Chase; by request of Department of Labor & Industries).

House Committee on Commerce & Labor
Senate Committee on Commerce & Trade

Background: In 1956 when the Congress enacted the federal social security disability program, it included provisions to coordinate benefits received under more than one disability program. Social security disability benefits were reduced by the full amount of state or federal workers' compensation benefits that were also being paid to the individual. This offset provision was repealed in 1958, but reenacted again in 1965 after the Congress heard testimony that the duplication of disability benefits led to workers receiving more in disability payments than they had been receiving in take-home pay and that continuing the duplication of benefits might erode the states' workers' compensation programs.

The 1965 social security disability offset provisions include a "reverse offset" so that the benefit reduction may be taken by a state's workers' compensation program instead of the federal disability program. Washington permitted this reverse offset beginning in 1975. When Washington's law was enacted, it applied to persons under age 62 who were receiving social security disability payments. In 1982 this limit was raised to age 65 after federal law changed the age limit for social security disability payments. In 1986, the Legislature required the reverse offset to continue for workers who had reached age 65 and were receiving both federal retirement benefits and time-loss or pension benefits. Under federal law, the age of eligibility for social security retirement is no longer a predetermined age but depends on the year in which the individual attains a specified age.

Summary: The age limit of 65 years for the disability benefit reverse offset provision is deleted. The Department must reduce industrial insurance time-loss or pensions benefits to account for social security disability benefits received by a worker who becomes 65 years of age on or after the Act's effective date.

Votes on Final Passage:

House 95 0
Senate 46 0

Effective: June 10, 2004

ESHB 3078

C 42 L 04

Concerning access to information on the existence of sealed juvenile records.

By House Committee on Juvenile Justice & Family Law (originally sponsored by Representatives Dickerson, Boldt, Flannigan, Kagi and Pettigrew).

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

Background: The official juvenile court file of a juvenile offender is open to the public unless the file has been sealed by court order. If a juvenile court grants a motion to seal a record, the court vacates the original adjudication and orders the record to be sealed. Thereafter, the proceedings in the case are treated as if they never occurred.

Prior to 1997, a juvenile record could be sealed if the court found that two years had elapsed from the time of the adjudication and that no criminal proceeding was pending against the person. In 1997, the juvenile record sealing statute was changed as a part of a comprehensive modification of the juvenile court system.

A juvenile record may be sealed if the person seeking sealing is over the age of 18, there is no proceeding pending against the person, restitution has been paid, the offense is not a class A or sex offense, and the person has spent a specified number of years in the community without committing an offense.

The length of time a person must spend in the community without committing an offense depends on the seriousness of the offense which the person is seeking to seal.

- Juvenile records relating to class B offenses may be sealed if the offender has spent 10 consecutive years in the community without committing an offense.
- Juvenile records relating to class C offenses may be sealed if the offender has spent five consecutive years in the community without committing an offense.
- Juvenile records relating to gross misdemeanors may be sealed if the offender has spent three consecutive

years in the community without committing an offense.

- Juvenile records relating to juvenile misdemeanor convictions and diversions may be sealed if the offender has spent two consecutive years in the community without committing an offense.

Summary: The requirement that a juvenile be at least eighteen years old before he or she may request that his or her juvenile record be sealed is removed. A juvenile may request his or her record be sealed at any age.

The length of time a person must spend in the community without committing an offense before his or her record may be sealed is decreased:

- Juvenile records relating to class B offenses may be sealed if the offender has spent five consecutive years in the community without committing an offense.
- Juvenile records relating to class C, gross misdemeanor, misdemeanor offenses, and diversions may be sealed after the offender has spent two consecutive years in the community without committing an offense.

The Administrative Office of the Courts is required to ensure that the Superior Court Judicial Information System provides prosecutors access to information on the existence of a sealed juvenile court record.

Votes on Final Passage:

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

Effective: June 10, 2004

SHB 3081

C 40 L 04

Revising provisions relating to medical testing for children in the care of the department of social and health services.

By House Committee on Children & Family Services (originally sponsored by Representative Rockefeller).

House Committee on Children & Family Services
Senate Committee on Children & Family Services & Corrections

Background: Out-of-Home Care. The Department of Social and Health Services (DSHS) oversees out-of-home care for children in the state who have been removed from their homes, including recruiting and licensing foster homes.

Whenever a child is placed in out-of-home care by the DSHS or a child-placing agency, the DSHS or agency is required to share information about the child and the child's family with the care provider and consult with the care provider regarding the child's case plan.

The DSHS is required to conduct training for foster parents, which must include information concerning the following: the potential impact of placement on foster children; social service agency administrative processes; the requirements, responsibilities, expectations, and skills needed to be a foster parent; attachment, separation, and loss issues faced by birth parents, foster children, and foster parents; child management and discipline; birth family relationships; and helping children leave foster care.

Disclosure of HIV Information. No person may disclose or be compelled to disclose the identity of any person:

- who has investigated, considered, or requested a test or treatment for a sexually transmitted disease, except as authorized by state law; or
- upon whom an HIV antibody test is performed, or the results of such a test.

This protection against disclosure of test subject, diagnosis, or treatment also applies to any information relating to diagnosis of or treatment for HIV infection. However, certain specified individuals may receive that information under specific circumstances. In the case of a child who is under 14 years of age, has a sexually transmitted disease, and is in the custody of the DSHS or a licensed child-placing agency, the following individuals may receive information relating to the child's HIV testing, diagnosis, or treatment:

- a DSHS worker, a child-placing agency worker, or a guardian ad litem who is responsible for making or reviewing placement or case-planning decisions or recommendations to the court regarding the child; and
- a person responsible for providing residential care for the child when the DSHS or a licensed child-placing agency determines that it is necessary for the provision of child care services.

Summary: The Department of Health (DOH) is required to develop recommendations concerning evidence-based practices for testing for blood-borne pathogens of children under 1 year of age who have been placed in out-of-home care and to identify the specific pathogens for which testing is recommended.

The DOH is required to report to the appropriate committees of the Legislature on its developed recommendations by January 1, 2005.

Upon any placement, the DSHS is required to inform each out-of-home care provider if the child to be placed in that provider's care is infected with a blood-borne pathogen and is required to identify the specific blood-borne pathogen for which the child was tested if known by the DSHS.

All out-of-home care providers licensed by the DSHS must receive training related to blood-borne pathogens, including prevention, transmission, infection control, treatment, testing, and confidentiality.

SHB 3083

Any disclosure of information related to HIV must be in accordance with state law.

The DOH is required to identify by rule the term "blood-borne pathogen" as it relates to these requirements of the DSHS.

Votes on Final Passage:

House	95	0	
Senate	48	0	(Senate amended)
House	95	0	(House concurred)

Effective: June 10, 2004

SHB 3083

C 37 L 04

Providing immunity for any person who cooperates with an investigation of child abuse or neglect.

By House Committee on Judiciary (originally sponsored by Representatives Kagi, Boldt, Dickerson, Orcutt, Pettigrew and Darneille).

House Committee on Judiciary
Senate Committee on Children & Family Services & Corrections

Background: Any person who in good faith reports suspected child abuse or neglect or testifies in a judicial proceeding as to alleged child abuse or neglect is immune from any liability arising out of the reporting or testifying. Two Washington appellate court decisions provided fairly broad interpretations of the immunity for mandated reporters. These decisions included doctors who did not report the abuse, but who participated in child abuse investigations under the mandatory reporting statute.

There is no provision in statute, however, that specifically provides immunity to persons who assist in child abuse investigations. Therefore, members of a multidisciplinary investigation team may still be liable. In addition, neighbors, relatives, or others who provide information to investigators may also be held liable.

Summary: A person is immune from civil liability for cooperating in an investigation of child abuse or neglect if the person acted in good faith and without gross negligence. The immunity does not apply to a person cooperating in an investigation if the person caused or allowed the child abuse or neglect to occur.

Votes on Final Passage:

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

Effective: June 10, 2004

2SHB 3085

C 182 L 04

Encouraging the use of family decision meetings regarding children in the child welfare system.

By House Committee on Appropriations (originally sponsored by Representatives Kagi, Boldt, Dickerson, Orcutt, Shabro, Pettigrew, Darneille and Morrell).

House Committee on Children & Family Services
House Committee on Appropriations
Senate Committee on Children & Family Services & Corrections

Background: The Department of Social and Health Services (DSHS) is required to provide child welfare services throughout the state. Child welfare services are defined by state law as public social services that, strengthen, supplement, or substitute for parental care and supervision for the purpose of:

- preventing or remedying, or assisting in the solution of, problems that may result in families in conflict, or the neglect, abuse, exploitation, or criminal behavior of children;
- protecting and caring for dependent or neglected children;
- assisting children who are in conflict with their parents, and assisting parents who are in conflict with their children with services designed to resolve those conflicts;
- protecting and promoting the welfare of children, including the strengthening of their own homes where possible or where needed; and
- providing adequate care of children away from their homes in foster family homes or day care or other child care agencies or facilities.

The DSHS is also specifically required to perform the following:

- develop, administer, supervise, and monitor a coordinated and comprehensive plan that establishes, aids, and strengthens services for the protection and care of runaway, dependent, or neglected children;
- within available resources, recruit an adequate number of prospective adoptive and foster homes, both regular and specialized, that is, homes for children of ethnic minority, including Indian homes for Indian children, sibling groups, handicapped and emotionally disturbed, teens, and pregnant and parenting teens;
- investigate complaints of any recent act or failure to act on the part of a parent or caretaker that results in death, serious physical or emotional harm, or sexual abuse or exploitation, or that presents an imminent risk of serious harm, and, on the basis of the findings of such investigation, offer child welfare services in relation to the problem to such parents, legal custodians, or persons serving in loco parentis, and/or bring

the situation to the attention of an appropriate court or another community agency;

- offer, on a voluntary basis, family reconciliation services to families who are in conflict;
- monitor out-of-home placements, on a timely and routine basis, to assure the safety, well-being, and quality of care being provided; and
- provide preventive services to families with children that prevent or shorten the duration of an out-of-home placement, within amounts appropriated for that specific purpose.

Summary: By January 1, 2005, the DSHS is required to:

- consider options for the use of family decision meetings in cases in which a child is involved in the child welfare system;
- develop strategies for implementing a policy of meaningful family involvement throughout the state within existing resources; and
- present implementation recommendations to the appropriate committees of the Legislature regarding the options considered for the use of family decision meetings and the strategies developed for implementation of a policy of meaningful family involvement.

"Family decision meeting" is defined to mean a family-focused intervention facilitated by dedicated professional staff that is designed to build and strengthen the natural caregiving system for the child. The purpose of the family decision meeting is to establish a plan that provides for the safety and permanency needs of the child. Family decision meetings may include, but are not limited to, family group conferences, family mediation, family support meetings, or other professionally recognized interventions that include extended family and rely upon the family to make shared decisions about planning for its children.

Votes on Final Passage:

House	96	0
Senate	47	0

Effective: June 10, 2004

SHB 3092

C 111 L 04

Making technical correction to the uniform parentage act.

By House Committee on Juvenile Justice & Family Law (originally sponsored by Representative Delvin).

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

Background: The parent-child relationship is governed by the Uniform Parentage Act (UPA). The UPA was adopted by Washington in 1975 and became effective in

1976. In 2002 the UPA was repealed and the UPA of 2002 was adopted. The UPA of 2002 is substantially the same as the older version, but it made changes to the procedures for establishing paternity. The UPA statute has become virtually the exclusive procedure used for the determination of paternity.

To determine the existence of a father-child relationship, the UPA distinguishes between a presumed father, an acknowledged father, and an adjudicated father.

A presumed father may contest the presumption through a proceeding in court to adjudicate parentage or through the statutory process of denial of paternity. Under the statutory denial of paternity process, a court proceeding to adjudicate parentage is not required. Rather, the denial becomes effective upon the birth of the child or the filing of the document with the state registrar of vital statistics, whichever occurs later.

A person who has signed an acknowledgment or denial of paternity may rescind the acknowledgment or denial of paternity by commencing a court proceeding to rescind before the earlier of either (a) 60 days after the effective date of the filing of the acknowledgment or denial, or (b) the date of the first hearing in a proceeding to adjudicate an issue related to the child.

Summary: Language is clarified in the statute authorizing rescission of the acknowledgment or denial of paternity. The removal of the words "of the filing" clarifies the meaning of "effective date," to be either the birth of the child or the filing of the acknowledgment or denial of paternity.

Votes on Final Passage:

House	96	0
Senate	46	0

Effective: June 10, 2004

SHB 3103

PARTIAL VETO

C 275 L 04

Revising provisions for higher education.

By House Committee on Higher Education (originally sponsored by Representatives Kenney, Cox, Fromhold, Priest, Morrell, Hudgins, McCoy, McDermott, Haigh, G. Simpson and Santos).

House Committee on Higher Education
House Committee on Appropriations
Senate Committee on Higher Education

Background: The Higher Education Coordinating Board (HECB) was created in 1985, succeeding the Council for Postsecondary Education. The overall purpose of the HECB is to provide planning, coordination, monitoring, and policy analysis for higher education in Washington, in cooperation and consultation with the

institutions' governing boards and all other segments of postsecondary education. The HECB is intended to represent the broad public interest above the interests of individual colleges and universities. Statutes in Chapter 28B.80 RCW and throughout Title 28B assign a number of responsibilities to the HECB, which have been altered and added to over time.

The HECB is made up of 10 members, including one student, who are representative of the public. All are appointed at large by the Governor and approved by the Senate. All members, except the chair and the student, serve four-year terms. Following the term of the chair serving as of June 13, 2002, the board selects the chair from among its members. As the result of a partial veto of legislation enacted in 2002, the term of the current chair is unstated.

In 2002, the Washington State Institute for Public Policy conducted a review of the HECB and generally concluded that its overall role and focus needed greater clarification. During the 2003 interim, a legislative work group examined in detail the HECB's role, workload, and assignments. In response to a request from the work group, the HECB made a number of recommendations regarding its statutory functions and responsibilities.

The main HECB responsibilities can be categorized as follows:

Policy Functions

Strategic Planning. The HECB must develop a statewide strategic master plan for higher education every four years, including developing institution role and mission statements for the four-year institutions and the community and technical college system.

Budget Review. The HECB reviews, evaluates, and makes recommendations on operating and capital budget requests from the public four-year institutions and the community and technical college system.

Degree Approval. The HECB is authorized to approve creation of any new four-year degree program, recommend modification of on-campus programs, and approve off-campus programs of the four-year institutions.

Transfer Policy. The HECB establishes a statewide transfer of credit policy and agreement, in cooperation with the higher education institutions and consistent with statewide inter-institutional guidelines.

Cost Study. Every four years, in consultation with legislative committees, the Office of Financial Management (OFM), and the higher education institutions, the HECB develops definitions and criteria for determining undergraduate and graduate educational costs for colleges and universities. The two and four-year institutions then perform an educational cost study.

Accountability. Since 1997, a proviso contained in the biennial operating budget has directed each four-year institution to submit a biennial plan for making measurable improvements toward achievement of long-term

performance goals. The HECB sets improvement targets and annually monitors institutional progress. Similar language directs the State Board for Community and Technical Colleges (SBCTC) to develop a biennial plan and set performance targets for each community or technical college.

Data. The HECB is generally charged with establishing a state system for collecting, analyzing, and distributing information.

Collaboration with K-12. In 1994, the HECB and the State Board of Education were directed to convene a task force for ongoing discussion of curriculum issues that transect higher education and common schools.

Other. Various statutes assign other policy functions to the HECB, such as:

- recommending compensation practices using comparative data from peer institutions;
- identifying methods to reduce administrative barriers to efficient institutional operations;
- reporting on accomplishments, expenditures, and requirements of the higher education system;
- recommending ways to remove economic incentive to use off-campus funds for on-campus activities; and
- studying system operations to identify efficiencies.

Coordination Functions

Inter-institution Relations. This category includes such assignments as coordinating activities among all segments of higher education, promoting inter-institutional cooperation, monitoring institutions for compliance with state policies, and arbitrating disputes among institutions.

Facilities and Services Oversight. The HECB is also directed to approve the purchase/lease of off-campus facilities, adopt guidelines for higher education centers and consortia, establish campus service areas, develop criteria for the need for new four-year institutions, and recommend merger or closure of institutions.

Education Services Administration Functions

Financial Aid. The HECB administers all state and state-administered federal financial aid programs. There are separate statutes pertaining to more than 15 different financial aid programs, the largest of which is the State Need Grant.

Displaced Homemaker Program. Under this program, the HECB provides grants to contractors who offer counseling, job search, training, and referral services, monitors contracts, and assesses contractor performance. Nine of the 11 contracts are with community or technical colleges.

Other Programs. Various statutes in Title 28B create responsibilities for the HECB regarding the following programs: state support of higher education, distinguished professorship trust, graduate student fellowship, student exchange compact, border county pilot project,

Washington Scholars Program, teacher training pilot project, and competency-based admissions pilot project.

Summary: The roles and responsibilities of the HECB are organized and recodified into a new chapter of law with three sections: General Provisions, Policy and Planning, and Education Services Administration. References to recodified or repealed sections are corrected.

Overall Purpose. The purpose of the HECB is restated:

- Develop a strategic master plan and continually monitor progress toward meeting goals.
- Based on objective data analysis, to develop and recommend statewide policies to enhance higher education.
- Administer state and federal financial aid and other programs in a cost-effective manner.
- Serve as an advocate on behalf of students and the overall higher education system.
- Represent the broad public interest above the interests of the individual colleges and universities.
- Coordinate with other agencies to create a seamless public education system geared toward student success.

Policy Functions

Strategic Planning. The strategic plan encompasses all higher education sectors: the two-year system, workforce training, the four-year institutions, and financial aid. The HECB is to use regional planning and decision-making before initiating a statewide planning process. The HECB reviews, but does not develop, institution role and mission statements. The purpose of the review is to ensure that institutions' roles and missions are aligned with the overall state vision and priorities. In addition to reviewing institution-level plans from the four-year institutions, the HECB reviews the comprehensive master plan for the community and technical college system. The HECB must report annually on progress being made in implementing the strategic master plan.

Budget Review. The HECB must collaborate with higher education institutions and appropriate state agencies to identify budget priorities and levels of funding for higher education. Its recommendations should reflect not merely the sum of institution requests, but prioritized funding needs for the overall system. The HECB then reviews institution and SBCTC requests based on how they align with the board's priorities, institutional missions, and the strategic plan.

Degree Approval. The HECB must develop a comprehensive needs assessment process for additional degrees and programs, new off-campus centers or locations, and consolidation or elimination of programs. The following activities are subject to approval by the HECB: new degree programs or off-campus programs by four-year institutions, purchase or lease of major off-campus facilities by all institutions, creation of higher

education centers or consortia, and new degree programs or off-campus programs by an independent four-year institution offered in collaboration with a community or technical college.

Institutions must demonstrate that a proposal is justified by the needs assessment and aligned with the statewide strategic plan. The HECB will periodically recommend consolidation or elimination of programs based on the needs assessment.

Every two years the HECB, the SBCTC, and the Workforce Training and Education Coordinating Board (Workforce Board) will assess the number and type of higher education and training credentials required to meet employer demand. They will compare forecasted job openings at each level of education and training and the number of credentials needed to match them.

Transfer Policy. The HECB is directed to adopt statewide transfer and articulation policies that ensure efficient transfer of credits and courses. The intent of the policies is to create a statewide system of articulation and alignment. Policies may address creation of a statewide system of course equivalency, creation of transfer associate degrees, statewide articulation agreements, and applicability of technical courses toward baccalaureate degrees.

Institutions and the SBCTC must cooperate in developing and maintaining the policies. The HECB will submit a progress report by December 1, 2006, by which time the Legislature expects measurable improvement in transfer efficiency.

Accountability. The HECB must establish an accountability monitoring and reporting system. Based on guidelines developed by the HECB, each four-year institution and the SBCTC submit a plan to achieve measurable performance improvements along with their biennial budget requests. The HECB approves biennial performance targets for each institution and the community and technical college system. The SBCTC sets targets for each college. The HECB reports on the institutions' progress along with its biennial budget recommendations. The HECB must also develop indicators and benchmarks to measure its own performance, including the performance of committees and advisory groups tasked with working on various topics in higher education. The HECB's accountability plan is submitted to the Legislature each biennium along with the institutions' progress reports.

Cost Study. In consultation with other state agencies and the higher education institutions, the HECB must develop standardized methods and protocols for measuring costs of instruction, costs to provide degrees in specific fields, and costs for precollege remediation. By December 1, 2004, the HECB will propose a schedule of regular cost study reports to the legislative higher education and fiscal committees for their review. Higher education institutions must participate in the development of

cost study methods and provide all necessary data in a timely fashion.

Data. In consultation with higher education institutions and other state agencies, the HECB will identify data necessary to carry out its responsibilities. The goals of this data collection and research are to describe how higher education beneficiaries are being served, support accountability, and assist with decision-making. The HECB convenes a research advisory group to assist in identifying cost-effective ways to collect or access data, recommend research priorities, and develop common definitions to maximize reliability and consistency of data across institutions. Protocols must be developed by the HECB and the advisory group to protect privacy of individual student records while ensuring the availability of data for legitimate research functions.

Collaboration with K-12. The HECB, other education agencies, higher education institutions, and school districts must work on a variety of topics to improve coordination, articulation, and transitions among the state's systems of higher education. The goal is increased student success. The agencies must submit biennial updates on their accomplishments and plans beginning January 15, 2005.

Other. A list of other policy functions assigned to the HECB is repealed: review of compensation practices, identification of administrative barriers to efficient institutional operations, reporting on accomplishments of the higher education system, recommendations for ways to remove economic incentive to use off-campus funds for on-campus activities, and studies of system operations to identify efficiencies. Instead, the HECB is generally directed to perform periodic analyses of tuition, financial aid, faculty compensation, funding, enrollment, and other policy issues. The HECB, in cooperation with the higher education institutions, will also highlight and promote innovative programs to improve the quality of instruction, promote economic development, and enhance efficiency. The HECB will manage competitive processes for awarding high demand enrollments authorized by the Legislature. Public baccalaureate and private independent institutions are eligible to apply and submit proposals.

Coordination Functions

Inter-institution Relations. The HECB is no longer required to coordinate activities among all segments of higher education, promote inter-institutional cooperation, monitor institutions for compliance with state policies, or arbitrate disputes among institutions.

Facilities and Services Oversight. Requirements that the HECB establish campus service areas, develop criteria for new four-year institutions, or recommend merger or closure of institutions are repealed.

Education Services Administration Functions

Financial Aid. Statutes pertaining to the State Need Grant program are moved into a new RCW chapter. The

HECB is directed to make allocations from the State Need Grant in a timely manner and monitor expenditures closely to avoid over or under-expenditure of funds. A list of financial aid programs administered by the HECB is updated.

Displaced Homemaker Program. Administrative responsibility, staff, and resources for the Displaced Homemaker Program are transferred to the SBCTC, effective July 1, 2005.

Other Programs. Various statutes in Title 28B pertaining to other programs or responsibilities of the HECB are moved into the new chapter of law under the Education Services Administration section.

Board Membership

A ten-member advisory council to the HECB is created. The Superintendent of Public Instruction serves in an ex officio capacity; other members serve two-year terms. Members represent the State Board of Education, the Workforce Board, community and technical colleges, public research and regional universities, two- and four-year faculty, private career colleges, and four-year independent colleges. The HECB meets with the council at least quarterly and must seek its advice regarding the discharge of the HECB's responsibilities. Language is added to clarify that the HECB chair serving as of June 13, 2002, serves at the pleasure of the Governor.

Other Repealed Sections

Various sections of law are repealed, including one-time studies and responsibilities that the HECB no longer exercises, such as developing a statewide telecommunications plan, convening interstate discussions on teacher preparation, and convening a joint task force with the State Board of Education on curriculum issues that cross education sectors. A number of outdated laws are repealed, including intent sections, effective dates, and severability clauses from earlier acts, reference to financial assistance to blind students that dates from the 1940s, and references to a tuition waiver for the Washington Award of Excellence that was repealed in 1998.

Votes on Final Passage:

House	97	0	
Senate	45	0	(Senate amended)
House	91	5	(House concurred)

Effective: June 10, 2004

July 1, 2005 (Sections 28-32)

Partial Veto Summary: A section of the bill that would have authorized the HECB to manage a competitive process for awarding high demand enrollments to both public and private higher education institutions is vetoed. This section also repealed a specific list of policy functions assigned to the HECB and instead generally directed the HECB to perform periodic analyses of tuition, financial aid, faculty compensation, funding, enrollment, and other policy issues. The HECB would have been authorized to highlight and promote innova-

tive programs to improve the quality of instruction, promote economic development, and enhance efficiency.

VETO MESSAGE ON HB 3103-S

April 1, 2004

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 13, Substitute House Bill No. 3103 entitled:

“AN ACT Relating to higher education;”

Substitute House Bill No. 3103 refines the roles and responsibilities of the Higher Education Coordinating Board (HECB) to more clearly focus on appropriate administrative and policy functions, and relieves the board of duties that are either outdated or unnecessary.

Section 13 of the bill would have authorized the HECB to manage a competitive process for awarding high demand enrollments that both public baccalaureate institutions and private independent institutions would have been eligible for. In this time of fiscal restraint, we should first direct our limited state resources to providing opportunities for students to fill existing capacity in public institutions before allowing private independent institutions to compete for state enrollment funds.

Given the demographic pressure on the higher education system in the next few years, we cannot ignore the important role that independent colleges and universities can play in meeting student demand. I believe, however, that the state must carefully consider all options before implementing such a significant change in fiscal policy for higher education. Thus, I am directing the HECB to work with the Office of Financial Management and key stakeholders to develop options for utilizing capacity in private independent institutions to help meet student demand for access to higher education.

For these reasons, I have vetoed section 13 of Substitute House Bill No. 3103.

With the exception of section 13, Substitute House Bill No. 3103 is approved.

Respectfully submitted,



Gary Locke
Governor

ESHB 3116

C 82 L 04

Modifying tax exemptions for qualifying blood banks, tissue banks, and blood and tissue banks.

By House Committee on Finance (originally sponsored by Representatives Murray, Cairnes, Sehlin, Sommers, McIntire, Lovick, Hatfield, Kenney, Morrell and Santos).

House Committee on Finance
Senate Committee on Ways & Means

Background: As a general rule, nonprofit organizations are subject to state and local taxes unless there is a specific statutory exemption. An exemption from federal income tax does not automatically provide an exemption from state and local taxes. Washington does provide tax exemptions for several types of nonprofit organizations,

including blood, bone, and tissue banks. These banks are exempt from business and occupation taxes, retail sales and use taxes, and property taxes.

In 1995, the Legislature expanded the property tax exemption for blood banks to include leased property and to include bone and tissue banks. In addition, (1) a business and occupation (B&O) tax exemption was provided for the gross income of nonprofit blood, bone, or tissue banks to the extent that they were exempt from federal income tax, and (2) a sales and use tax exemption was provided for nonprofit blood, bone, or tissue banks for the purchase or use of medical supplies, chemicals, or specialized materials. The sales and use tax exemption does not apply to construction materials, office equipment, building equipment, administrative supplies or vehicles.

In 1999, a question arose as to whether the Fred Hutchinson Cancer Research Center qualified as a blood, bone, and tissue bank for purposes of the tax exemptions. Litigation ensued. In 2003, the Thurston County Superior Court ruled that the extension of the exemptions to bone and tissue banks in 1995 was beyond the title of the bill, that the exemptions only applied to nonprofit blood banks, and that the Fred Hutchinson Cancer Research Center was not a nonprofit blood bank.

Summary: Existing B&O tax, sales and use tax, and property tax exemptions for nonprofit blood, bone, and tissue banks are reenacted. Definitions and qualification requirements are revised. The banks must be exempt from federal income tax as nonprofit organizations and registered under federal law. Comprehensive cancer centers are not eligible for exemption as blood, bone, or tissue banks.

Votes on Final Passage:

House	95	0	
Senate	48	0	(Senate amended)
House	95	0	(House concurred)

Effective: June 10, 2004

SHB 3141

C 224 L 04

Establishing a policy to mitigate carbon dioxide emissions.

By House Committee on Technology, Telecommunications & Energy (originally sponsored by Representative Morris).

House Committee on Technology, Telecommunications & Energy
Senate Committee on Natural Resources, Energy & Water

Background: The Energy Facility Site Evaluation Council (EFSEC) was created in 1970 to provide one-stop licensing for large energy projects. EFSEC

membership includes mandatory representation from five state agencies and discretionary representation from four additional state agencies. EFSEC membership may include representatives from the particular city, county, or port district where potential projects may be located.

The EFSEC's jurisdiction includes the siting of electric thermal power plants above 350 megawatts. In 2003, the EFSEC released a package of proposed rules designed to set standards for siting electric power plants. One of the proposed rules addresses the mitigation of carbon dioxide (CO₂) emissions resulting from operation of these plants. CO₂ mitigation requirements have been included in all recent siting approvals for electric power plants.

New or expanding industrial and commercial sources of air pollution emissions, including fossil-fueled thermal power plants, must obtain an order of approval from the Department of Ecology (DOE) or a local air pollution control authority. The order may set limits on emissions and require monitoring, record keeping, reporting, and other compliance measures.

The DOE is also developing rules for the mitigation of CO₂ emissions from fossil fueled thermal electric power plants not under the siting jurisdiction of the EFSEC.

Summary: CO₂ Mitigation Requirements

Fossil-fueled thermal power plants with a generating capacity of 25 megawatts or more must provide mitigation for 20 percent of the CO₂ emissions produced by the plant over a period of 30 years. This requirement applies to new power plants seeking site certification or an order of approval after July 1, 2004, and existing plants that increase the production of CO₂ emissions by 15 percent or more.

This mitigation requirement applies to thermal power plants under the jurisdiction of the EFSEC, except for floating thermal power plants of 100 megawatt capacity or more. The requirement also applies to thermal power plants that must seek an order of approval from either the DOE or a local air pollution control authority if the plant has a generating capacity of less than 350 megawatts but more than 24 megawatts.

In determining total CO₂ emissions, the calculation uses a capacity factor of 60 percent or operational limitations contained in the order of approval (for plants not under the jurisdiction of the EFSEC).

For plants that must seek site certification under the EFSEC, a CO₂ mitigation plan must be included in a site certification agreement. For plants that apply for approval from the DOE or an air pollution control authority, an approved CO₂ mitigation plan must be included as part of the order.

CO₂ Mitigation Options

CO₂ may be mitigated by making payment to an independent qualified organization, by direct purchase of

permanent carbon credits, or by direct investment in CO₂ mitigation projects.

Payment to a Third Party Option. The rate that must be paid per ton for those CO₂ emissions that must be mitigated is \$1.60. This rate is subject to adjustment. For cogeneration plants, the monetary amount is based on the difference between 20 percent of total carbon dioxide emissions and the cogeneration credit. Payment may be made in a lump sum no later than 60 days prior to the start of construction or in partial payments over five years. Partial payments are paid in equal annual amounts and are also subject to adjustment.

The EFSEC may adjust the per ton rate every two years and any increase or decrease may not exceed 50 percent of the current rate. The DOE or local air pollution control authorities must use the adjusted rate established by the EFSEC.

Carbon Credit Option. Credits must come from real, permanent, verifiable CO₂ mitigation not otherwise required or used for other CO₂ mitigation projects. Credits eligible for mitigation must be acquired after July 1, 2004. Credits may be resold only with the approval of the EFSEC, the DOE, or a local air pollution control authority.

Direct Investment Option. Mitigation projects must be approved by the EFSEC, the DOE, or a local air pollution control authority and must be included in the site certification agreement or the order of approval. Direct investments are limited in amount to no more than the cost of a lump sum payment option. Projects must be in place in a reasonable time after the start of commercial operation. Implementation will be monitored by an independent entity for applicants under the jurisdiction of the EFSEC, and by the DOE or a local air pollution control authority for applicants not under the jurisdiction of the EFSEC, except for carbon credits. No more than 20 percent of the funds may be used for selection, monitoring, and evaluation of the mitigation project.

Independent Qualified Organization. The EFSEC must maintain a list of independent qualified organizations. No more than 20 percent of the funds may be used for selection, monitoring, and evaluation of the mitigation project. The organization must permit the EFSEC to appoint three persons to inspect plans, operations, and compliance activities of the organization and audit financial records and performance standards. The organization must file biennial reports with the EFSEC and the DOE.

Mitigation projects under both the payment to a third party option and direct investment option must: (1) provide a reasonable certainty that the performance requirements will be achieved; (2) be implemented after July 1, 2004; (3) minimize the extent to which external events can reduce the amount of CO₂ offset; (4) accomplish CO₂ reductions that would not otherwise take place; and (5) provide for mitigation of an appropriate duration.

Reasonable and necessary costs for implementing this program must be assessed against the applicants and site certification holders subject to this requirement. The DOE or local air pollution control authority may assess and collect fees to administer this program. The EFSEC, the DOE, and local air pollution control authority may adopt rules to implement the program.

Votes on Final Passage:

House	69	27	
Senate	40	6	(Senate amended)
House	69	26	(House concurred)

Effective: June 10, 2004

SHB 3158

C 8 L 04

Exempting computer equipment used primarily in printing or publishing from sales and use tax.

By House Committee on Finance (originally sponsored by Representatives McIntire, Kessler and Edwards).

House Committee on Finance
Senate Committee on Ways & Means

Background: Sales tax is imposed on retail sales of most items of tangible personal property and some services. The use tax is imposed on the same privilege of using tangible personal property or services in instances where the sales tax does not apply. Sales and use taxes are levied by the state, counties, and cities, and total rates vary from 7 to 8.9 percent.

Machinery and equipment sold to a manufacturer or a processor for hire used directly in a manufacturing operation or research and development operation are exempt from sales tax and use tax. Machinery and equipment must be used directly in a manufacturing operation or research and development operation to be exempt. Equipment that does not directly control manufacturing equipment or interact with an item of tangible personal property which is part of the manufacturing process does not qualify for exemption. Some computer equipment used by printers and publishers does not qualify for the exemption.

Summary: Computer equipment purchased by a printer or publisher used primarily in the printing or publishing of printed material is exempt from sales and use tax. The exemption includes parts for repair and replacement and services for installation and repair. Computer equipment exempted includes monitors, keyboards, printers, modems, scanners, pointing devices, and other peripheral equipment, cables, servers, routers, digital cameras, and computer software.

Votes on Final Passage:

House	96	1	
Senate	48	0	

Effective: June 10, 2004

HB 3172

C 108 L 04

Providing for payment agreements.

By Representatives Dunshee, Sommers and Sehlin.

House Committee on Capital Budget
Senate Committee on Economic Development

Background: Most of the construction or acquisition of capital facilities by state and local governments is financed by long-term debt instruments including revenue bonds, general obligation bonds, lease purchase agreements, and other contractual arrangements. All of these arrangements contain obligations to make payments on the amount borrowed plus interest. The interest rate, which is generally a fixed rate, is determined by the financial markets at the time the obligation is incurred.

In 1993 the Legislature authorized state and local governments with debt or annual revenues in excess of \$100 million to participate in "swap" agreements. "Swaps" are contracts in which the parties trade their respective payment obligations on a specified amount of debt for a specified period of time. The transactions usually involve trading a fixed rate obligation for a variable rate obligation. These swap agreements do not alter or impair the underlying obligation. One party agrees to make the payments owed by the other party and vice versa for a given period of time.

The first authorization for swap agreements was limited to two years and was set to expire in 1995. In 1995 the Legislature extended the authorization five additional years to June 30, 2000. The authority for state and local governments to use debt payment "swap" agreements was again extended five years to June 30, 2005.

Summary: The termination of the authority for state and local governments to use certain debt payment agreements, or "swap" agreements, is repealed. State and local governments, with the addition of city transportation authorities and regional transportation authorities, may continue to enter into these agreements after June 30, 2005.

Votes on Final Passage:

House	95	0	
Senate	48	0	(Senate amended)
House	94	1	(House concurred)

Effective: June 10, 2004

ESHB 3188

C 243 L 04

Concerning liability to the department of labor and industries for premiums, overpayments, and penalties.

By House Committee on Commerce & Labor (originally sponsored by Representatives Conway and Wood).

House Committee on Commerce & Labor

Background: Benefit Payments to Workers. When an injured worker files a claim application with the Department of Labor and Industries (Department) or self-insurer, the worker provides certain information, including information about the injury or exposure, marital status, dependents, and employment. The application must be signed by the worker under a statement declaring the information to be true, to the worker's best knowledge and belief.

If the Department or a self-insured employer pays industrial insurance benefits that are induced by fraud, the recipient of the benefits must repay the amount with a penalty of 50 percent of the benefits. The total amount may also be recouped from future benefits. Recovered penalties are paid into the Supplemental Pension Fund.

The industrial insurance law does not define "fraud." Instead, to prove that the payment of industrial insurance benefits have been induced by fraud, the Department must prove common law civil fraud, which is found if all of the following are shown by clear, cogent, and convincing evidence:

- the person represented an existing fact;
- the fact was material;
- the fact was false;
- the person knew that the fact was false or was ignorant of its truth;
- the person intended the Department or self-insurer to act on the fact;
- the Department or self-insurer was ignorant of the falsity of the fact;
- the Department or self-insurer relied on the truth of the representation;
- the Department or self-insurer had a right to rely on the representation; and
- the Department or self-insurer was damaged as a consequence.

If a benefit overpayment results from an appeal of a Department order where the final decision is that the payment was made because of erroneous adjudication, the claimant must repay the overpaid benefits. If benefits fail to be paid because of clerical error or other non-fraudulent mistakes, the claimant must seek an adjustment within one year of the incorrect payment. However, the claimant may not seek such an adjustment because of adjudicator errors.

Employer Liability for Premiums. Under the Industrial Insurance Act, a person other than the employer may be liable for payment of industrial insurance

premiums owed on particular work. For example, business successors, public agencies, and private entities that let contracts for work may be liable for the payment of certain premiums.

Successor Liability. Persons who become successors to businesses also become liable for industrial insurance premiums owed to the Department but not paid within 10 days of the sale of such businesses. "Successor" is defined as a person to whom a business sells a major part of the business's "materials, supplies, merchandise, inventory, fixtures, or equipment."

Contractor Liability. Many private entities that let contracts for work are liable for payment of industrial insurance premiums owed on such work. Private entities are entitled to collect the full amount payable to the Accident Fund from the contractor, and the contractor is entitled to collect from a subcontractor a proportionate share of that amount. Consequently, the person letting the contract functions as a surety for the industrial insurance premiums.

The Washington Court of Appeals has described these provisions as "facilitat[ing] and broaden[ing] the premium collection powers of the Department." The Court of Appeals also said that the rationale for giving the Department these collection powers is that "the more the [Industrial Insurance Act] facilitates full collection of premiums, the better it serves the accident fund from which compensation is paid."

However, if certain requirements are satisfied, registered contractors and licensed electrical contractors are not liable for premiums owed on a subcontractor's work. The requirements that must be satisfied are as follows:

- The subcontractor is a registered contractor or a licensed electrical contractor.
- The subcontractor has a principal place of business that is eligible for a business deduction for IRS purposes.
- The subcontractor maintains separate records reflecting business income and expenses.
- The subcontractor contracted to perform certain types of work, such as construction, alteration, or demolition of a structure, or electrical work.

Corporate Officer Liability. Generally, corporate officers and other individuals are not personally liable for premiums owed by corporations or limited liability companies.

Collection of Provider Overpayments. The Department is authorized to conduct audits of health services providers, including medical, chiropractic, dental, vocational, and other providers of services to injured workers. In these audits, the Department may examine records relating to services rendered to an injured worker that were reimbursed by the Department.

If a provider unintentionally receives reimbursement to which he or she was not entitled, the provider is required to repay the excess amount, plus interest. If the

provider knowingly receives an overpayment because of willful false statement, willful misrepresentation of a material fact, or another fraudulent scheme, the provider must repay the excess amount, plus interest, and civil penalties of up to \$1,000 or three times the amount of the overpayment, whichever is greater. The provider is also subject to a class C felony, with a fine of up to \$25,000, for certain "knowing" violations. Civil penalties are deposited in the State General Fund.

To collect overpaid benefits from workers or unpaid premiums from employers, the Department, or self-insured employer in the case of overpaid benefits, is permitted to obtain a warrant in superior court on a final Department order. The warrant is treated like a judgment and becomes a lien on the property of the person named. The warrant may be executed in the same manner as other court judgments. This statutory collection authority does not apply to providers who fail to repay overpayments or penalties.

Summary: Benefit Payments to Workers. *Willful Misrepresentation.* It is willful misrepresentation for a person to obtain industrial insurance payments or benefits that are more than the amount to which he or she is otherwise entitled. Willful misrepresentation includes:

- willful false statements; or
- willful misrepresentation, omission, or concealment of a material fact.

A "material fact" is one that would result in additional, increased, or continued benefits, including facts about physical restrictions, or work-type activities that result or would reasonably be expected to result in wages or income. For a work-type activity to be reasonably expected to result in wages or income, a pattern of repeated activity must exist. The Department is authorized to impute wages when wage information cannot be reasonably determined for activities that would reasonably be expected to result in wages or income.

"Willful" means a conscious or deliberate false statement, misrepresentation, omission, or concealment of a material fact with the specific intent of obtaining, continuing, or increasing benefits. Failure to disclose a work-type activity must be willful for a misrepresentation to have occurred.

These new provisions apply to willful misrepresentation determinations issued on or after July 1, 2004.

Adjudicator Error. If benefits are overpaid because of adjudicator error, the Department may only assess an overpayment when the order on which the overpayment is based is not yet final, unless the overpayment relates to an order rejecting the claim, results from a final appeal of a Department or Board of Industrial Appeals order, or has been induced by willful misrepresentation. If benefits fail to be paid because of adjudicator error, the claimant must address the adjustment by filing a written request for reconsideration or an appeal within the statutory sixty-day appeal period.

Employer Liability for Premiums. The provisions of the Industrial Insurance Act relating to successor and contractor liability are modified. A provision relating to corporate officer liability is added.

Successor Liability. The definition of "successor" is modified. Instead of being restricted to a person to whom a business sells a major part of the business's "materials, supplies, merchandise, inventory, fixtures, or equipment," a successor is a person to whom a business sells the business's property, "whether real or personal, tangible or intangible."

Contractor Liability. The requirements that must be satisfied for registered contractors and licensed electrical contractors to be not liable for subcontractor premiums are modified. In addition to current statutory requirements, a subcontractor that is an employer must have an industrial insurance account in good standing or be a self-insurer when the subcontract is let. A contractor may consider a subcontractor's account to be in good standing if: (1) the contractor verifies that the account is in good standing within a year prior to letting the contractor and at least once a year thereafter; and (2) the contractor does not receive written notice that the account status has changed.

Corporate Officer Liability. When a corporate or limited liability company goes out of business, corporate officers and other persons are personally liable for premiums owed by the businesses, and any interest and penalties on the premiums, if: (1) the officers or other persons willfully failed to pay the premiums; and (2) the premiums became due while the officers or other persons were responsible for their payment.

Corporate officers and other persons are not liable, however, if they are subject to mandatory industrial insurance coverage and were directed to pay premiums by a person who is exempt from mandatory coverage.

"Willfully fails to pay or to cause to be paid" is defined as meaning a failure that was the result of an intentional, conscious, and voluntary course of action.

Taxpayer Education. The Department, when practical, must publish information and provide training to promote understanding of potential premium liability.

Collection of Provider Overpayments. The Department or self-insured employer is authorized to pursue the collection of unpaid overpayments, penalties, and interest from health care providers using the same procedures that are used to collect overpayments from workers.

Rule Adoption. The Department must adopt rules to implement the Act.

Votes on Final Passage:

House	95	0
Senate	49	0

Effective: June 10, 2004

HJM 4007

Requesting the issuance of an American coalminers stamp.

By Representatives Hinkle, Chopp, Haigh, Woods, Dunshee, Kirby, Boldt, O'Brien, Armstrong, DeBolt, Ahern, Newhouse, G. Simpson, Holmquist, Cairnes, Sump, Pearson, Shabro, Delvin, Hudgins, Linville, Conway, Skinner, Sullivan and Kenney.

House Committee on Agriculture & Natural Resources
Senate Committee on Natural Resources, Energy & Water

Background: The mining of coal has occurred throughout the United States for many years. Coal deposits are scattered throughout the United States, including sites in Washington.

The United States Postal Service (USPS) has issued a variety of commemorative stamps in recent years. A commemorative stamp may be issued in limited quantities and for a limited time in observance of historical events, in honor of noted Americans, and on topics of national importance.

Summary: The Legislature requests that the United States Postal Service issue a postage stamp commemorating American coal miners as a way to illustrate a colorful and historically rich segment of society for school children, educators, stamp collectors, and the public. This request is addressed to President Bush, the United States Senate and House of Representatives, the United States Postmaster General, and the Citizens' Stamp Advisory Committee of the United States Postal Service.

The efforts of American coal miners and the coal mining industry's benefits to the United States economy and energy supplies are identified.

Votes on Final Passage:

House	97	0	
Senate	44	0	(Senate amended)
House	95	0	(House concurred)

SHJM 4028

Requesting that funds be promptly disbursed to Holocaust survivors.

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Schual-Berke, Ruderman, Kagi, Dickerson, Kenney, McDermott, Darneille, Pettigrew, Miloscia, Haigh, Chase, Edwards, Morrell, Conway, Clibborn, Fromhold and O'Brien).

House Committee on Financial Institutions & Insurance
Senate Committee on Financial Services, Insurance & Housing

Background: Holocaust Era Insurance Policies. The proceeds of many insurance policies issued prior to and during World War II to Holocaust victims were not paid to victims or their survivors. The burden has generally been on the victims and/or their families to provide paperwork to prove their claims. However, locating old insurance policies proved difficult because many Holocaust victims were forced from their homes and divested of their personal property (including their records). In many instances, insurance company records are the only remaining proof that insurance policies existed. In addition, many insurance companies required a claimant to produce a death certificate to prove that life insurance proceeds were owing. Because death certificates were generally not prepared for most Holocaust victims, it was often impossible to meet the insurance companies' documentation requirements.

Some insurance companies assert that they paid Holocaust victim insurance policy benefits over to governments during World War II. Other insurance companies claim that the assets to pay policies were seized by military forces during the war. In Eastern Europe, some insurance companies were nationalized by socialist governments and the money from unpaid policies was appropriated by the state.

Most European insurance companies that sold Holocaust era policies currently participate in the American insurance market or have business affiliations with companies in the American insurance market.

The International Commission on Holocaust Era Insurance Claims (ICHEIC) was established to investigate and facilitate the payment of insurance proceeds to Holocaust victims and their survivors. The National Association of Insurance Commissioners (NAIC) voted to establish a working group on Holocaust era insurance issues. The Washington Insurance Commissioner (Commissioner) holds a seat on the International Holocaust Task Force of the NAIC.

The Holocaust Victims Insurance Relief Act. In 1999, the Legislature enacted the Holocaust Victims Insurance Relief Act, which created the Holocaust Survivor Assistance Office within the Office of the Insurance Commissioner to assist Washington's Holocaust victims, their families, and their heirs recover insurance proceeds and other assets improperly denied. Any insurer that sold insurance policies in Europe that were in effect between 1920 and 1945 must file information regarding such policies with the Commissioner. Insurers are required to file a list of insurance policies issued, including names of the insureds, beneficiaries, and face amounts of such policies, a comparison of names and other available identifying information of insureds and beneficiaries of such policies, and names and other identifying information of Holocaust victims; whether the proceeds have been paid to beneficiaries and whether a diligent search was conducted to locate beneficiaries;

whether, if beneficiaries could not be located, the proceeds of the policies were distributed to Holocaust survivors or qualified charitable nonprofit organizations for the purpose of assisting Holocaust survivors, and, whether a court has resolved the rights of unpaid policyholders and certified a plan for the distribution of proceeds or the proceeds have not been distributed. The Commissioner may suspend the certificate of authority of an insurer who fails to comply with this act and may issue civil penalties of up to \$10,000.

Distribution of Settlement Funds. A settlement was signed with Swiss banks in 1999 providing for \$1.25 billion in payments for victims of the Holocaust. The United States District Court for the Eastern District of New York oversees the Swiss settlement and is considering the reallocation of up to \$600 million in unclaimed settlement funds to be used for humanitarian purposes benefitting needy Holocaust survivors around the world. There are as many as 174,000 Holocaust survivors in the United States, many of whom are elderly and infirm.

As a result of an agreement between the ICHEIC, the Federal Republic of Germany, and other parties, a Humanitarian Fund of \$165 million has been created to assist needy Holocaust survivors. The ICHEIC Humanitarian Fund has, to date, distributed \$2.4 million for the benefit of survivors in the United States, including \$12,000 in Washington.

Summary: The Legislature requests that any and all humanitarian or other discretionary funds obtained for, or on behalf of, Holocaust survivors, be promptly disbursed in order to meet the basic needs of the survivors and that the funds be disbursed to the numbers of Holocaust survivors in proportion to their numbers worldwide based on accurate population data, with full and transparent accounting for the use of funds disbursed.

The Legislature further requests that the Commissioner use his position on the NAIC International Holocaust Commission Task Force to further the intent of this memorial and that copies of this memorial be immediately transmitted to the Chair of the ICHEIC, the United States District Court for the Eastern District of New York, and the Washington Insurance Commissioner.

Votes on Final Passage:

House	93	0
Senate	49	0

HJM 4031

Urging extension of temporary extended unemployment compensation.

By Representatives Conway, McIntire, Kenney, Wood, Santos, Chase, Murray, Sullivan, Simpson, G, McDermott, Morrell, Kagi, Darneille and Hudgins.

House Committee on Commerce & Labor

Background: Eligible unemployed workers may receive up to 30 weeks of regular unemployment benefits. (Beginning in the first month after the Commissioner of the Employment Security Department finds that the state's unemployment rate is 6.8 percent or less, they may receive up to 26 weeks of benefits.) Until early in 2004, individuals who exhausted regular benefits may have been eligible for further benefits through the temporary extended unemployment compensation (TEUC) program or the extended benefits program. Eligibility for benefits under the TEUC or extended benefit programs has expired.

Temporary Extended Unemployment Compensation. The TEUC program was first authorized in March 2002 and then extended in January 2003 and May 2003. To receive TEUC benefits, eligible unemployed workers must have exhausted regular benefits before December 21, 2003.

In most states, eligible unemployed workers were eligible to receive up to 13 weeks of these benefits. In Washington and other states with high unemployment rates, eligible unemployed workers were eligible to receive up to 26 weeks of these benefits. Eligibility criteria for these benefits differed somewhat from that for regular benefits, but the weekly benefit amount was the same.

These benefits were 100 percent federally-funded. Contribution-paying employers were not charged and reimbursable employers were not billed for these benefits.

Extended Benefits. The extended benefits program "triggered on" in Washington on January 6, 2002, and "triggered off" on January 10, 2004, based on the state unemployment rate and conditions specified in state law. No payments of these benefits were authorized for weeks beginning after January 10, 2004.

Eligible unemployed workers were eligible to receive up to 13 weeks of these benefits, but most received no more than nine weeks. Eligibility criteria for these benefits also differed somewhat from that for regular benefits, but the weekly benefit amount was the same.

These benefits were 50 percent federally-funded and 50 percent state-funded. Contribution-paying employers were not charged for these benefits, but most reimbursable employers were billed for these benefits.

HJM 4040

Summary: The Congress and the President are urged to extend and make retroactive federal temporary unemployment compensation benefits.

Votes on Final Passage:

House	95	0
Senate	47	0

HJM 4040

Requesting congress to pass a federal 211 act.

By Representatives Pettigrew, Priest, Kagi, Jarrett, Tom, Benson, Miloscia, Darneille, Ormsby, Morrell and O'Brien.

House Committee on Children & Family Services
Senate Committee on Children & Family Services & Corrections

Background: Abbreviated dialing codes enable callers to connect to a location in the phone network that otherwise would be accessible only via a seven- or 10-digit telephone number. Among abbreviated dialing arrangements, "N11" codes are three-digit codes of which the first digit can be any digit other than one or zero, and the last two digits are both one. There are only eight possible N11 codes, making N11 codes among the scarcest of numbering resources.

The Federal Communications Commission (FCC) has exclusive jurisdiction over numbering administration, including the assignment of N11 codes. The FCC has assigned 211 for community information and referral services.

In 2003, Engrossed Substitute House Bill 1787 was enacted, creating the 211 dialing code as the official state dialing code for public access to information and referral for health and human services and information about access to services after a natural or non-natural disaster. This act requires the not-for-profit Washington Information Network 211 to study, design, implement, and support a statewide 211 system, and annually report to the Legislature and the Department of Social and Health Services beginning July 1, 2004.

House Resolution 3111 and S. 1630, which may each be cited as the "Calling for 2-1-1 Act of 2003," have been introduced in the United States House of Representatives and Senate, respectively, in order to facilitate nationwide availability of 211 telephone service for information and referral on human services.

Summary: The Senate and the House of Representatives recognize the following:

- The process of connecting those living and working in Washington with needed human and social services can be simplified by the establishment of a 211 telephone dialing option.

- Washington Information Network 211 seeks to create a statewide 211 system using existing information and referral providers.
- In 2003, the Legislature overwhelmingly supported and passed an act supporting 211 development and implementation for the residents of the state.
- Congress recognizes the value and broad public benefits of 211 through the inclusion of 211 service in the "Public Health Security and Bioterrorism Preparedness and Response Act of 2002."

The Senate and the House of Representatives respectfully pray that Congress immediately pass the "Calling for 2-1-1 Act of 2003," H.R. 3111 and S. 1630.

Votes on Final Passage:

House	96	0
Senate	48	0

HJM 4041

Requesting relief for the Aganda family of Selah, Washington.

By Representatives Clements, Skinner, Kenney, Hudgins, Santos and Hinkle.

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

Background: The Aganda family of Selah, Washington, lawfully entered the United States from the Philippines on October 22, 1990, and purchased a small laundry business. The family sought an investor's visa but it was denied because the business was considered too small to support the family. However, the business has supported the family for over a decade.

U.S. Immigration Services are seeking to deport Tomas Aganda, his wife Judy Aganda, and their daughter Jennylyn Aganda back to the Philippines. Judy Aganda requires continued treatment for a cancerous growth at the base of her skull. This treatment is not available to her in the Philippines. A U.S. district court has granted a six-month stay of the deportation order which will end April 17, 2004.

The Aganda's daughter, Stephanie, was born in the U.S. and when she reaches the age of 21 next year, she will be able to file an immigrant visa for her parents. The Aganda's two sons attend school in the U.S. and have student visas.

Summary: A petition is made to the President of the United States, the Secretary of the Department of Homeland Security, the U.S. Bureau of Citizenship and Immigration Services, the President of the U.S. Senate, the Speaker of the U.S. House of Representatives, and the Washington state congressional delegation to end the efforts to deport the Aganda family, or to seek relief for the Aganda family through the passage of a private bill of relief.

Votes on Final Passage:

House	93	0
Senate	48	0

HCR 4418

Creating a study panel on adoption issues.

By Representatives Kagi and Boldt.

Background: Adoptions in the state occur through licensed private agencies, the Division of Children and Family Services (DCFS) of the Department of Social and Health Services, and independent agents. Requirements, processes, and services offered vary with each of these three methods of adoption, as well as varying by individual agencies.

Children who may be adopted through the DCFS are children residing in foster care who have been abused or neglected and cannot be reunited with their birth parents. Children who may be adopted through private agencies include healthy infants and young children, children from other countries, children with special needs, and children in foster care. Children who may be adopted independently include healthy infants, stepchildren, children from other countries, and relative and other non-agency placements.

Summary: There is created a legislative study panel on issues relating to adoption to be composed of four members from the Legislature as follows: two members of the Senate to be appointed by the President of the Senate, including one member of the majority party and one member of the minority party; and two members of the House of Representatives to be appointed by the Speaker of the House of Representatives, including one member from the majority party and one member from the minority party.

The study panel is required to invite the participation of the Governor. The study panel is also required to create an advisory committee to participate in the study panel composed of the following invited individuals: representatives of federally recognized Indian tribes, the Washington State Bar Association, the judiciary, and adoption agencies and child-placing agencies, including state agencies, nonprofit agencies, and those agencies providing services for domestic or international adoptions; adoptive parents; and adoptees.

The study panel is required to study and report findings and recommendations, as well as solicit comments from the community, regarding the current adoption statutes and policies related to the following issues:

- adoption-related fees;
- barriers to adoption;
- child selling and buying;
- adoption facilitation, advertising, and marketing;
- discrimination in adoption based upon ability to pay, race, color, or national origin of child or parent;
- background checks; and
- agency licensing and credentialing.

The study panel is required to report its findings to the Legislature by January 1, 2005.

Votes on Final Passage:

House	Adopted
Senate	49 0

SB 5034
C 270 L 04

Providing property tax relief for senior citizens and persons retired because of physical disability.

By Senators Zarelli, Winsley, McCaslin, T. Sheldon, Hale, Benton, West, Esser, Sheahan, Oke and Kohl-Welles.

Senate Committee on Ways & Means
House Committee on Finance

Background: Some senior citizens and persons who are retired from regular employment because of physical disability are eligible for property tax relief on their personal residences.

If the person is at least 60 years old or is retired from regular employment because of physical disability, and the person's disposable household income is \$34,000 or less, the person is entitled to defer any property taxes and special benefit assessments imposed on the property. The deferral program generally applies to the residence and one acre of land, but is increased to up to five acres of land if zoning requires this larger parcel size. Upon death, change in use, or eventual sale of the property, the full amount of the deferred taxes and special benefit assessments is due, along with interest at 8 percent per year.

If the person is at least 62 years old or is retired from regular employment because of physical disability, and the person's disposable household income is \$30,000 or less, the person is also entitled to a limit on the value of the residence and a partial property tax exemption. The valuation limit and exemption apply to the residence and up to one acre of land on which it is situated. Application can be made in the year the person reaches the age of 61. A person may retain property tax relief while he or she is confined to a hospital or nursing home, and the residence may be rented to pay the costs.

The valuation of the residence is frozen at the assessed value of the residence on the later of January 1, 1995, or January 1 of the year the person first qualified for the program, but the valuation cannot exceed the market value on January 1 of the assessment year.

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

- A. If the income level is \$24,001 to \$30,000, all excess levies are exempted.
- B. If the income level is \$18,001 to \$24,000, all excess levies are exempted and regular levies on the greater of \$40,000 or 35 percent of assessed valuation (\$60,000 maximum) are exempted.
- C. If the income level is \$18,000 or less, all excess levies are exempted and regular levies on the greater of \$50,000 or 60 percent of assessed valuation are exempted.

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

Summary: For purposes of the senior citizens and disabled person's property tax relief program, the definition of disability is tied to the social security definition of disability. Disability means the inability to engage in substantial gainful activity by reason of physical or mental impairment. Generally, under the federal definition individuals can earn up to \$930 per month and still be considered disabled.

Income eligibility for the deferral program is increased to \$40,000. The income eligibility and partial exemptions for senior citizens and persons retired due to disability are increased as follows:

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

A person may retain property tax relief while he or she is confined to a boarding home or an adult family home, and the residence may be rented to pay the costs.

The income used for determining eligibility for senior citizens and persons retired due to a disability is reduced by payments for medicare health care insurance premiums and for the costs of care in a boarding home or in an adult family home.

Votes on Final Passage:

Senate	44	4	
House	96	0	(House amended)
Senate	46	2	(Senate concurred)

Effective: June 10, 2004

ESB 5083

C 148 L 04

Recognizing concealed weapon licenses issued by states that recognize Washington's concealed pistol license.

By Senators Stevens, Benton, Mulliken, Roach, Oke, Esser, Swecker and T. Sheldon.

Senate Committee on Judiciary

House Committee on Judiciary

Background: Except in a person's home or place of business, a person cannot carry a concealed pistol without a Concealed Pistol License (CPL). A CPL is valid for five years. A person is ineligible for a CPL if he or she: (a) is otherwise ineligible to possess a firearm; (b) has been ordered to forfeit a firearm within one year before filing an application to carry a pistol concealed on his or her person; (c) is under 21 years of age; (d) is subject to a court order or injunction regarding firearms; (e) is free on bond or personal recognizance pending trial, appeal, or sentencing for a felony offense; (f) has an outstanding warrant for his or her arrest from any court of competent jurisdiction for a felony or misdemeanor; or (g) has had his or her CPL revoked. The states of Alaska, Idaho, Indiana, Kentucky, Michigan, Montana, Utah, Vermont, and Virginia currently recognize Washington CPLs.

Summary: Persons with valid CPLs from states that recognize Washington CPLs may carry a concealed pistol in Washington in conformity with Washington law if the licensing state: (1) does not issue CPLs to persons under the age of 21, and (2) requires mental health and fingerprint based background checks for all persons who apply for a CPL. This provision only applies to license holders who are not current Washington residents. The Attorney General publishes a list of states whose licenses are recognized in Washington.

Votes on Final Passage:

Senate	48	0	
House	93	2	(House amended)
Senate	48	0	(Senate concurred)

Effective: June 10, 2004

SSB 5139

C 59 L 04

Concerning student preparation for college-level work.

By Senate Committee on Higher Education (originally sponsored by Senator Carlson).

Senate Committee on Higher Education

House Committee on Higher Education

House Committee on Appropriations

Background: Colleges and universities all over the country provide remedial courses for under-prepared

students. During the last few years a growing concern has emerged over the costs of these courses to the students and to the state both in time and in money. While students who have been away from the academic environment for a number of years, or who are learning English as a second language, or facing other mitigating factors might need to complete some pre-college coursework, concern has been raised about the number of students right out of high school who are not prepared to do college level work. Many believe the high school diploma should demonstrate a readiness to succeed in college coursework.

A report from the state of California indicates that the California State University system recently threw out 8.2 percent of its freshmen for failing to master basic English or math skills, the highest rate in the four years it has tracked such dismissals.

The State Board for Community and Technical Colleges and the four-year institutions have issued reports about the role of pre-college course enrollment.

Summary: The Legislature recognizes current work among education sectors to strengthen communication with parents and students about what students need to do to gain and maintain the skills necessary to do college-level work. The Higher Education Coordinating Board, the State Board for Community and Technical Colleges, and the Office of the Superintendent of Public Instruction are directed – within current budgets – to convene a work group to discuss standards and expectations for college-level work, identify the causes of current gaps in students' knowledge and skills, and initiate actions to address those gaps so that the need for remediation of recent high school graduates is reduced. The work group includes representatives of the two- and four-year colleges and K-12 school districts. Strategies must be developed for communicating the standards in all Washington high schools. A report is due December 15, 2004, to legislative education and higher education committees including strategies, timelines, and benchmarks for reducing remediation over the next three years.

Votes on Final Passage:

Senate	47	0	
House	94	1	(House amended)
Senate	48	0	(Senate concurred)

Effective: June 10, 2004

SSB 5168

C 121 L 04

Authorizing reduction of interest on legal financial obligations.

By Senate Committee on Children & Family Services & Corrections (originally sponsored by Senator Hargrove).

Senate Committee on Children & Family Services & Corrections

House Committee on Judiciary

Background: Under current law, certain offenders are subject to court ordered legal financial obligations. These include victim restitution and certain court and trial costs. These legal financial obligations are subject to interest on the principal amount. The interest does not compound. By statute, legal financial obligations are paid in the following order: victim restitution, other legal financial obligations, interest on restitution, then other interest. In some cases, the amount of the obligations is so substantial that the monthly interest exceeds the monthly payment and it becomes impossible for the offender to satisfy the obligation. Concerns have been raised that there is little mechanism available to the courts to provide offenders an incentive to pay the principal in these cases with the result that victims receive no restitution payments.

Summary: When an offender has personally made a good faith effort to pay his or her legal financial obligations, he or she may petition the court to reduce or waive the interest on legal financial obligations other than the interest on restitution. A good faith effort to pay means that the offender has either paid the principal amount in full or has made 24 consecutive payments, excluding any automatic deductions taken by the Department of Corrections (DOC), under his or her payment agreement with the court.

To obtain relief from the interest, the offender's petition must show:

- the good faith effort to pay;
- the interest accrual is causing a significant hardship;
- that he or she will be unable to pay the total interest and principal in full; and
- reduction or waiver will likely enable the offender to pay the principal and any remaining interest.

The court may reduce or waive the interest as an incentive for the offender to pay the principal. The court may not waive interest on the restitution principal. It may only reduce interest on the restitution principal after the principal is paid in full. The court may establish a payment schedule and retain jurisdiction over the offender for purposes of reviewing and revising the reduction or waiver of interest.

This applies to both juvenile and adult offenders.

When an offender is subject to sentence requirements and the payment of legal financial obligations and

either is not subject to DOC supervision or the requirements are not complete at the end of the supervision, it is the offender's responsibility to provide the court with adequate verification of the completion of sentence requirements, except that the county clerk will notify the court when the offender has completed payment of his or her legal financial obligations for the purpose of restoring the offender's civil rights.

The county clerk may access employment security information for the purposes of verifying employment or income or for pursuing collection of legal financial obligations.

The provision related to civil collection of legal financial obligations is amended to clarify that monthly payment amounts are not to be construed as a limitation for purposes of credit reporting.

Provisions related to setting the amount of an offender's monthly payment are corrected to provide county clerks with the necessary authority to set amounts for those offenders from whom they are collecting. In the event that a county clerk is unable to continue collections, the responsibility reverts to the department.

Votes on Final Passage:

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

Effective: June 10, 2004

E2SSB 5216

C 9 L 04

Revising forensic competency and sanity examinations.

By Senate Committee on Children & Family Services & Corrections (originally sponsored by Senators Stevens and Hargrove).

Senate Committee on Children & Family Services & Corrections

House Committee on Criminal Justice & Corrections

Background: The Joint Legislative Audit and Review Committee was required by the Legislature to conduct a study of the impact of SB 6214, the mentally ill offender act (Ch. 297, Laws 1998). The report found that increases in misdemeanor competency evaluations indirectly attributable to SB 6214 were handled differently at Eastern Washington State Hospital and that following SB 6214, the existing waiting list for competency evaluations got longer. Court and jail officials concurred that the wait was "weeks" long, sometimes 30-60 days.

Unlike Western State Hospital, which conducts most competency evaluations on an outpatient basis in the county jails, Eastern State Hospital conducts them on an inpatient basis resulting in an average 13 to 15 day stay. Eastern State Hospital cited staffing requirements and court rulings when asked why they did not conduct more

outpatient evaluations. Due to the distances they must cover, providing two staff to perform the evaluation was not a possibility. In Western Washington, the two person evaluation is typically waived with the agreement of both prosecutors and defense for outpatient evaluations in the jails. Eastern State Hospital and Spokane court officials reported that this requirement is not usually waived in Eastern Washington jurisdictions.

According to state hospital professionals, when an evaluation is conducted by two professionals, there is almost always concurrence in their findings.

Summary: When there is reason to doubt the competency of a defendant, the court may, upon agreement of the parties, designate one professional person to evaluate the defendant. The evaluation may be done in a local correctional facility or an appropriate community setting.

The signed court order for the evaluation serves as authority for the experts to access the defendant's mental health, medical, educational and correctional records that relate to the defendant's condition.

Votes on Final Passage:

Senate	48	0
House	94	0

Effective: June 10, 2004

SSB 5326
C 129 L 04

Creating regional fire protection service authorities.

By Senate Committee on Government Operations & Elections (originally sponsored by Senators Winsley, B. Sheldon, Doumit and T. Sheldon).

Senate Committee on Government Operations & Elections
House Committee on Finance

Background: If approved by the county legislative authority, the formation of a fire protection district can be put to the voters within the proposed district. If three-fifths of votes cast are in favor, then the district is declared organized by resolution of the county commissioners.

The board of fire commissioners is the elected manager of the affairs of the district. It may be composed of either three or five fire district commissioners. Each fire district commissioner can receive \$70 per day compensation up to \$6,720 per year.

The county treasurer is the treasurer of the fire protection district.

Fire protection districts have the powers usual to any other corporation for public purposes. They may contract with any governmental entity using the Interlocal Cooperation Act, or with private parties, for fire protection and emergency medical purposes. They have the power of eminent domain. They may finance the pur-

chase of real property, but are limited in total indebtedness to three-eighths of 1 percent of the value of the taxable property in the district. Any indebtedness in excess of this must be approved by the voters. Financing authority granted to fire protection districts includes issuance of general obligation bonds and assessment of excess property tax levies. The board of fire district commissioners may impose benefit charges for up to six years that must be approved by 60 percent of the voters of the district. The board may also levy special assessments for up to 20 years in areas the board designates as local improvement districts.

The prevention and fighting of fires is an enumerated power of cities and towns.

Summary: A regional fire protection service authority may be created by a vote of the people that approves a regional fire protection services authority plan, and the creation of the authority, as a single ballot measure. The plan is created by a planning committee composed of three elected officials appointed by the governing bodies of each of the participating fire protection districts and departments. The governing bodies from which the members of the planning committee are appointed may individually determine at their discretion to pay their appointees to the planning committee compensation at the rate of \$70 per day up to \$700 per year for serving on the planning committee.

The plan that is implemented by the authority, after it is developed and financing is arranged by the committee, may be for capital projects, fire and emergency service operations and preservation and maintenance of existing or future facilities and ambulance service in limited circumstances. The plan must be reviewed every ten years. The financing options include benefit charges as provided for fire protection districts, and three 50 cents per \$1,000 assessed value voter-approved excess property tax levies. A simple majority vote of the voters in the authority is required for approval of the ballot measure that includes the taxes. A second vote of the people is required to implement the tax or benefit charges. The taxing authority of the regional authority is an alternative to rather than in addition to the existing taxing authority of the participating jurisdictions.

The authority may issue its own debt maturing in up to ten years and notes maturing in up to 20 years. It may also pledge taxes of the authority, by contract of up to 25 years, to pay principal and interest on bonds issued by the authority.

The authority may incur general indebtedness and issue general obligation bonds maturing in up to ten years to be paid by voter-approved excess property tax levies.

The authority has the power of eminent domain, among others. Provision is made for withdrawal and reannexation of areas and for dissolution of the regional authority.

Votes on Final Passage:

Senate	48	0	
House	95	0	(House amended)
Senate	47	0	(Senate concurred)

Effective: June 10, 2004

SB 5376

C 205 L 04

Describing the route of SR 99.

By Senator Prentice.

Senate Committee on Highways & Transportation
House Committee on Transportation

Background: Currently, State Route 99 begins in Fife at a junction with State Route 5, thence northerly by way of Federal Way, Midway, Seattle, and Edmonds to a junction with State Route 5 in Everett. A proviso specifies that the portion of State Route 99 between Fife and Federal Way will be deleted from the state system when a new corridor for State Route 509 is completed from State Route 705 in Tacoma, via the Port of Tacoma, to Federal Way.

The Transportation Improvement Board is responsible for annually reviewing requests for transfers of road jurisdiction among the Department of Transportation, cities, and counties. Criteria for route responsibility is set forth in RCW 47.17.001. Decisions for transfer by the board are then referred to the Legislature in order for the transfer to occur. The city of Tukwila has requested that the portion of State Route 99 between State Route 518 in the vicinity of Tukwila and State Route 599 in the vicinity of Tukwila be transferred to local jurisdiction.

Summary: 2.4 miles of State Route 99 between State Route 518 in the vicinity of Tukwila and State Route 599 in the vicinity of Tukwila is removed from the state highway system and is turned back to local authorities.

Votes on Final Passage:

Senate	46	0
House	94	0

Effective: June 10, 2004

3SSB 5412

C 273 L 04

Authorizing voluntary collection of biometric identifiers from applicants for drivers licenses and identicards.

By Senate Committee on Highways & Transportation (originally sponsored by Senators Brandland, Kline, Winsley, Haugen, Prentice, Reardon, Rasmussen, Eide and McCaslin).

Senate Committee on Judiciary
Senate Committee on Highways & Transportation
House Committee on Transportation

Background: Identity theft occurs when someone appropriates another person's personal information, without that person's knowledge, to commit fraud or theft. A common piece of personal information that is used to commit this crime is a fraudulently issued driver's license. Proponents of this bill believe requiring a biometric identifier from every person applying for a driver's license will greatly reduce the ability of people to obtain fraudulent drivers' licenses.

Summary: The civil liability for committing identity theft in the first or second degree is increased from \$500 to \$1,000 or actual damages, whichever is greater.

The Department of Licensing (DOL) must implement a highly accurate biometric matching system by January 1, 2006. This system must be used only to verify the identity of an applicant for renewal or issuance of a duplicate license or identicard. When the biometric driver's license and identicard system is established, the department must allow every person applying for an original, renewal, or duplicate driver's license or identicard the option of submitting a biometric identifier. A fee of up to \$2 may be charged to add a biometric identifier to a driver's license or identicard.

Individuals who choose to provide biometric information must be informed of the following:

1. ways in which the biometric identifier may be used;
2. parties to whom the identifier may be disclosed; and
3. expected error rates for the matching system chosen and the potential consequences of the errors.

The department must adopt rules to allow applicants to verify the accuracy of the system at the time the biometric information is submitted, including the use of verification through separate devices. And, the system selected must incorporate the use of personal identification numbers or codes to be used with the drivers' licenses and identicards before verification can be made by a third party. DOL must develop procedures to handle circumstances when the matching system fails and must allow applicants to provide identity without using a biometric identifier. An individual who has provided biometric identifiers to the department may discontinue participation at any time, and that individual's biometric information must be destroyed by the department.

All biometric information gathered from individuals must be stored with appropriate safeguards. DOL may not disclose biometric information to the public or any governmental entity except when authorized by court order.

The selection of a biometric matching system must be fully reviewed by the Information Services Board using criteria for projects of the highest visibility and risk.

Sections 1, 3, 4 and 5 are null and void if funding is not provided for implementation in the transportation appropriations act.

Votes on Final Passage:

Senate	46	2	
House	66	28	(House amended)
Senate	47	2	(Senate concurred)

Effective: July 1, 2004

ESSB 5428

C 249 L 04

Allowing alternative means of renewing driver's licenses.

By Senate Committee on Highways & Transportation (originally sponsored by Senators Finkbeiner, Haugen, Horn and Shin; by request of Department of Licensing).

Senate Committee on Highways & Transportation
House Committee on Transportation

Background: Currently, persons applying for renewal of a driver's license or identicard present the application to the Department of Licensing (DOL) in person. However, a person living outside the state whose driver's license has expired, or will expire, may apply for renewal by mail.

Generally, a driver's license and identicard are valid for a period of five years.

Summary: "Electronic commerce" is defined to include transactions made over the internet, by telephone, or other electronic means.

A driver's license may be renewed by mail or electronic commerce if: (1) DOL permits the renewal by rule; and (2) the applicant did not renew the driver's license by mail or electronic commerce when it last expired.

An identicard may be renewed by mail or electronic commerce if: (1) DOL permits the renewal by rule; (2) the applicant did not renew the identicard by mail or electronic commerce when it last expired; and (3) the identicard includes a photograph of the identicard holder.

A person whose license has expired, or will expire, while he or she is living outside the state, may apply for renewal by electronic commerce, regardless of whether the applicant renewed his or her driver's license by mail

or electronic commerce when it last expired, if DOL permits such renewal by rule.

DOL is authorized to accept credit card payment for drivers' licenses and identicards.

The department's authority to issue drivers' licenses and identicards via the mail or internet is subject to funding being provided by June 30, 2004 in the omnibus transportation appropriations act.

Votes on Final Passage:

Senate	37	11
House	95	1

Effective: June 10, 2004

SSB 5436

C 138 L 04

Regarding foods and beverages sold at public schools.

By Senate Committee on Education (originally sponsored by Senators Kohl-Welles, Rasmussen, Jacobsen, Winsley, Thibaudeau, McAuliffe, Prentice and Kline).

Senate Committee on Education
House Committee on Education

Background: Under current federal law, school meals must meet nutrition standards established in the Dietary Guidelines for Americans in order to obtain cash subsidies and donated commodities from the U.S. Department of Agriculture. As part of this federal regulation, foods and beverages of minimal nutritional value cannot be sold in the school food service area (such as cafeterias, hallways and common areas) during school meal periods. These regulations do not restrict the sale of those foods or beverages at any other time during the school day. States are authorized to impose additional restrictions on any food or beverage sold at any time throughout their schools.

In Washington, 277 out of a total of 296 public school districts participate in the federal school lunch and school breakfast programs and are therefore subject to the federal regulations.

Summary: The Washington State School Directors Association (WSSDA), with the assistance of the Office of the Superintendent of Public Instruction, the Department of Health and the Washington Alliance for Health, Physical Education, Recreation, and Dance, must form an advisory committee to develop a model policy regarding student access to nutritious foods, opportunities for developmentally-appropriate exercise and accurate information related to these topics. The model policy must address the nutritional content of foods and beverages sold or provided throughout the school day or sold in competition with the school lunch and breakfast programs. The policy must also address the availability and quality of health nutrition and physical education curricula. The model policy developed should include the

development of a physical education curriculum including a requirement for middle school students to have at least 20 minutes daily of aerobic activity in the students' target heart rate zone.

The model policy and recommendations are submitted to the Governor and Legislature by January 1, 2005. The model policy must be posted on the WSSDA website by January 1, 2005.

Each school district must adopt its own policy on competitive foods by August 1, 2005.

Votes on Final Passage:

Senate	47	1	
House	79	16	(House amended)
Senate	47	0	(Senate concurred)

Effective: June 10, 2004

E2SSB 5533

C 29 L 04

Providing increased access to information on disciplinary actions taken against school employees.

By Senate Committee on Education (originally sponsored by Senators Kohl-Welles, Johnson, McAuliffe, Carlson, Keiser, Rasmussen and Kline).

Senate Committee on Education
House Committee on Education

Background: Under current law, a school district must perform a fingerprint-record check when hiring a staff person who will have regularly scheduled unsupervised access to children. All classroom teachers must have a fingerprint record check when they apply for their teaching certificate.

Under the Public Disclosure Act, public records maintained by an agency concerning its own employees are available for public inspection unless a specific provision of the law exempts the record from disclosure. The act applies to personnel files held by school districts and permits a hiring school district to request records from another school district that was the prior employer of an applicant. The act does not require one school district to request any records. The act contains an extensive list of statutory exemptions to disclosure that includes an exemption for personal information of public employees to the extent that disclosure would violate that employee's "right to privacy" and an exemption for the residential addresses and phone numbers of the employee.

A person's "right to privacy" is violated only if disclosure of the information about the person (1) would be highly offensive to a reasonable person, and (2) is not a legitimate concern to the public.

Summary: Certificated and classified school district employees who apply to another school district must sign a release authorizing the disclosure of any sexual

misconduct information, including any related documents in their personnel files. Hiring school districts must request from all of the applicant's previous school district employers any information about that employee's sexual misconduct including related documents. The information must be provided within 20 days of receiving the request.

School districts that provide the required information are provided immunity when the information is provided in good faith. Sexual misconduct information is only used to evaluate the applicant's qualifications for the position for which he or she has applied and the information is not disclosed to anyone not directly involved in the evaluation process. A person who wrongfully discloses information is guilty of a misdemeanor.

School districts that are considering applicants for certificated positions must request verification of the applicant's certification status and sexual misconduct information in the applicant's files from the Office of the Superintendent of Public Instruction (OSPI).

Applicants may be employed on a conditional basis pending review of any sexual misconduct information. School districts must not hire an applicant who refuses to sign the release.

Starting on September 1, 2004, school districts are prohibited from entering into employment contracts or severance agreements which call for sealing records of verbal or physical abuse or sexual misconduct. This prohibition does not apply to existing contracts or agreements.

At the conclusion of a district's investigation, school personnel are allowed to review their personnel, investigative, or other files relating to sexual misconduct and attach rebuttals as the employee deems necessary. These rebuttal documents must also be disclosed.

The State Board of Education defines "verbal abuse," "physical abuse" and "sexual misconduct" for application to both classified and certificated employees for purposes of this bill. The definition adopted by the board must include a requirement that the school district make a determination that there is sufficient information to conclude that the abuse or misconduct occurred and that the employee is leaving due to that misconduct.

Districts must provide parents with information regarding their rights under the Washington Public Disclosure Act to request employee records regarding disciplinary action.

OSPI must report all types of disciplinary action taken to the national database to the extent that information is accepted.

If there has been a report of sexual misconduct, the school district must notify the parents of the student who is the victim of that misconduct within 48 hours of receiving the report.

Votes on Final Passage:

Senate	48	0	
House	95	0	(House amended)
Senate	48	0	(Senate concurred)

Effective: June 10, 2004

2ESSB 5536

C 201 L 04

Resolving claims relating to condominium construction.

By Senate Committee on Judiciary (originally sponsored by Senators Finkbeiner, Reardon, Roach, Hale, Horn, Benton, Morton, Hewitt, Schmidt, Kastama, Sheahan, Mulliken, Johnson, Parlette, Stevens, West and Esser).

Senate Committee on Judiciary
House Committee on Judiciary

Background: The Washington Condominium Act (WCA) creates a system of warranties of quality, both implied and express. Implied warranties may be waived in writing, except that, in the case of a residential unit, any waiver must be specific as to the defect waived and must be "a part of the basis of the bargain." In addition to implied warranties by a vendor or dealer, any seller of a unit makes an express warranty of quality by any written statement relating to the condition of the unit or the legality of its use or by any model or written description that purports to show the unit's physical characteristics. Under the act, any right or obligation is enforceable by judicial proceeding. Nothing in the act prevents parties from mediating or otherwise settling their disputes as they wish, but the act restricts the parties' ability to contractually foreclose enforcement by judicial proceeding.

Summary: Implied warranties extend to the extent of defective materials, sound engineering and construction, workmanship, and compliance with all laws. The condo owner must show that the defect adversely affected the performance of the condo. An adverse effect must be more than technical, and must be significant to a reasonable person. It need not render the condo uninhabitable or unfit for use. Proof of breach is not proof of damages. Damages for a breach are cost of repairs, unless cost of repair is grossly disproportionate to the loss in market value, then damages are limited to loss in market value.

A seven-member committee (three Senate, three House, one Governor-appointed) is created to study third party water penetration inspections and arbitration as an alternative to court action. The due date for the report is December 31, 2004.

The declaration of condominium or bylaws of the condominium must include a statement of the board's decision-making standards. Resale certificates must disclose the status of any legal proceedings in which the association is a plaintiff or defendant.

A warranty insurance program is established as an alternative to the implied warranty provisions of the WCA. The public offering statement must include a statement as to whether a qualified warranty applies to the condo and the history of claims. If a condominium declarant purchases warranty insurance that meets certain requirements, the declarant and any construction professional are no longer liable to a condo unit owner for breach of a warranty under the WCA. Instead, the condo owner's recourse for a warranty breach is to file a claim under the warranty insurance policy. If a construction professional agrees to indemnify the insurer for loss due to construction defects caused by the construction professional, the liability of the construction professional is limited to the insurance limits of the warranty.

Votes on Final Passage:

Senate	46	3	
House	94	0	(House amended)
Senate			(Senate refused to concur)
House	97	0	(House amended)
Senate	49	0	(Senate concurred)

Effective: June 10, 2004

July 1, 2004 (Sections 1-13)

SSB 5590

C 204 L 04

Determining the appeals period for certain environmental appeals.

By Senate Committee on Natural Resources, Energy & Water (originally sponsored by Senators Morton, Fraser, Honeyford, Hewitt, Doumit and Regala; by request of Environmental Hearings Office).

Senate Committee on Natural Resources, Energy & Water
House Committee on Judiciary

Background: Under current law, different statutes govern appeals to the Pollution Control Hearings Board of agency actions, civil penalties, and orders, permits, or licenses, as well as appeals from decisions and orders of the board. The statutes are not consistent regarding the period in which an appeal can be filed. In some, the period starts when notice is mailed. In others, the period starts when notice is received.

Summary: The period for appealing decisions of the Pollution Control Hearings Board to superior court and for appealing civil penalties, orders, permits, and other actions to the board is within 30 days of the date of receipt of notice. Date of receipt means either five business days after the date of mailing or the date of actual receipt, if it can be proved by a preponderance of the evidence and is not later than 45 days from the date of mailing. A sworn affidavit or declaration is sufficient evidence, if unchallenged.

Votes on Final Passage:

Senate 48 0
House 95 1

Effective: June 10, 2004

ESSB 5665
C 215 L 04

Changing irrigation district administration provisions.

By Senate Committee on Agriculture (originally sponsored by Senators Rasmussen and Swecker).

Senate Committee on Agriculture
House Committee on Agriculture & Natural Resources

Background: Irrigation districts may purchase, construct, operate, maintain, and repair water conduit systems and diversions in order to deliver irrigation water. An irrigation district may also perform a variety of other functions, including the purchase and sale of electric power for irrigation and domestic use, operation of a domestic water system for irrigated landowners, and operation of a drainage or sewage system.

Irrigation district directors and employees acting in good faith and within the scope of their official electric utility duties are granted statutory immunity from civil liability for mistakes and errors of judgment and discretion.

At least 5 percent of irrigation district revenues may be placed annually in a facility upgrade and improvement fund.

Irrigation districts may impose rates and charges for district services through the collection or levy of assessments. Unpaid rates and charges constitute a lien "paramount and superior" to other liens until the rates and charges are paid in full. Under the "last faithful acre" doctrine, real property benefitted by an irrigation district may be assessed in subsequent years for delinquent or unpaid assessments from prior years.

After three years of delinquency, the irrigation district treasurer must prepare certificates of delinquency for unpaid assessments and costs. Through an interlocal cooperation agreement, a district treasurer and a county treasurer may foreclose in a combined action for delinquent irrigation assessments and property taxes. A presumption of legality attaches to district documents unless a party in interest would be unfairly affected by defects.

Irrigation districts are included by reference in utility statutes that automatically extinguish liens if a utility fails to respond quickly to a closing agent's request for a final statement. Districts have conveyed concern that such extinguishment provisions could impair irrigation district access to favorable bonding terms that depend upon the strength of irrigation district lien provisions and the "last faithful acre" doctrine.

Summary: The coverage of liability immunity is extended to officers and agents, in addition to directors and employees, and to all legal claims or causes of action related to good faith activities within the scope of official hydroelectric, irrigation, potable water, or electric utility duties. The scope of such immunity is modified to include discretionary decisions or failure to make discretionary decisions. These grants of immunity do not modify the liability for the irrigation district itself.

Credit cards may be used to pay district assessments.

The board of directors shall determine what portion of the district's annual revenue to place in the district's upgrade and improvement fund. All electric energy revenues may be deposited in the fund.

In districts with 200,000 acres or more, the board of directors is granted discretion to preclude a foreclosure action if it would not be in the best interest of the district given foreclosure costs and assessments owed.

Defenses or objections to foreclosure in a party's answer are limited to issues of pleading form, sufficiency of service, payment status, assessment validity, and district jurisdiction. Counterclaims are not permitted. Courts are to liberally allow districts to amend legal pleadings to cure claimed defects, and are to issue prompt foreclosure determinations that are limited to the record of a district's pleading and a party in interest's answer. To avoid injustice, the court may schedule expedited hearings limited to evidentiary affidavits and declarations. District documents are presumed valid unless a party with an interest in the property would be unfairly prejudiced.

County treasurers are authorized to utilize the county tax lien foreclosure statute when foreclosing for irrigation district assessments. When foreclosing on a combined action related to property taxes and irrigation district assessments, the county treasurer may use the county tax lien foreclosure statutes, or the irrigation district treasurer may use the irrigation district lien foreclosure statutes.

References to irrigation districts are removed from utility statutes that automatically extinguish district liens for failure to respond promptly to a closing agent's final billing requests.

Votes on Final Passage:

Senate 48 0
House 95 0 (House amended)
Senate 48 0 (Senate concurred)

Effective: June 10, 2004

SSB 5677
FULL VETO

Requiring annual meetings to focus on implementing cross-sector education policies.

By Senate Committee on Higher Education (originally sponsored by Senators McAuliffe, Carlson, Parlette, Eide, Rasmussen, Regala, Schmidt, Kohl-Welles and Shin).

Senate Committee on Higher Education
House Committee on Higher Education

Background: Currently the Higher Education Coordinating Board (HECB), the State Board of Education (SBE), and the State Board for Community and Technical Colleges (SBCTC) meet separately to do the work of their respective boards.

With many states moving toward creating a more integrated and cohesive education system, it is believed by some that requiring the various policy boards to meet jointly at least once per year can foster collaboration among the sectors of education in Washington.

Summary: In September or December, an annual meeting must be held to discuss issues of cross-sector relevance. The meeting shall have a focused agenda on issues including but not limited to efforts to improve articulation; the role of advising and assessment; and development of standards for the knowledge and skills students need to be ready for college-level work.

Participants in the annual meeting are the SBE, HECB, the Superintendent of Public Instruction, SBCTC, the Council of Presidents (COP), the Work Force Training and Education Coordinating Board, and legislative members of the House and Senate education, higher education, and fiscal committees.

Beginning in 2004 with the COP, responsibility for coordinating and summarizing the meeting results and proposing an action plan rotates among the participating agencies.

Votes on Final Passage:

Senate	48	0	
House	94	0	(House amended)
Senate	48	0	(Senate concurred)

VETO MESSAGE ON SB 5677-S

March 31, 2004

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 No. 5677 entitled:

“AN ACT Relating to cooperation among education policy boards;”

This bill would have required an annual meeting of the Superintendent of Public Instruction, the State Board of Education, the Higher Education Coordinating Board, the State Board for Community and Technical Colleges, the Workforce Training and Education Coordinating Board, and legislators from the higher

education, education, and fiscal committees of the Legislature to discuss efforts and create action plans to: (1) improve articulation between high school and college, (2) align math content, instruction, standards and assessments in high school and college, and (3) develop standards for knowledge and skills needed for success in college.

Current law and other bills passed by the Legislature in the 2004 session duplicate the requirements of this bill. (See RCW 28A.305.285; Substitute House Bill No. 2382; Substitute Senate Bill No. 5139; Engrossed Substitute House Bill 2459, Section 602 (15); and Substitute House Bill 3103.)

For these reasons, I have vetoed Substitute Senate Bill No. 5677 in its entirety.

Respectfully submitted,



Gary Locke
Governor

SSB 5732
C 141 L 04

Revising provisions for long-term care service options.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Deccio, Rasmussen, Brandland and Winsley).

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

Background: Under the doctrine of joint and several liability, multiple defendants whose negligent acts caused a plaintiff's injury are each individually liable for all of the plaintiff's damages. Jointly and severally liable defendants may have rights of contribution among themselves; thus, a defendant who pays more than his or her share can seek reimbursement from those defendants who paid less than their share. The plaintiff, however, may seek all of the damages from any one of the defendants.

With certain exceptions, Washington has abolished joint and several liability in cases involving the fault of multiple parties. One of these exceptions occurs when a plaintiff suffering bodily injury or incurring property damage is found to be not at fault; then, each defendant against whom judgment is entered is jointly and severally liable for the plaintiff's total damages.

There is concern that for potential defendants, such as Area Agencies on Aging, the existence of joint and several liability provides an incentive for plaintiffs to litigate.

Summary: Case management responsibilities include verifying that the client's plan of care adequately meets the needs of the client. The plan of care shall include a statement by the individual provider that he or she has the ability to carry out his or her responsibilities. An individual consumer's need for case management services may be met through an alternative delivery system.

Votes on Final Passage:

Senate	47	0	
House	95	0	(House amended)
Senate	48	0	(Senate concurred)

Effective: June 10, 2004

SSB 5733
PARTIAL VETO
C 140 L 04

Improving fairness and protection in boarding homes and adult family homes.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Winsley, Thibaudeau and Kohl-Welles).

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

Background: Boarding homes, and adult family homes are regulated by the Department of Social and Health Services. The department makes regular unannounced inspections, and must respond to complaints under terms described in statute. Complaints involving imminent danger to the health, safety or well-being of a resident must be responded to within two days. The department is authorized to take actions if licensees fail to meet licensing requirements, if they operate without a license, provide false information, or interfere with inspections or investigations. Any of the above may be cause for the department to refuse an initial license, or to impose reasonable conditions on a contract, to levy civil penalties, or to suspend, revoke or deny a renewal. The department is also authorized to suspend admissions to any facility found in violation of licensure or contract agreements.

Summary: The definition of an "affiliated person" is broadened to include the spouse of the applicant, or is listed on the license application as a partner, officer, director, resident manager or majority owner of the applying entity.

Change of ownership rules of boarding homes and adult family homes are clarified and simplified.

A new owner of a boarding home or an adult family home is responsible for correcting all violations that may exist at the time of the new license.

Votes on Final Passage:

Senate	48	0	
House	96	0	(House amended)
Senate	49	0	(Senate concurred)

Effective: June 10, 2004

Partial Veto Summary: The veto deletes language restricting the Department of Social and Health Services from having access to financial records of boarding homes except in certain circumstances. This provision was included in other legislation.

VETO MESSAGE ON SB 5733-S

March 26, 2004

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 2, Substitute Senate Bill No. 5733 entitled:

“AN ACT Relating to fairness and protection in boarding homes and adult family homes;”

This bill improves the laws governing the licensing of boarding homes and adult family homes. It clarifies responsibilities of the Department of Social and Health Services (DSHS) to communicate inspection and other quality of care findings to residents and their families.

Section 2 would have allowed DSHS to access the financial records of a boarding home when needed to investigate allegations of financial exploitation of a resident, or to examine instances in which there is reason to believe that a financial obligation related to resident care will not be met. This same section of statute is amended by section 3 of Substitute Senate Bill No. 6160. The amendments in Substitute Senate Bill No. 6160 provide additional protections that support the operation of quality assurance committees in boarding homes. In light of the amendments in Substitute Senate Bill No. 6160, section 2 of this bill would have introduced confusion in quality monitoring activities and is unnecessary.

For these reasons, I have vetoed section 2 of Substitute Senate Bill No. 5733.

With the exception of section 2, Substitute Senate Bill No. 5733 is approved.

Respectfully submitted,



Gary Locke
Governor

2SSB 5793
C 91 L 04

Changing on a temporary basis the minimum nonforfeiture amounts applicable to certain contracts of life insurance and annuities.

By Senate Committee on Financial Services, Insurance & Housing (originally sponsored by Senators Winsley and Prentice).

Senate Committee on Financial Services, Insurance & Housing

House Committee on Financial Institutions & Insurance

Background: The Insurance Commissioner is responsible for regulating life insurance and annuities in Washington State. Generally, these types of insurance require the insurer to pay a minimum interest rate of 3 percent of any paid-up annuity, or life insurance death benefit, if an insured person opts to "cash out" a policy prior to its maturity.

In recent years, with interest rates the lowest they have been in decades, it is believed to be financially inequitable to require insurers to pay 3 percent per year on annuity contracts, essentially requiring insurance

companies to offer contractual minimum rates in excess of actual market rates.

The National Association of Insurance Commissioners (NAIC) adopts model legislation on various issues, in order to update and correct insurance regulatory concepts. The NAIC developed model legislation regarding minimum nonforfeiture rates in 2003, and more than a dozen states have adopted the model.

Summary: The NAIC model minimum nonforfeiture rate legislation is adopted in Washington State. The indexed interest rate is within a range: not less than 1 percent nor more than 3 percent, creating a statutory floor and ceiling.

For the first two years after this law's effective date, insurers can use the old law or the new one in their contracts. As of July 1, 2006, the new law applies to all new contracts.

Votes on Final Passage:

Senate	46	0
House	96	0

Effective: July 1, 2004

SSB 5797

C 143 L 04

Requiring the department of social and health services to inspect adult family homes at least every twenty-four months.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Parlette and Brandland).

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

Background: Adult family homes provide room, board, and care to elderly and disabled individuals statewide. Currently, there are 2,083 licensed adult family homes providing care to 11,000 individuals, 3,274 of whom are Medicaid clients. These homes are licensed to care for up to six unrelated individuals, and they are regulated by the Department of Social and Health Services. State law currently requires that the department conduct inspections at least every 18 months, subject to funding.

Summary: The department is authorized to conduct inspections of adult family homes every 24 months in homes that have had three consecutive inspections without any citations or violations resulting from complaint investigations.

Votes on Final Passage:

Senate	49	0
House	94	0 (House amended)
Senate	47	0 (Senate concurred)

Effective: June 10, 2004

ESSB 5861

C 124 L 04

Making it a crime to impersonate a veteran of the armed forces.

By Senate Committee on Government Operations & Elections (originally sponsored by Senators Roach, Rasmussen, T. Sheldon, Finkbeiner, Kohl-Welles, Oke, Schmidt and Shin).

Senate Committee on Government Operations & Elections

House Committee on State Government

Background: Impersonating a law enforcement officer is the crime of criminal impersonation in the second degree. This crime is a misdemeanor. A misdemeanor is a crime punishable by imprisonment in the county jail for not more than 90 days or a fine of not more than \$1,000 or both.

Summary: Criminal impersonation in the second degree includes the additional situation of falsely assuming the identity of a veteran or an active duty member of the armed forces with intent to defraud for personal gain or to facilitate any unlawful activity.

Votes on Final Passage:

Senate	48	0
House	94	0 (House amended)
Senate	46	0 (Senate concurred)

Effective: July 1, 2004

SB 5869

C 255 L 04

Authorizing nonprofit corporations to participate in self-insurance risk pools.

By Senators T. Sheldon, Winsley, Eide, Schmidt, Prentice and Kline.

Senate Committee on Financial Services, Insurance & Housing

House Committee on Financial Institutions & Insurance

Background: Self-insurance covers losses by setting aside money, rather than by purchasing an insurance policy. The business advantages of self-insurance are premium savings, including cost loadings, and protection against premium increases, especially in the event of high frequency, low severity losses.

Washington State statutes permit local government entities to self-insure. Self-insurance typically involves property and liability coverage, and may apply to other types of insurance as well.

Summary: Nonprofit corporations are allowed to self-insure, under the same conditions and with the same regulatory oversight as local government entities. Self-insured entities are subject to audit, and can provide for

their own risk management and legal counsel.

Conditions for self-insurance include filing with the State Risk Manager, and being subject to standards of management, solvency, actuarial analyses and claims audits. Self-insurance programs approved by the State Risk Manager must file annual reports.

Self-insured entities can individually or jointly purchase insurance or reinsurance with other nonprofit corporations. They can also contract jointly for risk management, claims and administrative services.

There are exemptions from this act for nonprofit corporations that: individually self-insure for property and liability risks; participate in a risk pool regulated under the insurance code or as a captive insurer authorized in another state; or licensed hospitals owned or affiliated with a hospital that participates in a self-insurance risk pool.

Notes on Final Passage:

Senate	48	1	
House	95	0	(House amended)
Senate	48	0	(Senate concurred)

Effective: June 10, 2004

ESSB 5877

C 20 L 04

Changing the learning assistance program.

By Senate Committee on Education (originally sponsored by Senators Johnson, McAuliffe, Kohl-Welles and Rasmussen; by request of Governor Locke).

Senate Committee on Education
House Committee on Education
House Committee on Appropriations

Background: Washington's Learning Assistance Program (LAP) was created in statute in 1987. Funding for the program is considered part of basic education. The program is designed to enhance education opportunities for public school students in kindergarten through ninth grade who are deficient in basic skills in reading, mathematics, language arts and readiness skills and who are identified as needing additional services or support through the district's needs assessments. In 1999, budget provisions extended funding for the program to include tenth and eleventh grade students.

Under LAP, each school district that applies for state funds must conduct a needs assessment and develop a plan for the use of the funds. The program plan must include certain listed items and must be submitted to the Office of the Superintendent of Public Instruction (OSPI) for approval. The needs assessment must be updated at least biennially and is determined in consultation with an advisory committee.

Once a program is approved by OSPI, the school district is eligible to receive state funds that are made available for the purposes of such programs. Funds are distributed by OSPI in accordance with the biennial appropriations act. The funds are allocated to the school districts using a formula that includes both student achievement on norm-references tests and a poverty factor.

A non-exclusive list of services or activities which may be supported by an approved LAP is provided in statute and includes: instructional support staff, consultant teachers, in-service training for teachers or parents of participating students, special instructional programs, tutoring assistance and counseling.

OSPI must monitor school district programs no less than once every three years to ensure that districts are meeting the requirements of the approved program.

Summary: The LAP is reorganized with a focus on promoting the use of assessment data when developing programs. Participating students are those students in kindergarten through eleventh grade who are not meeting the state achievement standards in the basic skills areas of reading, writing, mathematics and readiness skills. Beginning in 2007-08 participating students will be those students in kindergarten through twelfth grade. Students are identified using any of the state or local basic skills assessments.

School districts must apply for LAP funds and must annually submit a program plan to OSPI for approval. A program plan must include certain listed elements. School districts that have achieved reading and mathematics goals as set by the Academic Achievement and Accountability Commission must have their program approved once the plan and activities submittal is complete. Districts that have not achieved the reading and mathematics goals must have their plans reviewed by OSPI for the purposes of receiving technical assistance in the final development of the plan. Districts that have not achieved the goals and that are in a state or federal program of school improvement shall have their plans and activities reviewed and approved in conjunction with the state or federal program school improvement program requirements. The implementation of the elements in the program plan is phased in over two school years.

Once a program is approved by OSPI, the school district is eligible to receive state funds that are available for the purposes of such programs. Funds are distributed by OSPI in accordance with the biennial appropriations act and the distribution formula must be based on assessment of students and one or more family income factors. Beginning in 2005-06, 50 percent of the distribution formula shall be based on an assessment of students and 50 percent shall be based on one or more family income factors.

The services and activities that may be supported by an approved LAP are: extended learning time opportuni-

ties, professional development for staff, consultant teachers to assist teachers, tutoring support and outreach activities.

OSPI must monitor school district programs no less than once every four years to ensure that districts are meeting the requirements of the approved program.

The existing laws governing the program are repealed.

Votes on Final Passage:

Senate	27	21	
House	93	1	(House amended)
Senate	49	0	(Senate concurred)

Effective: June 10, 2004

E2SSB 5957

C 228 L 04

Establishing a system of standards and procedures concerning water quality data.

By Senate Committee on Ways & Means (originally sponsored by Senators Hargrove, Rasmussen, Morton, Swecker, Doumit, Sheahan, Oke and Brandland).

Senate Committee on Natural Resources, Energy & Water

Senate Committee on Ways & Means

House Committee on Agriculture & Natural Resources

House Committee on Appropriations

Background: The federal Clean Water Act requires states to report on the quality of water bodies and to list those that are impaired. For those listed as impaired, a Total Maximum Daily Load (TMDL) must be prepared, regulating the amounts of pollutants that may be discharged and allocating the amounts among their sources. To accomplish these requirements, states evaluate existing and readily available water quality data and information and determine which data they will rely upon. The governing federal regulation requires quality assurance and control programs to assure scientifically valid data.

Summary: The need to obtain data from various available sources, so long as it meets requirements for quality, is affirmed.

Credible information and literature must be used in the process of establishing any total maximum daily load. Credible data must be used for listing waters whose beneficial uses are impaired by pollutants, developing total maximum daily loads for impaired waters, or determining whether beneficial uses are being supported. The Department of Ecology is required to acknowledge questions regarding the information and data it has used within five days and provide a reasonable estimate of when it will answer.

For water quality data to be considered credible, quality control procedures must be followed and documented, data must be representative of conditions at the

time of collection, the number of samples must be adequate for the water and the parameters being analyzed, and protocols generally accepted in the scientific community must be used for the sampling and analysis. The department is required to adopt policy regarding qualifications for collecting data, determination of credibility, and explanation of methodology.

Knowing falsification of data is a gross misdemeanor.

The department must give a progress report by December 31, 2005 and a report on development of rule-making or policy by December 31, 2006.

The cooperative management agreement among the state, EPA, and the tribes for total maximum daily load development is acknowledged. Resulting data that meets the objectives of an approved quality assurance plan must be considered.

Votes on Final Passage:

Senate	32	17	
House	91	3	(House amended)
Senate	47	0	(Senate concurred)

Effective: June 10, 2004

SB 6091

C 131 L 04

Ensuring deployment of personal wireless service facilities.

By Senator Esser.

House Committee on Technology, Telecommunications & Energy

Background: All public highways that are outside of incorporated cities and towns, and that are not county roads, are state highways. A state highway that is generally designed for through traffic is a "limited access facility." A state highway where adjacent property owners have a limited right to enter and exit the highway, sometimes from private driveways or roads, is a "partially controlled limited access highway."

During the 2003 Regular Session, the Legislature passed SB 5959, which required the Department of Transportation to allow wireless telecommunications companies to access their facilities from partially controlled limited access highways. The bill also contained an intent section declaring that, among other things, approaches to partially controlled limited access highways "shall be permitted for the deployment of personal wireless facilities."

The Legislature also passed ESSB 5977, which required the Department of Transportation to establish a new lease process for the use of highway rights of way for personal wireless service facilities. That bill also contained intent sections declaring, among other things, that the use of the rights of way of state highways and

limited access facilities "must be permitted for the deployment of personal wireless service facilities."

The Governor vetoed the intent sections in both bills, asserting that the sections could suggest the deployment of personal wireless facilities "should take precedence" over highway safety.

Summary: The Legislature declares that personal wireless service is a critical part of the state's infrastructure, and that the rapid deployment of personal wireless service facilities is critical to ensure public safety, network access, quality of service, and rural economic development. The Legislature further declares that it is state policy to assure that the use of the rights of way of state highways and limited access facilities accommodate the deployment of personal wireless service facilities consistent with highway safety and the preservation of the public investment in highway facilities.

Votes on Final Passage:

Senate	44	3
House	95	0

Effective: June 10, 2004

SSB 6103
C 149 L 04

Making certain types of extreme fighting illegal.

By Senate Committee on Commerce & Trade (originally sponsored by Senators Zarelli, Keiser, Rasmussen, Regala, Franklin, Kline, Deccio, Jacobsen and Fairley).

Senate Committee on Commerce & Trade
House Committee on Commerce & Labor

Background: Professional boxing, kickboxing, martial arts, and wrestling matches are regulated by the Department of Licensing (DOL). Participants and promoters of such events must be licensed and the event must be conducted in accordance with rules adopted by DOL. Such events that "are entirely amateur events promoted on a nonprofit basis," or are conducted by schools, colleges or universities are not subject to licensing and regulation by DOL.

Summary: An "amateur event" is defined as one in which "all the participants are amateurs" and is sanctioned by specified entities, such as the Washington Interscholastic Activities Association, the NCAA, Golden Gloves, etc., or similar organizations. The definition of "amateur" is amended to include only persons who have never competed for or received more than \$50 in an athletic event.

Definitions of "boxing," "kickboxing" and "martial arts" are amended to exclude activities where the intent is to injure or disable an opponent.

Certain forms of fighting ("no holds barred-," "frontier-," or "extreme-" fighting) are defined as having the purpose of intentionally injuring a contestant and are

prohibited. Other forms of fighting, which allow the participation of contestants who are not trained in the sport ("combative-," "toughman-," "toughwoman-" and "badman-" fighting), are defined and prohibited. "Elimination tournaments" are also defined and prohibited.

The promotion of any form of fighting prohibited by the statute is a class C felony.

Votes on Final Passage:

Senate	46	3
House	95	0

Effective: March 26, 2004

SSB 6105
C 117 L 04

Revising penalties for animal cruelty.

By Senate Committee on Judiciary (originally sponsored by Senator McCaslin).

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

Background: Washington's Juvenile Justice Act, RCW 13.40, establishes procedures for superior courts to handle cases involving criminal offenses committed by persons under 18 years old. The act authorizes prosecution of certain juvenile offenders as adults. The juvenile courts have discretion to decline jurisdiction and transfer certain juvenile offenders to adult court.

If a juvenile is eligible for a deferred disposition, the juvenile court may continue the case for disposition for a period not to exceed one year from the date the juvenile is found guilty and place the juvenile under community supervision. The court will require payment of restitution and may impose other conditions of supervision it deems appropriate. At the conclusion of the period of deferral, if there has been full compliance, the court will vacate the juvenile's conviction.

Animal cruelty in the first degree is a class C felony and is classified as an offense category C for a juvenile. The standard range disposition for a juvenile who is found to have committed animal cruelty in the first degree is composed of "local sanctions." Local sanctions include all or any of the following: 0 to 30 days confinement, 0 to 12 months community supervision, 0 to 150 hours community restitution, and \$0 to \$500 fine. The standard range disposition for a juvenile offender who commits animal cruelty in the first degree and has two prior convictions for animal cruelty in the first degree is also local sanctions. The fourth conviction for animal cruelty in the first degree involves a standard range disposition of 15 to 36 weeks confinement.

Summary: The juvenile court may impose a deferred disposition on a juvenile convicted of animal cruelty first degree and require the offender to submit to a mental health evaluation. After consideration of the results, the

court may order the offender to attend treatment as a condition of community supervision. At the conclusion of the period in the order of deferral, the offender's conviction for animal cruelty first degree is not vacated from his or her record. Animal cruelty first degree is ranked as offense category B which involves a standard range disposition of local sanctions for a first and second offense (0 to 30 days, 0 to 12 months community supervision, 0 to 150 hours community restitution, and \$0 to \$500 fine).

Votes on Final Passage:

Senate	49	0	
House	96	0	(House amended)
Senate	49	0	(Senate concurred)

Effective: July 1, 2004

SSB 6107

C 251 L 04

Preventing the spread of animal diseases.

By Senate Committee on Agriculture (originally sponsored by Senators Rasmussen, Swecker, Eide, Esser, McAuliffe and Shin; by request of Department of Agriculture).

Senate Committee on Agriculture
House Committee on Agriculture & Natural Resources

Background: Washington's Animal Health Program regulates the movement and testing of animals coming into or being sold within the state and grants the Washington State Department of Agriculture broad powers to protect the people of the state, their livestock, and other animals from harmful animal diseases.

The director may currently issue a hold order to isolate animals for up to seven days when there is reasonable cause to investigate the presence of or potential exposure to disease. Overt or immediately obvious evidence of disease or exposure is not required to issue a hold order. Upon evidence of animal infection or exposure to disease, the director may also issue a quarantine order to isolate any animal or animal reproductive product that has become diseased or exposed to disease.

With reasonable evidence of animal infection or exposure, the director may enter animal premises to perform tests or examinations on any animal. The director may order the destruction of animals infected with or exposed to disease to protect the public welfare. The director may also order destruction of animals where the animal owner fails or refuses to follow a herd or flock plan.

Summary: The quarantine and inspection powers of the director are clarified and broadened. The director may issue and enforce a quarantine when there is reasonable cause to investigate animal infection or exposure to disease. Overt or immediately obvious evidence of

disease or exposure is not required to issue a quarantine order.

Reasonable cause provides a sufficient basis to enter premises and inspect animals or animal premises. The director is required to find probable cause that there is a serious risk from disease or contamination before the director may seize items needed to conduct tests, inspections, or examinations.

If access is denied, the director is expressly authorized to apply to the courts for a search warrant authorizing access to conduct tests, inspections or examinations of animals or animal premises and seize or destroy property. The warrant must be issued upon a court finding sufficient probable cause to show a potential threat to agriculture or a potential threat that seriously endangers animals, humans, the environment, or the public welfare. To show denial of access, the director must file an affidavit describing attempts to notify the animal owner and secure consent.

The director's authority to order the destruction of any quarantined animal when public welfare demands is clarified.

Votes on Final Passage:

Senate	48	0	
House	93	1	(House amended)
Senate	49	0	(Senate concurred)

Effective: June 10, 2004

ESSB 6112

C 260 L 04

Regulating self-funded multiple employer welfare arrangements.

By Senate Committee on Financial Services, Insurance & Housing (originally sponsored by Senators Prentice, Benton, Winsley, Keiser and Kohl-Welles).

Senate Committee on Financial Services, Insurance & Housing

House Committee on Financial Institutions & Insurance

Background: A "Multiple Employer Welfare Arrangement" (MEWA) is a form of group purchasing arrangement defined by federal ERISA law (the Employee Retirement Income Security Act of 1974). By using a MEWA, employers can offer employee benefits at generally lower cost. Although ERISA usually preempts state attempts at regulation, in the case of MEWAs, states can set specific standards. Approximately 40 states have done so. Washington State currently does not have a MEWA act.

Summary: A regulatory scheme is created for self-funded MEWAs, including registration with the Office of the Insurance Commissioner (OIC); regulation by OIC to ensure integrity; numerous reporting requirements; and sanctions for noncompliance.

In order to obtain and maintain the ability to do business as a MEWA in Washington State, the MEWA organization must comply with the following regulations:

- Obtain a certificate of authority from OIC.
- MEWA members must be employers in a bona fide association that provides health care services to at least 20 employers, not a mere conduit for the collection of insurance premiums. The association must have been in existence for at least ten years, as of December 31, 2003.
- MEWAs must deposit \$200,000 with OIC, and maintain a surplus of \$2 million or more.
- MEWAs must meet numerous technical requirements for disclosure of financial status, plan operation, and management competence, integrity and bondability.
- MEWAs are subject to sanction, including a \$10,000 per violation fine or revocation of their certificate of authority.
- The OIC may perform market conduct exams on MEWAs.

MEWAs cannot include any type of arrangement by or between federal agencies, contractors, or subcontractors at federal facilities within Washington. MEWAs provide health care services to associations of no fewer than 20 employers and comply with state insurance laws on health benefits.

The "Patients Bill of Rights" applies to MEWAs. MEWAs are subject to assessments in the Washington State health insurance pool, if not preempted by ERISA. Premium tax provisions require tax to be paid into an escrow account, pending a final determination on ERISA preemption.

Votes on Final Passage:

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

Effective: March 31, 2004

SSB 6113
C 130 L 04

Modifying the rural county sales and use tax.

By Senate Committee on Economic Development (originally sponsored by Senators T. Sheldon, Swecker, Haugen, Zarelli, Rasmussen and Benton).

Senate Committee on Economic Development
House Committee on Trade & Economic Development
Background: Current law provides that the legislative authority in a rural county may impose a local option sales and use tax of 0.08 percent on all retail sales in the county. The tax is credited against the state's 6.5 percent sales and use tax and thus, the consumer does not see an increase in the amount of tax paid. Revenues from the

local option tax may only be used to finance public facilities listed in a local economic development, comprehensive, or capital facilities plan.

Advocates for the local option tax, originally enacted in 1997, saw the tax as a means to enhance infrastructure necessary to local business development. There is concern that, in some instances, the proceeds of the local option tax is not being used for this original purpose.

Summary: It is the intent of the Legislature that the local option tax promote the creation, attraction, expansion and retention of businesses and provide for family wage jobs.

Moneys collected under the local option tax in rural counties may only be used to finance public facilities serving economic development purposes. Economic development purposes are those that facilitate the creation or retention of businesses and jobs.

Counties must make yearly reports to the State Auditor on new projects, showing that the funds have been used consistent with the goals and requirements of the act. Existing projects that have bonded against the income stream from the local option tax are not considered new projects.

Votes on Final Passage:

Senate	49	0
House	96	0

Effective: June 10, 2004

SSB 6115
C 155 L 04

Providing a use tax exemption for amusement and recreation services donated to or by nonprofit organizations or state or local governmental entities.

By Senate Committee on Government Operations & Elections (originally sponsored by Senators Roach, Parlette, Hewitt, Mulliken, Honeyford, Schmidt, Johnson, Stevens, Sheahan, Hale, Winsley, Oke, Deccio, Haugen, Swecker, Finkbeiner, T. Sheldon, Prentice, Rasmussen, Fairley, Fraser, Kline, Eide, McCaslin, Shin and Benton).

Senate Committee on Government Operations & Elections

Senate Committee on Ways & Means

Background: For the privilege of using any article of tangible personal property in the state as a consumer, there is levied and collected a use tax. The use tax also applies to services and property acquired at a casual or isolated sale, among other things. The rate of the use tax is the same as that for the state sales tax. The state portion of that rate is 6.5 percent and applies to the value of the article used or the value of the service used by the taxpayer.

There are many exemptions to the use tax. One of these exemptions applies to nonprofit charitable organizations and to state and local governments that use tangible personal property that has been donated to them.

Summary: A use tax exemption is created for amusement and recreation services donated to nonprofit organizations or state or local governments. "Amusement and recreation services" are golf, pool, billiards, skating, bowling, ski lifts and tows, day trips for sightseeing purposes, and others, when provided to consumers.

Votes on Final Passage:

Senate	45	0
House	94	1

Effective: March 26, 2004

SSB 6118
PARTIAL VETO

C 264 L 04

Creating a cougar control pilot program.

By Senate Committee on Parks, Fish & Wildlife (originally sponsored by Senators Morton, Stevens, Deccio, Mulliken, Roach and Swecker).

Senate Committee on Parks, Fish & Wildlife
House Committee on Fisheries, Ecology & Parks

Background: In 1996, an initiative was passed by the voters to limit the hunting of bear and some other species with the aid of bait or with the use of hunting hound dogs. The initiative also included other species, such as cougar, bobcat and lynx. The initiative did allow the state to authorize the use of hounds to control populations for public safety.

Studies recently have shown that there is an increase in cougar numbers and in cougar sightings in populated areas in the state of Washington. The present authority to control cougars rests with the Department of Fish and Wildlife.

Summary: A three-year pilot program is established to be administered by county government and the Fish and Wildlife Commission to allow for limited hound hunting as a means to better control the cougar population, provide population numbers and reporting.

The county commissioners of Chelan, Okanogan, Pend Oreille, Stevens, and Ferry counties will establish a three-year pilot program to control the cougar population in cooperation with the commission.

Fish and Wildlife Department reports on the cougar pilot project are required, and additional counties may participate in the pilot project. All hunting must be to protect public safety or property.

Votes on Final Passage:

Senate	33	15	
House	90	5	(House amended)
Senate	34	14	(Senate concurred)

Effective: June 10, 2004

Partial Veto Summary: The section allowing additional counties to join the pilot program is eliminated.

VETO MESSAGE ON 6118-S

March 31, 2004

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 2, Substitute Senate Bill No. 6118 entitled:

"AN ACT Relating to a pilot program for cougar control;"

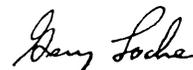
This bill requires the Department of Fish and Wildlife (DFW) to recommend rules to establish a three-year pilot program to allow for the pursuit and killing of cougars with the aid of dogs. The pilot program is limited to the counties of Ferry, Stevens, Pend Oreille, Chelan, and Okanogan. The bill also requires that these rules ensure that the hunts are designed to protect public safety, reflect cougar population data, and are consistent with recommendations on cougar population dynamics currently under development at Washington State University.

Section 2 of the bill would have allowed other counties to participate in the pilot project. This section expands the pilot's purposes beyond the limited geographic scope of the underlying bill and undermines the thoughtful research purposes of the pilot approach. As stated in section 3 of the bill, DFW is to follow the pilot with "a recommendation as to whether the pilot project would serve as a model for effective cougar management into the future." The pilot should be allowed to run its course, and future cougar management decisions should be based on the results and recommendations of this pilot project. Should unique human-cougar interactions arise in counties not subject to the pilot, the Commission already has some authority to authorize the use of dogs to combat the problem.

For these reasons, I have vetoed section 2 of Substitute Senate Bill No. 6118.

With the exception of section 2, Substitute Senate Bill No. 6118 is approved.

Respectfully submitted,



Gary Locke
Governor

SB 6121
C 72 L 04

Filing a will under seal before the testator's death.

By Senators Johnson, Kline, McCaslin, Esser and Winsley.

Senate Committee on Judiciary
House Committee on Judiciary

Background: Wills are often left in the custody of drafting attorneys. If an attorney has not made provisions for the proper disposition of a client's will, prior to the

attorney's death or move out of state, the State Bar Association takes control of these documents. The State Bar then has the burden of locating each testator.

Summary: Court clerks are authorized to accept original wills under seal. Any person who has possession of an original will, who does not have knowledge of the testator's death, may file that will under seal with any court having jurisdiction. While the testator may withdraw the will at any time, any other person may only withdraw the will with a court order showing of good cause.

The clerk's office may unseal the will only upon the request and presentation of a certified copy of the testator's death certificate.

Votes on Final Passage:

Senate	49	0
House	96	0

Effective: June 10, 2004

SB 6123
C 159 L 04

Modifying the public accountancy act.

By Senators Carlson, Keiser, Winsley and Spanel; by request of State Board of Accountancy.

Senate Committee on Financial Services, Insurance & Housing
House Committee on Commerce & Labor

Background: Certified Public Accountants (CPAs) provide necessary services to businesses and individuals. The very nature of their work requires that they be competent and reliable. The Washington State Board of Accountancy oversees the profession, and has the ability to impose sanctions and determine qualifications for certification and licensure in Washington.

Summary: The board's authority to sanction is extended to include authority over imposters and those who cheat on the CPA exam. Criminal penalties are established for persons who illegally use the CPA designation. CPAs licensed in other jurisdictions may qualify in a shorter period of time for reciprocal licensure in Washington State. The grace period for certificate holders converting to CPA licenses is extended by two years, and the board member term limits are extended from two three-year terms to three three-year terms.

Votes on Final Passage:

Senate	49	0
House	96	0

Effective: June 10, 2004

July 1, 2004 (Section 5)

ESSB 6125
C 10 L 04

Providing for alternate members of a water conservancy board.

By Senate Committee on Natural Resources, Energy & Water (originally sponsored by Senator Morton).

Senate Committee on Natural Resources, Energy & Water

House Committee on Agriculture & Natural Resources

Background: There are currently 21 water conservancy boards operating in Washington, 16 in eastern Washington and five in western Washington. Where a county or counties have created a water conservancy board, the board is authorized to process the same kinds of "transfer" applications as the Department of Ecology with a few exceptions. A board's decision is subject to department approval. "Transfer" is defined by statute to mean transfer, change, amendment, or other authorized alteration of a water right.

Approval or denial of a water right transfer application is determined by the majority vote of a board. The board may consist of either three or five commissioners. Official board business requires a quorum, defined as the physical presence of two of the three members of a three-member board or three of the five members of a five-member board. A board may operate with one or two vacant positions as long as it meets quorum requirements, though counties are required to appoint a new commissioner to fill an unexpired term. Statute does not provide for a person to be appointed on a temporary basis, though a department rule allows an alternate to receive training and serve temporarily in a nonvoting capacity. An alternate is not counted for quorum purposes.

Recusal is required for a board member with a conflict of interest. Some board commissioners have reported that recusals, unexpected absences and board vacancies can make it difficult to reach the quorum needed to continue board activities.

Summary: County legislative authorities are authorized to appoint up to two alternates to fill in for recused or absent full-time commissioners on a water conservancy board. An alternate must meet training and other requirements applicable to full-time commissioners, including conflict of interest requirements, before serving and voting as a commissioner. Such alternates count toward a quorum.

An alternate must fully review the record of an application under review. The board must notify interested applicants and participants if an alternate will be sitting as a commissioner.

As in current statute, a majority of a board is required to approve or deny a water right transfer application. When alternates are serving as commissioners on

a board, a majority vote of a board must include at least one member appointed as a full-time commissioner.

Votes on Final Passage:

Senate 46 0
House 94 0

Effective: June 10, 2004

SB 6141
C 156 L 04

Clarifying the property taxation of vehicles carrying exempt licenses.

By Senators Winsley, Kastama, Oke, Franklin, Swecker and Schmidt; by request of Department of Revenue and Department of Veterans Affairs.

Senate Committee on Ways & Means
House Committee on Finance

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. Taxable property includes both real property and personal property. Real property is land and the buildings, structures, or other improvements made to the land. Personal property includes all other property, including motor vehicles.

Motor vehicles are generally exempt from property taxes. However, the property tax exemption for motor vehicles does not include vehicles carrying exempt licenses, meaning vehicles that are exempt from license fees. Vehicles carrying exempt licenses include private school buses and vehicles owned by certain disabled veterans, former prisoners of war and their surviving spouses, and Congressional Medal of Honor recipients. Private school buses are exempt from property taxes because they are used for schools, but veterans' vehicles are not similarly exempt for another reason.

Summary: Vehicles carrying exempt licenses are exempt from property taxation.

Votes on Final Passage:

Senate 49 0
House 94 0

Effective: June 10, 2004

SB 6143
C 125 L 04

Determining eligibility for veteran's regular or special license plates.

By Senators Kastama, Winsley, Oke, Franklin, Rasmussen and Schmidt.

Senate Committee on Highways & Transportation
House Committee on Transportation

Background: During the 2002 session a broader definition of veteran was provided for certain purposes. The definition includes: (a) peacetime veterans and those who have fulfilled their initial military service obligation in any branch of the armed services and the National Guard and reserves; (b) members of the women's air forces services pilots; (c) those in the National Guard, reserves or Coast Guard who have been called into federal service by a presidential select reserve call up for at least 180 cumulative days; (d) civil service crew members 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; and (e) those who served in the Philippine Armed Forces or Scouts in World War II.

The definition references several sections of the RCW that provide benefits for which veterans are eligible. These benefits include: veterans' preference on civil service exams; free license plates; county aid to indigent veterans; restrictions on sending veterans to alms houses; and county burials.

Summary: The definition of veteran used to determine eligibility for free disabled veteran license plates is changed to refer to the broader definition of veteran.

Votes on Final Passage:

Senate 48 0
House 94 0

Effective: June 10, 2004

2SSB 6144
C 218 L 04

Developing a statewide plan to address forest health.

By Senate Committee on Ways & Means (originally sponsored by Senators Morton and Deccio).

Senate Committee on Natural Resources, Energy & Water

Senate Committee on Ways & Means
House Committee on Agriculture & Natural Resources
House Committee on Appropriations

Background: Numerous studies have found that many American forests are under stress from poor forest conditions. The problem basically includes forest weeds, tree disease, overly dense forest areas and species growing in

areas where they have not traditionally grown. The resulting problems from forest diseases include the risk of wildfire and loss of habitat for wildlife. Continuing threats from the introduction and spread of non-native pests and plants, extreme weather events, climatic flux and changes in forest conditions due to both man and nature are placing numerous forests at risk. This includes both those forests that are managed for timber production and those that are managed for multiple uses and for wilderness preservation.

The United States Congress has passed legislation requiring that the United States Forest Service work to improve forest health conditions. The Washington State authority for forest health has not been updated since the early 1950s. Since the statute is out of date, and since the problem has become much more serious in the last three decades, new statutory requirements need to be put in place.

Summary: The Department of Natural Resources (DNR) is given temporary authority to use its contract harvesting program to conduct silvicultural treatments in specific areas of state forest land where health deficiencies have been identified. All treatments must be tailored to improve the health of the forest stand, and must be in accordance with all applicable forest health plans, laws, and other agreements. When planning for silvicultural treatments, DNR is instructed to give priority to fulfilling existing forest plans.

All contract harvesting operations that are conducted primarily for forest health are exempt from the annual 10 percent cap on contract harvesting sales.

Authority to use the contract harvesting program for silviculture expires in 2007. In 2006, DNR must report to the Legislature a summary of silvicultural operations carried out using contract harvesting.

The Commissioner of Public Lands is designated as the state's lead for forest health issues. As such, the commissioner is expected to promote communications between the state, the federal government, state agencies, and local governments. The commissioner must use available avenues to influence federal decisions that could impact forest health in Washington. These avenues can include, when deemed by the commissioner to be in the best interest of the state, appearing before federal agencies, developing formal comments on federal forest management plans, and pursuing cooperative agreements with the United States Forest Service.

A work group is created to study opportunities to improve forest health and to aid the commissioner with the development of a statewide plan for forest health. The work group's participants will generally be appointed by the commissioner, and include up to 14 individuals with knowledge in forests, forest ecology, or forest health.

Recommendations and findings are due to the Legislature and the Board of Natural Resources by December 30, 2004. Directions to the work group include:

- evaluating the current forest health laws and other state laws that may be used as models for future forest health legislation;
- studying incentives for landowners to maintain forest health;
- developing recommendations for the proper treatment of damaged timber; and
- recommending if the work group should be extended.

The work group expires on June 30, 2005, and the contract harvest provisions related to forest health expire December 31, 2007.

Votes on Final Passage:

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

Effective: March 29, 2004

SSB 6146

C 151 L 04

Encouraging renewable energy and energy efficiency businesses in Washington.

By Senate Committee on Natural Resources, Energy & Water (originally sponsored by Senators Fraser, Morton, Esser, Eide, Winsley, Kohl-Welles, Keiser and Kline).

Senate Committee on Natural Resources, Energy & Water
House Committee on Technology, Telecommunications & Energy

Background: According to a recent report issued by the Department of Community, Trade, and Economic Development (CTED), the renewable energy and energy efficiency sectors in Washington currently generate close to \$1 billion in annual revenues and employ over 3,800 people. The report also explores how these sectors are likely to react to current market conditions and public policies, and concludes that the long-term prospects show strong potential for future growth.

The Washington Technology Center (WTC) is a collaborative effort between the state's universities, private industry, and government housed at the University of Washington. The statutory mission of the WTC includes performing and commercializing research on a statewide basis that benefits the intermediate and long-term economic vitality of the state. The WTC recently created a Northwest Energy Technology Collaborative of business, government, nonprofit, industry, and educational institutions to accelerate the emergence and growth of the energy technology industry in the Pacific Northwest region.

Summary: Legislative findings are outlined relating to the many benefits the state derives from its renewable energy and energy efficiency sectors, and the Legislature's intent is declared to establish the state as a leader in clean energy research, development, manufacturing, and marketing.

The Washington Technology Center is directed to use its existing Northwest Energy Technology Collaborative Project to provide a forum for public and private collaborative initiatives to promote the renewable energy and energy efficiency sectors in Washington State and the Pacific Northwest.

The WTC's responsibilities are amended to include using the collaborative project to develop and implement a strategic plan for public and private sector collaboration in renewable energy and energy efficiency business development. A process for developing the strategic plan, addressing necessary elements, and reporting back to the Governor and the Legislature is specified.

The definitions of "high technology" and "technology" in the WTC's chapter are expanded to include renewable energy and energy efficiency.

Votes on Final Passage:

Senate	49	0
House	95	0

Effective: June 10, 2004

SSB 6148

C 221 L 04

Authorizing special license plates to honor law enforcement officers killed in the line of duty.

By Senate Committee on Highways & Transportation (originally sponsored by Senators Haugen, Horn, Brandland, Esser, Oke, Eide, Winsley and Hewitt).

Senate Committee on Highways & Transportation
House Committee on Transportation

Background: The Special License Plate Review Board was created in the 2003 session and charged with reviewing special license plate applications from groups requesting the creation of a special license plate series. Upon approval, the board forwards the application to the Legislature.

On January 8, 2004, the board formally approved the Law Enforcement Memorial special license plate application.

Summary: The Department of Licensing (DOL) must issue a special license plate displaying a symbol honoring law enforcement officers in Washington who were killed in the line of duty.

The Law Enforcement Memorial license plates are available January 1, 2005.

An applicant for a Law Enforcement Memorial license plate must pay an initial fee of \$40 and a renewal

fee each year thereafter of \$30. The initial revenue generated from the plate sales must be deposited into the motor vehicle account until the state has been reimbursed for the implementation costs. Upon reimbursement, the revenue is deposited into the law enforcement memorial account.

DOL must enter into a contract with a qualified non-profit organization requiring that the organization use the plate revenue to provide support and assistance to survivors and families of law enforcement officers in Washington who were killed in the line of duty and to construct, maintain, and utilize a memorial on the state capitol grounds to honor fallen officers.

Votes on Final Passage:

Senate	48	0	
House	94	0	(House amended)
Senate	39	2	(Senate concurred)

Effective: June 10, 2004

ESSB 6153

C 114 L 04

Notifying home buyers of where information regarding registered sex offenders may be obtained.

By Senate Committee on Financial Services, Insurance & Housing (originally sponsored by Senators Prentice, Eide, Haugen, Winsley, Kohl-Welles and Kline).

Senate Committee on Financial Services, Insurance & Housing

House Committee on Financial Institutions & Insurance
Background: Current law requires the seller of residential property to provide a completed disclosure form about the material condition of the property. The disclosure form is limited to the title and things that affect the title including homeowners' associations, physical conditions of the property such as water, sewage, structural information, systems and fixtures, and problems or hazards affecting the property.

In recent years there have been ongoing efforts to increase the availability of information about registered sex offenders in the community. As of October 2003 there were 17,866 registered sex offenders in the community. Information about registered sex offenders is maintained by law enforcement and law enforcement agencies may disclose information that is accurate, relevant, and necessary to protect the public on request. The extent of the information released is based on the level of the offender's risk to the community.

Summary: The seller disclosure form for residential property includes a "Notice to the Buyer" that informs the buyer that information regarding registered sex offenders may be obtained from local law enforcement agencies. The notice also contains a statement that it is intended only to inform the buyer of where to obtain the

SSB 6155

information and does not indicate the presence of registered sex offenders.

Votes on Final Passage:

Senate 48 0
House 96 0

Effective: January 1, 2005

SSB 6155

C 213 L 04

Preventing the spread of horticultural pests and diseases.

By Senate Committee on Agriculture (originally sponsored by Senators Parlette, Hewitt and Mulliken).

Senate Committee on Agriculture
House Committee on Fisheries, Ecology & Parks

Background: Outdoor burning is generally not allowed in: (1) any area of the state where federal or state ambient air quality standards are exceeded for pollutants emitted by outdoor burning; or (2) urban growth areas, with limited exceptions.

Agricultural burning is the burning of vegetative debris from an agricultural operation as necessary for disease or pest control, crop propagation, or crop rotation, and may include the burning of fields, prunings, weeds, irrigation and drainage ditches, fence rows or other essential pathways. Within urban growth areas outdoor burning that is normal, necessary, and customary to ongoing agricultural activities that preceded urban growth designation is allowed if numerous conditions are met.

Agricultural burning may only be permitted in the absence of air pollution episodes or determinations of air quality impairment. An agricultural burning permit applicant must show that burning is the most reasonable procedure available or is reasonably necessary to carry out the agricultural enterprise.

Ecology has defined in rule that agricultural burning excludes "land clearing burning" of trees, stumps, shrubbery, or other natural vegetation from projects that clear the land surface so it can be developed, used for a different purpose, or left unused. Land clearing burning is generally not allowed within the urban growth boundary.

Summary: The burning of cultivated orchard trees is expressly allowed within urban growth areas as an ongoing agricultural activity, whether or not agricultural crops will be replanted on the land, if a county horticulture pest and disease board, a Washington State University extension agent, or a Washington State Department of Agriculture entomologist determines, in writing, that burning is an appropriate method to prevent or control pests or disease.

Votes on Final Passage:

Senate 49 0
House 94 2 (House amended)
Senate 48 0 (Senate concurred)

Effective: June 10, 2004

ESB 6158

C 164 L 04

Studying workers' compensation policies purchased under the Washington guarantee association.

By Senators Prentice, Benton and Winsley.

Senate Committee on Financial Services, Insurance & Housing

House Committee on Financial Institutions & Insurance

Background: Insurance guaranty associations have been created in Washington to cover life and disability insurance policies and some casualty insurance policies. Their purpose is to provide a mechanism for payment of covered claims when an insurer becomes insolvent and to assess the cost of such protection among insurers.

Under federal law, businesses whose employees work in maritime employment on or near navigable waters of the United States are required to purchase longshore and harbor workers' compensation act insurance. This insurance is available through private insurers or through an assigned risk plan created in Washington law. Insurers who provide longshore and harbor workers' compensation act insurance policies are not covered by a Washington insurance guaranty association. Consequently, if an insurer becomes insolvent, there is no mechanism for payment of covered claims by a pool to which all insurers in this type of plan contribute. Employers who purchase longshore and harbor workers' compensation insurance from private insurers remain responsible for an employee's job-related injury or death if the insurer becomes insolvent.

Summary: Currently a number of employments such as private domestic workers and jockeys are excluded from mandatory workers' compensation coverage. Any workers' compensation insurance covering these workers must be purchased on the commercial market. In addition, tribal employers purchase workers' compensation insurance on the commercial market.

The Insurance Commissioner must study the impact of covering or excluding workers' compensation policies purchased in the commercial market under the Washington Insurance Guarantee Association. The study must include longshore and harbor workers' compensation act insurance, employments that are excluded from mandatory workers' compensation coverage, and workers' compensation policies purchased by tribal employers. The commissioner must develop recommendations from the

study and report these to the Legislature by December 1, 2004.

Votes on Final Passage:

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

Effective: June 10, 2004

SSB 6160

C 144 L 04

Regarding fairness and accuracy in the distribution of risk in boarding homes and nursing homes.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Parlette, Keiser and Pflug).

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

Background: The Department of Social and Health Services (DSHS) makes regular unannounced inspections of boarding homes, and responds to complaints under terms described in statute. Complaints involving imminent danger to the health, safety, or well-being of a resident must be responded to within two days. The department is authorized to take actions if licensees fail to meet licensing requirements, if they operate without a license, provide false information or interfere with inspections or investigations. Any of the above may be cause for the department to refuse an initial license, to levy civil penalties, or to suspend, revoke, or deny renewal.

Boarding home records and documents of all types, with the exception of financial records, must be made available for inspection by DSHS upon request.

Under state law, long-term care facilities may not request that residents sign waivers of potential liability for losses of personal property or injury. This has been interpreted to mean that providers may not enter into arbitration agreements with residents.

Summary: Licensed boarding homes may establish quality assurance committees to identify issues related to quality of care. The Department of Social and Health Services and the Long-Term Care Ombudsman may not request documents used and generated by these committees except under certain circumstances.

If during an inspection or re-inspection by the department, a boarding home corrects a violation or deficiency that was never found before and has caused no harm, the licensor will not cite the boarding home for the violation.

Inspections of the financial records of boarding homes is authorized if there is probable cause to believe financial obligations related to patient care or services will not be met.

Votes on Final Passage:

Senate	47	0	
House	94	0	(House amended)
Senate	48	0	(Senate concurred)

Effective: March 26, 2004

SSB 6161

C 18 L 04

Requiring law enforcement agencies to adopt policies concerning domestic violence by sworn employees.

By Senate Committee on Judiciary (originally sponsored by Senators Regala, McCaslin, Franklin, Brandland, B. Sheldon, Esser, Spanel, Winsley, Rasmussen, Kastama, Kohl-Welles, Shin, Haugen, Keiser, Hargrove, Kline, Doumit, Eide, Fraser, Jacobsen, Benton, Oke, Brown, Murray and McAuliffe).

Senate Committee on Judiciary

House Committee on Juvenile Justice & Family Law

Background: State peace officers are trained on how to respond to domestic violence emergency calls in the community. However, there is currently no law requiring law enforcement agencies to train officers on how to respond to allegations of domestic violence committed by peace officers. Likewise, while approximately 90 percent of agencies have adopted general policies regarding how community domestic violence complaints are addressed, only a handful of agencies have adopted policies specific to allegations of domestic violence committed by peace officers.

Summary: By December 1, 2004, a state model policy must be developed addressing the way in which law enforcement agencies respond to allegations of domestic violence committed by sworn employees. The Washington State Association of Sheriffs and Police Chiefs is responsible for developing this model policy, in conjunction with representatives from state and local law enforcement agencies, victims rights organizations, and all other appropriate organizations.

The model policy must provide for the following minimum standards:

- due process be provided to all employees alleged to have committed acts of domestic violence;
- pre-hire screening to determine if an applicant for an employee position: (a) has committed, or been accused of committing, an act of domestic violence, (b) is currently being investigated, or has been investigated, for an allegation of child abuse or neglect, or (c) is currently, or has previously, been subject to a temporary restraining, anti-harassment, no-contact, or protection order in any state;
- mandatory and immediate responses to allegations of domestic violence;

- procedures to address an employee's report that he or she is an alleged victim of domestic violence at the hands of another employee;
- reporting by an employee of knowledge of an allegation of domestic violence;
- self-reporting by an employee when an agency has responded to a domestic violence call in which that employee allegedly committed an act of domestic violence;
- self-reporting by an employee if that employee is currently being, or has been, investigated for allegations of child abuse or neglect;
- self-reporting by an employee if that employee is currently, or has been, subject to a temporary restraining, anti-harassment, no-contact, or protection order;
- performance of a prompt and impartial administrative and criminal investigation of allegations of domestic violence;
- appropriate action to be taken during an investigation, including whether to relieve an employee of agency-issued weapons or suspend an employee's power of arrest;
- prompt and appropriate discipline or sanctions when an investigation determines that an employee has committed an act of domestic violence;
- immediate availability of the following information to an alleged victim of domestic violence by an employee: (a) the agency's domestic violence policy, (b) information about public and private domestic violence advocates and services, and (c) the agency's confidentiality policies related to the victim's information;
- procedures for the timely response to an alleged victim's inquiries into the status of an investigation;
- procedures requiring agencies, in any jurisdiction, to immediately notify an employing agency of an employee's alleged acts of domestic violence;
- procedures allowing agencies to access and share domestic violence training within and across jurisdictions; and
- procedures for referring requesting employees to treatment programs, as well as employees against whom allegation of domestic violence have been brought.

No later than June 1, 2005, every general authority law enforcement agency must adopt and implement the model policy or its own domestic violence policy. Any policy adopted must meet the minimum standards set forth. If an agency develops its own policy, it must first consult with public and private domestic violence advocates and other appropriate organizations.

By June 30, 2006, every sworn employee must receive training on his or her agency's domestic violence policy. Employees hired on or after March 1, 2006, must

receive training on his or her agency's domestic violence policy within six months of employment.

By June 1, 2005, every agency must provide a copy of its domestic violence policy and a statement asserting the agency's compliance with the training requirements set forth to the Washington Association of Sheriffs and Police Chiefs.

The association must maintain a copy of each agency's domestic violence policy. By January 1, 2006, the association must provide a complete list of those agencies that have not adopted policies and/or complied with the training requirements to the Governor and Legislature.

Votes on Final Passage:

Senate	47	0
House	94	0

Effective: June 10, 2004

SB 6164
C 128 L 04

Concerning residency status of military dependents.

By Senators B. Sheldon, Shin, Kastama, Oke, Swecker, Franklin, Winsley, Rasmussen, Brown, Eide, Kohl-Welles, Haugen, Schmidt, Murray and McAuliffe.

Senate Committee on Higher Education
House Committee on Higher Education

Background: The state of Washington has a history of recognizing the special circumstances of residency for active duty members of the military and their spouses or dependents. For a number of years they were included in the waiver statutes but when waivers became permissive and variable, the Legislature decided to include them in the definition of resident for tuition paying purposes. Currently included in that definition are (1) a student who is on active military duty stationed in Washington or who is a member of the Washington National Guard, (2) a student who is the spouse or dependent of a person who is on active military duty stationed in the state, and (3) a student who resides in Washington and is the spouse or dependent of a person who is a member of the Washington National Guard.

Summary: Included in the definition of resident student for tuition paying purposes is a student who remains continuously enrolled in a degree program even when the person on active military duty is reassigned out-of-state. "Active military duty" is defined for the purpose of resident tuition eligibility by the same criteria as used by the State Department of Veterans' Affairs. The Coast Guard and Merchant Marines are included when they are called into active duty military service.

Votes on Final Passage:

Senate 49 0
 House 94 0 (House amended)
 Senate 46 0 (Senate concurred)

Effective: June 10, 2004

SSB 6171

C 134 L 04

Regarding misconduct investigations conducted by the superintendent of public instruction.

By Senate Committee on Education (originally sponsored by Senators Benton, Kohl-Welles, Carlson, Stevens, Johnson, Esser, T. Sheldon and Pflug).

Senate Committee on Education
 House Committee on Education
 House Committee on Appropriations

Background: Under current law, the Office of the Superintendent of Public Instruction (OSPI) has the authority to initiate and conduct investigations of misconduct of certificated school employees. For the purposes of completing the investigation, OSPI is given the authority to subpoena witnesses, compel testimony, gather evidence and administer oaths and affirmations. If an individual fails to obey a subpoena or give evidence to OSPI, a court may issue an order requiring the individual to appear before the court and show cause why he or she has not complied.

Summary: OSPI must complete an investigation of a certificated employee for sexual misconduct towards a child within one year of the initiation of the investigation unless there is an ongoing law enforcement investigation. In that case, OSPI has 30 days from the completion of the other investigation, including court proceedings. OSPI may take additional time for reasonable cause but must notify the parties as listed. If OSPI does not complete the investigation within the allowed time, OSPI is subject to a civil penalty of \$50 per day for each day beyond the allowed time.

Written notice of the final disposition of any complaint must be provided by OSPI to the person who filed the complaint.

Parents and community members are authorized to file complaints alleging physical abuse or sexual misconduct directly with OSPI, and OSPI is given the authority to initiate an investigation based solely on the complaint from a parent or community member.

Prior to conducting an investigation, OSPI must verify that the incident has been reported to the proper law enforcement agency as required by the mandatory child abuse reporting laws.

Votes on Final Passage:

Senate 49 0
 House 95 0 (House amended)
 Senate 48 0 (Senate concurred)

Effective: June 10, 2004

SB 6177

C 11 L 04

Increasing penalties for criminal impersonation.

By Senators Eide, Brandland and Winsley.

Senate Committee on Judiciary
 House Committee on Criminal Justice & Corrections

Background: Criminal impersonation in the first degree is the crime of assuming falsely the identity of another and acting with the intent to defraud. Criminal impersonation in the first degree is a gross misdemeanor, punishable by up to one year in county jail and/or a fine not to exceed \$5,000.

Criminal impersonation in the second degree is the crime of either claiming to be a law enforcement officer or falsely creating the impression that one is a law enforcement officer, and acting in a manner such that a reasonable person would falsely believe one to be a law enforcement officer. Criminal impersonation in the second degree is a misdemeanor, punishable by up to 90 days in county jail and/or a fine not to exceed \$1,000.

Summary: The penalties for criminal impersonation are enhanced. Criminal impersonation in the first degree is an unranked class C felony, punishable by up to one year in jail and/or a fine not to exceed \$10,000. Criminal impersonation in the second degree is a gross misdemeanor, punishable by up to one year in county jail and/or a fine not to exceed \$5,000.

Votes on Final Passage:

Senate 48 0
 House 94 0

Effective: July 1, 2004

ESB 6180
C 12 L 04

Prohibiting the use of genetic information in employment decisions.

By Senators Franklin, Eide, Prentice, Kline, Fraser, Hargrove, B. Sheldon, Kohl-Welles, Fairley, Kastama, Regala, McAuliffe, Keiser, Shin, Jacobsen, T. Sheldon, Spanel, Roach and Rasmussen.

Senate Committee on Commerce & Trade
House Committee on Commerce & Labor

Background: Genetic testing is used by some employers in an attempt to predict diseases that job applicants and employees may contract, particularly those associated with occupational hazards. These tests also have the capacity to identify the sex, race, and ethnic-religious origins of individuals who are tested. Proponents of genetic testing in employment claim that such testing helps to control health care costs. Among the arguments raised by those opposed to genetic testing are that the tests are highly invasive, discriminate against individuals who may never get a particular disease, and are not predictive of job performance.

The Equal Employment Opportunity Commission, the federal agency that enforces the Americans with Disabilities Act (ADA), has taken the position that basing employment decisions on genetic testing violates the ADA.

Summary: Genetic information is defined as information about inherited characteristics that can be derived from DNA-based or other laboratory tests, family history, or medical examination, but not including routine tests for the abuse of alcohol or drugs, or the presence of HIV. Requiring an employee or prospective employee to submit to screening for genetic information as a condition of employment or continued employment is unlawful.

Votes on Final Passage:

Senate 49 0
House 94 0

Effective: June 10, 2004

ESB 6188
C 265 L 04

Authorizing electronic notice and other communications within the Washington nonprofit corporation act.

By Senators Esser, Kline and Johnson.

Senate Committee on Judiciary
House Committee on Judiciary

Background: Notice and Communication: The Washington Nonprofit Corporation Act (WNCA) establishes requirements regarding the organization and operation of

nonprofit corporations. There are many provisions of the WNCA that require notice and communication between members and directors.

Under some circumstances, actions may be taken by members or directors without a meeting if the action is evidenced by written consent. A nonprofit's article of incorporation or bylaws may authorize: (1) proxy appointments by members, if executed in writing; and (2) the election of officers or directors by mail. However, current law does not permit electronic transmission of notices and communication between shareholders and directors of nonprofit corporations.

Nonprofit Cooperatives: Some nonprofits are cooperatives, owned by member-customers and organized to render economic services to members rather than generate corporate profit.

State law regulates the way in which cooperatives are organized and function. In Washington, cooperative organizations and associations may be organized under two distinct chapters of the state code. Chapter 23.86 is exclusive to cooperative associations, while Chapter 24.06 allows a range of nonprofit and mutual benefit organizations, including cooperatives, to be formed thereunder. However, cooperatives that organize under Chapter 24.06 are excluded from many of the benefits offered to cooperatives organized under Chapter 23.86.

Summary: Notice and Communication: WNCA is amended to authorize filings, notices, consents, and other forms of communication between members and directors by electronic transmission. Members and directors must consent to notification by electronic transmission and must designate an address, location, or system for delivery. In the alternative, electronic notices may be posted on an electronic network if a separate record of the posting, with details on how to access the posting, is made available to members and directors.

A member or director may revoke consent to notification by electronic transmission. Consent is automatically revoked if: (1) the nonprofit is unable to electronically transmit two consecutive notices; and (2) the person responsible for transmitting the notice knows that the transmissions were unsuccessfully transmitted. Inadvertent failure to treat this inability as a revocation does not invalidate any meeting or other action.

References throughout the WNCA to "document" are replaced with "record." References to "written" and "signed" are replaced with the requirement that notices, consents, and waivers be in the form of an executed record.

Additionally, (1) records may be filed with the Office of the Secretary of State electronically; (2) electronic proxies are authorized for nonprofits permitting proxy voting; (3) nonprofits may notify their boards of directors of the initial organizational meeting by mail, fax, or electronic transmission; and (4) elections of directors or officers may be conducted by electronic

transmission if: (a) authorized by the bylaws; and (b) an electronic address has been designated to receive the ballot.

Nonprofit Cooperatives: Cooperatives organized under Chapter 24.06 prior to the effective date of this act may avail themselves of the additional rights granted to cooperative associations organized under Chapter 23.86. Specifically, cooperatives organized under Chapter 24.06 may elect to: (1) limit individual member liability as authorized under RCW 23.86.105(1); and (2) apportion and distribute earnings to members, as specified in RCW 23.86.160 and 23.86.170. Additionally, consumer cooperatives organized under Chapter 24.06 may elect to use the words "corporation," "incorporated," or "limited" in their names, as authorized under RCW 23.86.030.

Votes on Final Passage:

Senate	48	0	
House	94	0	(House amended)
Senate	47	0	(Senate concurred)

Effective: June 10, 2004

SSB 6189
PARTIAL VETO
C 165 L 04

Regulating receiverships.

By Senate Committee on Judiciary (originally sponsored by Senators Johnson, Kline, Esser and Roach).

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 takes property into custody pending litigation. A receiver in appropriate circumstances may be appointed over all of a person'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. Washington's current receivership chapter consists of five sections, most of which were originally enacted by the Territorial Legislature over 150 years ago.

Summary: The rules generally governing receivership proceedings are consolidated into a single chapter. Chapter 7.08 RCW, dealing with general assignments for the benefit of creditors, is modified to include the procedures applicable to the judicial administration of an assignee's administration and liquidation of assets into those applicable in a general liquidating receivership. The rules applied to general liquidating receiverships versus the rules applied when a receiver serves a temporary custodial function are clarified.

As an aid to practitioners, a single section is created to list all circumstances in which a receiver's appoint-

ment is permissible. The procedures, notice, and time lines for the appointment of receivers are specified. Any person may serve as a receiver unless the person has been convicted or is controlled by a person convicted of a felony moral turpitude (dishonesty of a high degree), is a party to action or has a special relationship to a party, has an adverse interest to a party affected by the receivership, or is a sheriff of any county. The nature and form of bond required of receivers is specified.

The powers and duties of receivers are specified. The power of a receiver in a general liquidating receivership to assume or reject executory contracts and unexpired leases is codified. Provisions of a contract specifying the consequences of a party's bankruptcy that would prevent a receiver from assuming a contract are made unenforceable. The power of a general liquidating receiver to sell property free and clear of liens is clarified.

The redemption rights of owners of agricultural and homestead property are protected against the inappropriate circumvention by the use of receiverships. The limitations and restrictions applicable to receiverships specifically provided for under current law are preserved.

A temporary stay of certain creditor actions, in cases in which all of a person's property is placed in the hands of a receiver, is imposed to provide the receiver with an opportunity to address emergent situations, while giving anyone stayed the opportunity to seek relief from the stay for good cause. A comprehensive claims procedure and system of priorities in general liquidating receiverships is established.

Duplicative, inconsistent and archaic statutes are repealed.

Votes on Final Passage:

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

Effective: June 10, 2004

Partial Veto Summary: The veto restores three statutory provisions that were inadvertently repealed.

VETO MESSAGE ON SB 6189-S

March 26, 2004

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 47 (40), 47 (41) and 47 (42), Substitute Senate Bill No. 6189 entitled:

“AN ACT Relating to receiverships;”

This bill develops a body of statutes to govern receivership proceedings and consolidates these laws into one chapter.

In creating this chapter, it was necessary to repeal duplicative or inconsistent statutes. These statutes are repealed in section 47. Section 47 (40) repeals RCW 24.03.310; section 47 (41) repeals RCW 24.03.315; and section 47 (42) repeals RCW 24.03.320. All three statutes deal with foreign corporations, and

have no connection with receivership proceedings. These statutes were included in error, as the statutes that were meant to be repealed are RCW 24.06.310, RCW 24.06.315, and RCW 24.06.320.

For these reasons, I have vetoed sections 47 (40), 47 (41) and 47 (42) of Substitute Senate Bill No. 6189.

With the exception of sections 47 (40), 47 (41) and 47 (42), Substitute Senate Bill No. 6189 is approved.

Respectfully submitted,



Gary Locke
Governor

SSB 6208
C 202 L 04

Regarding temporary water-sewer connections.

By Senate Committee on Government Operations & Elections (originally sponsored by Senators Roach, Kastama and McCaslin).

Senate Committee on Government Operations & Elections

House Committee on Local Government

Background: One of the powers granted to water-sewer districts is the power to fix rates and charges for the service they supply and to charge property owners who wish to connect to the district's system a connection charge in addition to the cost of connection. The connection charge is set by the water-sewer district commissioners so that the connecting property owners bear their equitable share of the cost of the system. The calculation of the connection charge must be a pro rata share of the sum of three cost centers, as follows: the cost of existing facilities; the cost of facilities planned, in an adopted comprehensive plan, to be constructed within the next ten years; and other costs the district must pay that are directly attributable to the improvements required by the property owners seeking to connect.

Summary: If a property owner seeks a temporary connection to a water-sewer system when the district is not planning to install permanent local facilities, the district is given two alternatives. One alternative is to permit connection to its system by means of temporary facilities and to collect from the property owners seeking this connection by means of temporary facilities, a proportionate share of the cost of future local facilities needed to serve the property. The amount collected is held, together with interest, to be used for contribution towards the costs of construction of permanent local facilities by other developers. If these permanent facilities are not constructed within 15 years of the date of payment, the amount collected, including accrued interest, is returned to the property owner. The other alternative is to allow the property owner to pay the connection charge and agree to connect to the permanent facilities if they are installed.

Votes on Final Passage:

Senate	48	0	
House	96	0	(House amended)
Senate			(Senate refused to concur)
House			(House refused to recede)
Senate			(Senate refused to concur)
House	95	0	(House amended)
Senate	49	0	(Senate concurred)

Effective: June 10, 2004

ESSB 6210
C 145 L 04

Modifying medical information exchange and disclosure provisions.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Keiser, Winsley, Thibaudeau and Deccio).

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

Background: Under Washington law, hospitals are required to maintain coordinated quality improvement programs designed to improve the quality of health care services and prevent medical malpractice. Other health institutions and medical facilities, and health provider groups consisting of at least ten providers, are authorized to maintain coordinated quality improvement programs. Programs maintained by these other entities must be approved by the Department of Health and must comply, or substantially comply, with the statutorily required components of the hospital coordinated quality improvement programs.

Coordinated quality improvement programs must include: a medical staff privileges sanction procedure; periodic review of employee credentials and competency in the delivery of health care services; a procedure for prompt resolution of patient grievances; collection of information relating to negative outcomes, patient grievances, settlements and awards, and safety improvement activities; and quality improvement education programs. Components of the education programs include quality improvement, patient safety, injury prevention, improved communication with patients, and causes of malpractice claims.

With some limited exceptions, information and documents created for or collected and maintained by a quality improvement committee are not subject to discovery, not admissible into evidence in any civil action, and are confidential and not subject to public disclosure.

Summary: A coordinated quality improvement program or regularly constituted review committee or board of a professional society or hospital with a duty to evaluate health care professionals may share information created for, and collected and maintained by, a quality

improvement committee, a peer review committee or review boards with other such programs, committees, or boards for the purpose of improving the quality of health care services and preventing medical malpractice. Information shared between coordinated quality improvement programs, committees, or boards and information created or maintained as a result of sharing information, is confidential and not discoverable or admissible in civil proceedings. The privacy protections of Washington's Uniform Health Care Information Act and the federal Health Insurance Portability and Accountability Act apply to the sharing of individually identifiable patient information held by a coordinated quality improvement program. Any rules adopted to implement provisions related to coordinated quality improvement programs and the sharing of information pertaining to them must meet applicable federal and state laws.

Health care provider groups that consist of five or more providers may maintain a coordinated quality improvement program.

A presumption of good faith is created for persons and entities who share information or documents with other programs, committees, or boards. This presumption, however, may be rebutted upon a showing of clear, cogent, and convincing evidence.

Medication errors are added to the list of issues that must be included in quality improvement education programs.

Votes on Final Passage:

Senate	49	0	
House	96	0	(House amended)
Senate	49	0	(Senate concurred)

Effective: June 10, 2004

SSB 6211

C 21 L 04

Changing the school district levy base calculation.

By Senate Committee on Education (originally sponsored by Senators Carlson, Kohl-Welles, Esser, Swecker, Schmidt, Finkbeiner, Brandland, Pflug, Roach, Rasmussen and Murray).

Senate Committee on Education
House Committee on Education
House Committee on Appropriations

Background: In 1977, when the state assumed additional responsibility for funding schools, the Legislature limited school district maintenance and operation levy authority by enacting the levy lid law. This law determines the maximum amounts school districts can collect through local maintenance and operation levies. The original 1977 law, which took effect in 1979, sought to limit levy revenue to 10 percent of a school district's state basic education allocation. It also contained a

grandfather clause which permitted districts that historically relied heavily on excess levies to exceed the 10 percent limit.

Under current law, most districts may raise 24 percent of the district's levy base. There are 91 school districts that are grandfathered at higher percentages that range from 24.01 percent to 33.9 percent.

A district's levy base includes most state and federal revenues received by the district in the prior school year. The levy lid formula increases the base by multiplying the district's state and federal revenues by the percentage change in per student state expenditures between the prior and current school years, divided by 55 percent.

Summary: For excess levies and levy equalization allocations in calendar years 2005 through 2007, each district's levy base is increased by (1) the difference between the amount the district would have received in the current school year under I-728 as originally passed by voters and the amount the district actually receives in the current school year under I-728 as amended in 2003; and (2) the difference between the amount the district would have received in the prior school year under I-732 as originally passed by voters and the amount the district actually received in the prior school year under I-732 as amended in 2003. The amount of the increase in the levy base is offset by amounts from additional salary or per student allocations that are added to the levy base as a result of enactment of an initiative to the people subsequent to the effective date of the bill.

Votes on Final Passage:

Senate	25	24	
House	68	25	(House amended)
Senate	35	14	(Senate concurred)

Effective: June 10, 2004

SB 6213

C 39 L 04

Making technical, clarifying, and nonsubstantive changes to mental health advance directive provisions.

By Senators Hargrove, Stevens and Winsley.

Senate Committee on Children & Family Services & Corrections
House Committee on Judiciary

Background: The state mental health advance directives bill went into effect on July 27, 2003 and is codified as Chapter 71.32 in the Revised Code of Washington. It was anticipated that some clarifications and technical amendments would be needed as the law began to be implemented.

Summary: Nothing in the voluntary discharge provisions for a person admitted to inpatient treatment under the authority of his or her mental health advance directive prevents the person from being detained for civil

SSB 6216

commitment under the provisions of the Involuntary Treatment Act if the person meets the criteria for detention.

Votes on Final Passage:

Senate	49	0
House	96	0

Effective: June 10, 2004

SSB 6216

C 217 L 04

Defining timber land to include certain incidental uses.

By Senate Committee on Natural Resources, Energy & Water (originally sponsored by Senators Rasmussen, Swecker, Doumit and Hargrove).

Senate Committee on Natural Resources, Energy & Water

House Committee on Agriculture & Natural Resources

Background: The statutes relating to the timber tax allow incidental compatible uses on timber land as long as the incidental use is related to the growing and harvest of timber. There is no similar provision in the tax exemption for open space land and this causes a confusing situation for both the public and for the timber land-owners.

Incidental uses must be directly related to timber production and do not include residences or other types of commercial buildings.

Summary: The open space land definition of "timber land" is modified to include land used for incidental uses that are compatible with the growing and harvesting of timber, but no more than 10 percent of the land may be used for the incidental purpose. There is no effect on land use or zoning.

Votes on Final Passage:

Senate	49	0
House	94	0

Effective: June 10, 2004

2SSB 6220

C 135 L 04

Regarding school employee duty to report suspected child abuse or neglect.

By Senate Committee on Ways & Means (originally sponsored by Senators Kohl-Welles, Johnson, McAuliffe, Esser, Winsley, T. Sheldon, Rasmussen, Kline and Keiser).

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

Background: Under current law, school personnel who have reasonable cause to believe that a child has suffered abuse or neglect must report the incident or cause the incident to be reported to the appropriate law enforcement agency or the Department of Social and Health Services.

Summary: Reference to the mandatory child abuse or neglect reporting laws and school personnel's responsibilities under those laws are added to the education code. Within existing training programs and related resources, school employees must receive training regarding the reporting obligations in their orientation training when hired and then every three years.

All school employees who have knowledge of or reasonable cause to believe that a student has been a victim of physical abuse or sexual misconduct must report the abuse or misconduct to the school administrator.

School administrators must follow the reporting requirements of the mandatory reporting laws and report to law enforcement, if necessary. During the process of determining whether a report must be filed, the school administrator must contact all parties involved in the complaint.

Votes on Final Passage:

Senate	48	0	
House	95	0	(House amended)
Senate	48	0	(Senate concurred)

Effective: June 10, 2004

SSB 6225

PARTIAL VETO
C 142 L 04

Concerning boarding home domiciliary services.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Deccio, Keiser, Parlette, Winsley and Rasmussen).

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

Background: Boarding homes are facilities that provide long-term care services and housing to thousands of individuals in this state. This is defined in statute as "domiciliary care." Roughly 70 percent of the residents of boarding homes pay for their care with private means, the rest through state-funded programs. Boarding homes are regulated by the Department of Social and Health Services (DSHS).

Boarding homes use disclosure forms to describe the services and care they provide. Disclosure is part of the requirements of having a boarding home license. Recently, DSHS began allowing boarding homes to admit people with greater medical and health care needs. The department also increased the care and services

requirements that all licensed boarding homes must provide.

Besides the individuals who seek care and services in a boarding home, there are others who do not wish to receive any services, but want to live independently.

There is concern in the boarding home community that current state requirements of licensed boarding homes are too rigorous, and not flexible enough to provide for the wide range of individuals who wish to live in them.

Summary: The current statutory definition of "domiciliary care" is expanded to specify levels of care including activities of daily living, health support services, and intermittent nursing services. Boarding homes may choose not to provide more than basic services. This level of services must be fully disclosed to residents. Boarding homes must notify residents and their legal representative in writing 90 days in advance of a decrease in the level of services that results in discharge of residents.

A boarding home licensee may permit a family member to administer medications or treatment assistance to residents. Conditions for family assistance are described.

The pre-admission review process is condensed into eight areas of assessment, and provisions are added allowing greater opportunity for emergency admissions.

DSHS must report to the Legislature by December 12, 2005 on the payment system for licensed boarding homes.

Language provides for the immediate discharge of any resident who needs 24 hours of continuous skilled nursing care or supervision, excluding persons who are receiving hospice care, or have a short-term illness.

Boarding homes that provide health support services may provide dementia care, mental health care and care for people with developmental disabilities.

Votes on Final Passage:

Senate	48	0	
House	95	0	(House amended)
Senate	49	0	(Senate concurred)

Effective: March 26, 2004

September 1, 2004 (Sections 1-10, 12)

Partial Veto Summary: The veto deleted language requiring DSHS to conduct a study determining potential financial impacts of new boarding home rules, including the degree to which payments for boarding home services are related to actual costs of providing services. Current law already requires this study.

VETO MESSAGE ON SB 6225-S

March 26, 2004

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 11, Substitute Senate Bill No. 6225 entitled:

"AN ACT Relating to boarding homes;"

This bill improves laws governing the licensing of boarding homes, by supporting flexibility in the level of care provided by boarding homes while protecting residents' rights to quality care. It will refine extensive boarding home rule reforms being implemented in September.

Section 11 would have required the Department of Social and Health Services to conduct a study to determine potential financial impacts of these new rules and to determine the degree to which payments for boarding home services are related to the actual costs of providing services. This study would have largely duplicated a study currently underway, as required by Chapter 231, Laws of 2003. The proposed study in section 11 would have only covered an additional six months experience and therefore would not likely produce meaningfully different results.

Regretfully, the existing study is likely to have limitations, resulting from an inability to collect the needed data. To be valuable, such a study needs to address the complexities of data gathering in a manner that is statistically sound, yet sensitive to the boarding home industry's concerns regarding the proprietary nature of the data.

I recognize the merits of studying our boarding home payment system. Boarding homes provide services to support our state's vulnerable population. Therefore, I encourage the Legislature and industry to consider an alternative that will afford a more comprehensive approach.

For these reasons, I have vetoed section 11 of Substitute Senate Bill No. 6225.

With the exception of section 11, Substitute Senate Bill No. 6225 is approved.

Respectfully submitted,



Gary Locke
Governor

SB 6237

C 207 L 04

Providing nonagricultural commercial and retail uses that support and sustain agricultural operations on designated agricultural lands of long-term significance.

By Senators Hewitt, Haugen, Mulliken, Rasmussen and Parlette.

Senate Committee on Land Use & Planning
House Committee on Local Government

Background: Along with conserving productive agricultural land, the state's Growth Management Act requires maintaining and enhancing agricultural industries.

Summary: Agricultural zoning, which must limit density and restrict nonfarm uses, can allow accessory uses that support, promote, or sustain agricultural operations and production.

Such accessory uses must not interfere with natural resource land uses and must be accessory to the growing of crops or raising of animals. Those of a commercial or retail nature must predominately involve regional agricultural products and products derived from them, experiences related to agriculture, or products produced on site. New or existing buildings together with parking and other supportive uses are allowed for the purpose of operating accessory uses, but they must be consistent with the size and scale of agricultural buildings on the site and must not otherwise convert land to nonagricultural uses.

Accessory uses can include compatible commercial or retail uses, such as storage; production, sales, and marketing of value-added agricultural products; sources of supplemental on-farm income that supports the agricultural use; support services for production, marketing, and distribution of agricultural products; and sales and marketing of regional agricultural products and experiences, locally made art and crafts, and their ancillary retail activities.

Votes on Final Passage:

Senate 49 0
House 95 0

Effective: June 10, 2004

SSB 6240
C 25 L 04

Modifying tax incentive provisions for rural counties.

By Senate Committee on Ways & Means (originally sponsored by Senators T. Sheldon, Zarelli, Benton, Hale, McAuliffe, Prentice, Rasmussen, Murray and Haugen; by request of Governor Locke).

Senate Committee on Ways & Means
House Committee on Finance

Background: Washington has developed various tax incentives designed to assist in job creation or retention in rural counties.

The rural county deferral program targets rural counties with population densities of less than 100 per square mile, community empowerment zones, and counties containing a community empowerment zone. Manufacturing, research and development, and computer service businesses may defer sales and use taxes on buildings, machinery and equipment, and installation labor. That portion of a cogeneration project that generates power for consumption within the manufacturing site qualifies if it is an integral part of the manufacturing operation. An expansion or renovation must increase the floor

space or production capacity of an existing structure to qualify. The business is required to create at least one job per \$750,000 of investment if the project is in a community empowerment zone or a county containing a community empowerment zone. The deferred taxes are forgiven if the investment project meets the program criteria for eight years after the project is complete. Because manufacturing machinery and equipment, pollution control equipment, and cogeneration equipment used in a manufacturing process is exempt from sales tax, no tax on these items need be paid. The program expires July 1, 2004.

Under the program, a person that owns property and leases to another may receive deferral of taxes on qualifying expenditures, if the owner under written contract agrees to pass the economic benefit of the deferral on to the lessee by reducing the amount of the lease payments.

A business and occupation (B&O) tax credit for computer software job creation was authorized for businesses engaged in computer software manufacturing or programming in rural counties. Businesses could claim \$1,000 as a credit against the tax for each new job created for up to five years. No credit was available if a B&O tax credit was taken under another program. The credit expired December 31, 2003.

A B&O tax credit was authorized for businesses that provide information technology help desk services to third parties when the business was located in a rural county equal to 100 percent of the amount of tax due. The credit expired December 31, 2003.

A B&O tax credit for job creation in rural counties is authorized for manufacturing, research and development, and computer service businesses located in rural counties or community empowerment zones if they create employment of at least 15 percent above the prior year. Businesses may claim \$2,000 as a credit against the tax for each new job created, except the credit is \$4,000 if the wages and benefits exceed \$40,000 per year. No more than \$7.5 million may be taken in any fiscal year by all businesses.

A B&O tax credit for job training in rural counties is available to manufacturing, research and development, and computer service businesses located in rural counties with population densities of less than 100 per square mile, community empowerment zones, and counties containing a community empowerment zone that provide job related training at no charge to their employees. The tax credit is equal to 20 percent of the value of the job training not to exceed \$5,000 per business per year.

Summary: A B&O tax credit for computer software job creation is authorized for businesses engaged in computer software manufacturing or programming in rural counties. Businesses may claim \$1,000 as a credit against the tax for each new job created for up to five years. Businesses claiming a credit under the expired program may take any remaining credits under this

program. No credit is available if a B&O tax credit is taken under another program. The credit expires January 1, 2011.

A B&O tax credit is authorized for businesses that provide information technology help desk services to third parties when the business is located in a rural county equal to 100 percent of the amount of tax due. The credit expires January 1, 2011.

For each of the new credits, no application is necessary to be eligible, but the business must keep adequate records for the Department of Revenue to verify eligibility. If the department finds that a business that has claimed credit is ineligible, the business must repay the amount of the credit with interest, but not penalties. Credits may not be carried over from year to year.

A business taking the credit must submit an annual report to the department. The report is to contain various information, including the type of business activity, number of employees in the rural county, how long the business has been located in the county. Failure to submit a report does not disqualify the business from receiving the credit, but the department must contact the business and collect the information so as to verify the program's effectiveness.

The rural county sales and use tax deferral program is extended to July 1, 2010. A person that owns property and leases to another may receive deferral of taxes on qualifying expenditures, under the following conditions:

- The owner agrees to pass the economic benefit of the tax savings on to the lessee through lower rents or through some other means;
- The lessee receiving the benefit agrees in writing with the department to complete an annual report; and
- The economic benefit that is passed by the owner to the lessee is at least equal to the tax savings to the owner and is evidenced by written documentation of the financial arrangement.

Participants must complete an annual survey and provide information on the amount of tax deferred; number of new products, trademarks, patents, and copyrights; number of jobs and the percent of full-time, part-time and temporary jobs; wages by salary band; and number of jobs with employer provided health and retirement benefits. The department may request additional information necessary to measure the results of the program. Information reported in the survey is confidential, except the amount of taxes deferred may be disclosed to the public. The survey is due by March 31 in the year after the department determines the project is operationally complete and in each of the seven following years. Each year by September 1, the department will prepare summary descriptive statistics by category from the information provided by the survey. No fewer than three taxpayers will be included in any category. The department is required to study the sales and use tax deferral

program and report back to the Legislature by December 1, 2009.

These credit and deferral programs are expanded to include counties smaller than 225 square miles. In addition, the job creation B&O tax credit and the job training B&O tax credit are expanded to include counties smaller than 225 square miles.

Votes on Final Passage:

Senate	49	0	
House	93	3	(House amended)
Senate	49	0	(Senate concurred)

Effective: April 1, 2004

SSB 6242

C 263 L 04

Establishing a statewide strategy for land acquisitions and disposal.

By Senate Committee on Natural Resources, Energy & Water (originally sponsored by Senators Parlette and Berkey).

Senate Committee on Natural Resources, Energy & Water

Senate Committee on Ways & Means
House Committee on Capital Budget

Background: Because land acquisitions by state agencies for recreation and habitat purposes have long-term consequences for the state and the counties in which the lands are located, concern has been expressed that the Legislature must be as well informed as possible regarding why and how the acquisitions are made. The most recent compilation of such information is the 1999 Public and Tribal Lands Inventory, a report to the Legislature by the Interagency Committee for Outdoor Recreation that provides a baseline inventory of public lands and identifies the total acreage of public and tribal lands, their ownership, general location, and primary purpose.

Summary: The Interagency Committee for Outdoor Recreation is directed to compile an inventory of land transfers by state agencies since 1980 that involve recreational and habitat lands and to recommend a statewide strategy for future transfers. A report to the Legislature and the Governor is due June 30, 2005.

The inventory will cover transfers of both ownership and less than ownership interests that are either funded by state agencies, traded, or gifted; sources of funding; principal uses of the lands; the agencies or local governments involved; and the costs and revenues. Additional information that local governments elect to provide regarding any other transfers that similarly result in tax exempt status will also be included.

The statewide strategy will provide for policies and priorities, determination of need, coordination among agencies, compensation of local governments for loss of

tax revenue, and achieving "no net gain" in counties with large amounts of public land.

Votes on Final Passage:

Senate	49	0	
House	96	0	(House amended)
Senate	44	0	(Senate concurred)

Effective: June 10, 2004

SSB 6245
C 23 L 04

Relating to residency teacher certification partnership programs.

By Senate Committee on Education (originally sponsored by Senators Zarelli, Regala, Winsley and Rasmussen).

Senate Committee on Education
House Committee on Education

Background: In 2001, the Legislature created three alternative routes for teacher certification. Each route focuses on increasing the number of teachers in shortage and high need areas due to subject matter or geographic location. Routes one and two are available to classified instructional employees who are employed by a school district. Route three is available to people who are not employed by the school district, but may have an emergency substitute certification. There are additional eligibility requirements for each route.

The educational program for the different alternative certification routes vary based on the existing education level of the candidate. Route one candidates, who have an associate degree, must complete their baccalaureate degree and a mentored internship. Route two candidates, who already have a baccalaureate degree, must complete a mentored internship and training and coursework offered at a local site in collaboration with a higher education institution. Route three candidates, who have a baccalaureate degree, must attend an intensive summer teaching academy, followed by a full year of employment by a school district in a mentored internship (and, if necessary, a second summer academy).

A partnership grant program and a conditional scholarship program which support the alternative route certification program have been funded by the Legislature since the creation of the alternative certification program. The partnership grant program provides funds to participating districts to assist the district in partnering with higher education teacher preparation programs and may be used to provide stipends to the mentor teacher. The Professional Educator Standards Board (PESB), with support from the Office of the Superintendent of Public Instruction, selects the districts that receive the funds based on a list of factors included in the statute. The PESB selects teacher candidates to receive condi-

tional scholarships but the program is administered by the Higher Education Coordinating Board.

The alternate teacher certification program expires June 30, 2005.

Under the 2001 federal No Child Left Behind Act, beginning in 2005, all teachers who teach in core academic subjects (English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, and geography) must be "highly qualified." "Highly qualified" means that the teacher has full certification (not an emergency or limited certificate) and has passed a state test or demonstrates competence based on an objective uniform standard of evaluation.

Summary: A fourth alternative route for teacher certification is created. Route four is available to people who are employed in the district, hold a baccalaureate degree and hold a conditional teaching certificate or emergency substitute certificate. Eligibility for individuals who hold an emergency substitute certificate is changed from route three to route four. Additional eligibility requirements are provided. The educational program for route four candidates consists of an intensive summer teacher academy, followed by a full year employed by a school district in a mentored internship.

Partnership grants are available to districts that operate a route four program and conditional scholarships are available to route four teacher certification candidates. The scholarship funds can be used for fees and other educational expenses, in addition to tuition.

The expiration date for the program is repealed.

Votes on Final Passage:

Senate	49	0	
House	96	0	(House amended)
Senate	46	0	(Senate concurred)

Effective: June 10, 2004

SB 6249
C 93 L 04

Establishing an asset smoothing corridor for actuarial valuations used in the funding of the state retirement systems.

By Senators Fraser, Winsley, Pflug, Regala and Carlson; by request of Select Committee on Pension Policy.

Senate Committee on Ways & Means
House Committee on Appropriations

Background: Pension fund assets are valued on an actuarial basis, rather than a market value basis, to reduce the instability in contribution rates year-to-year. The actuarial value of assets is based on their expected worth over the long run.

The state's method for determining the actuarial value of assets is to recognize changes to asset values

that vary from the long-term investment rate of return assumption over a variable period that is based on the magnitude of the deviation experienced, up to a maximum of eight years.

There are currently no restrictions on the extent to which the actuarial or "smoothed" value may deviate from the market value of plan assets.

Summary: Beginning with actuarial studies performed after July 1, 2004, the actuarial value of assets may not drop below 70 percent of market value of assets as of the valuation date or to rise above 130 percent of market value of assets as of the valuation date.

The State Actuary is directed to periodically review the appropriateness of the asset smoothing method and advise the Legislature as necessary.

Votes on Final Passage:

Senate	48	0
House	94	2

Effective: June 10, 2004

SB 6254

C 171 L 04

Providing death benefits for members of the Washington state patrol retirement system plan 2.

By Senators Regala, Winsley, Fraser, Carlson, Keiser, Roach, Franklin, Rasmussen and Haugen; by request of Select Committee on Pension Policy.

Senate Committee on Ways & Means
House Committee on Appropriations

Background: If an active member of the Washington State Patrol Retirement System (WSPRS) Plan 2 with fewer than 10 years of service credit dies, his or her survivor is eligible for a cash refund of the member's retirement contributions, plus interest. If an active member of WSPRS Plan 2 with 10 or more years of service credit dies and is survived by a spouse or eligible child or children, then his or her beneficiaries are eligible to receive a retirement allowance. This allowance is subject to an actuarial adjustment to reflect a 100 percent survivor benefit option and, if the member was not eligible for retirement at the time of death, further reduced to reflect the smaller of the difference between the member's age at time of death and either age 55 or the age at which the member would have 25 years of service. If the member was killed in the line of employment, as determined by the director of the Department of Labor and Industries, then the beneficiary is eligible for an additional \$150,000 death benefit.

Summary: The retirement allowance paid to survivors of members of WSPRS Plan 2 who have at least ten years of service and who are killed in the course of employment is not subject to an actuarial reduction.

Votes on Final Passage:

Senate	49	0
House	96	0

Effective: June 10, 2004

SB 6259

C 154 L 04

Extending the restriction on local government taxation of internet services.

By Senators Schmidt, Poulsen, Esser, Prentice and Eide.

Senate Committee on Technology & Communications
House Committee on Technology, Telecommunications
& Energy
House Committee on Finance

Background: Internet service providers, or ISPs, provide their customers access to the Internet. In 1997, the Legislature prohibited cities and towns from imposing any new taxes or fees on ISPs. The Legislature did permit, however, cities and towns to levy a business tax on ISPs if the rate did not exceed the rate applied to a general service classification.

The state prohibition on new ISP taxes was originally set to expire in July 1999, but it was extended in 2002 to July 1, 2004.

In 1998, Congress temporarily prohibited state and local governments from imposing any new taxes on Internet access or other multiple or discriminatory taxes on electronic commerce. The prohibition expired on November 1, 2003. The U.S. House and Senate are currently considering a permanent prohibition.

Summary: The prohibition on a city or town imposing any new taxes or fees on Internet service providers is extended to July 1, 2006.

Votes on Final Passage:

Senate	47	1
House	96	0

Effective: June 10, 2004

SSB 6261

C 127 L 04

Modifying juror payment provisions.

By Senate Committee on Judiciary (originally sponsored by Senators B. Sheldon, Oke and T. Sheldon).

Senate Committee on Judiciary
House Committee on Judiciary

Background: In Washington, persons summoned to serve as jurors are eligible to receive daily compensation for their time of service.

SSB 6265

Under federal law, federal employees are required to take paid leaves of absence for jury service. Juror compensation received by federal employees must be credited against the employee's pay. However, payments made to reimburse jurors for their out-of-pocket expenses need not be credited against an employee's pay.

As state law is currently written, then, federal employees summoned to jury service in Washington must remit to the federal government compensation received for jury service.

Summary: Statutory language is amended to clarify that jurors are eligible to receive expense payments, rather than compensation, for their service. This has the effect of allowing federal employees to retain expense payments for jury service, rather than being required to remit juror compensation to the federal government.

Votes on Final Passage:

Senate	48	0
House	94	0

Effective: June 10, 2004

SSB 6265

C 32 L 04

Improving the efficiency of the permitting process when multiple agencies are involved.

By Senate Committee on Land Use & Planning (originally sponsored by Senators Swecker, Doumit, Oke, Mulliken, Horn, Jacobsen, Sheahan, Hale, Rasmussen and Murray).

Senate Committee on Land Use & Planning
House Committee on State Government

Background: A number of efforts are underway in the state to streamline and improve the way in which regulatory permits are issued. Improvements are likely to be realized by the year 2006.

Summary: The Legislature finds that there is an immediate need for coordination of permit timelines for large, multiagency permit efforts.

State permitting agencies are authorized to enter into agreements with permit applicants and each other for the purpose of setting the timelines they will use for making permit decisions. The timelines must not be shorter than they would otherwise be but may be extended and coordinated. The goal is to achieve maximum efficiency by means of concurrent studies and consolidation of applications, review, comment periods, and hearings. The agencies are required to commit to the timelines set in the agreement. The 45-day limit in the hydraulic code can be extended for this purpose.

Votes on Final Passage:

Senate	48	0
House	94	0

Effective: June 10, 2004

SB 6269

C 219 L 04

Concerning the relocation of harbor lines.

By Senators Hale, Doumit, Hewitt and Brandland.

Senate Committee on Natural Resources, Energy & Water

House Committee on Agriculture & Natural Resources

Background: The harbors in front of cities are reserved under Washington's Constitution and under state law for navigation and commerce. The preserved areas are called "harbor areas" and were the state's first type of zoning. Facilities in harbor areas are limited to certain uses which foster navigation and commerce. The Legislature has discretion to establish which harbor lines the Harbor Line Commission can change or alter. The harbor lines that can be changed are controlled by the Harbor Line Commission, which is the Board of Natural Resources. Hearings and public meetings are required when a change is made in the harbor line.

Summary: The harbor lines for Blaine, Edmonds, Ilwaco, Kennewick and Pasco are added to the list that the Harbor Line Commission can adjust.

Votes on Final Passage:

Senate	47	0
House	95	0

Effective: June 10, 2004

ESSB 6270

C 73 L 04

Revising provisions relating to attorneys' liens.

By Senate Committee on Judiciary (originally sponsored by Senators Esser, Haugen, Sheahan and Kline).

Senate Committee on Judiciary
House Committee on Judiciary

Background: In Washington, prevailing plaintiffs in civil rights employment cases must pay federal income tax on the entire amount of the settlement or judgment, including any amounts awarded for attorney's fees. The attorney also pays federal income taxes on the same fees when the attorney receives them. The Court of Appeals of Washington found that adverse tax consequences caused by including attorney's fees as taxable income to the plaintiff, in an employment discrimination case, were part of the actual damages to be awarded in the case. *Blaney v. Ass'n of Workers*, 114 Wn.App. 80, 55 P.3d 1208 (2002).

The United States Court of Appeals for the Ninth Circuit found that the question of whether attorney's fees

paid under a contingent fee agreement are includable in the plaintiff's gross income is answered by a two part test: (1) how state law defines the attorney's rights in the action and (2) how federal tax law operates. The rationale of the test is that a party cannot escape tax liability through the assignment of not yet received income to another person. Washington attorneys have liens for compensation on judgments to the extent of the value of their services. The priority of an attorney's lien is determined at the time it is claimed. Liens, against the same judgment, that are filed prior to the time the attorney files have priority over the attorney's lien.

Summary: An attorney has a lien upon the action and its proceeds to the extent of the value of the services performed by the attorney in that action. "Proceeds" are limited to monetary sums received in the action, so the lien is not enforceable against real or personal property. The attorney's lien is superior to all other liens upon the judgment, subject to the rights of secured parties under the Uniform Commercial Code. The Legislature expresses its purpose of making attorney's fees taxable solely to the attorney and its intention that the court will apply the statute retroactively. Child support liens are exempt from the statute.

Votes on Final Passage:

Senate	47	1
House	87	9

Effective: June 10, 2004

E2SSB 6274
PARTIAL VETO
C 157 L 04

Changing provisions relating to competency restoration.

By Senate Committee on Ways & Means (originally sponsored by Senators Regala, Stevens, Hargrove and Kline).

Senate Committee on Children & Family Services & Corrections

Senate Committee on Ways & Means

House Committee on Judiciary

Background: In May 2003, the Washington Court of Appeals handed down a decision in *Born v. Thompson*, 117 Wn. App. 57 (2003), that interpreted the term "non-fatal injuries" in the context of competency evaluations and restoration to be equivalent to "serious bodily injury." This interpretation restricts those offenders whose competency may be restored and differs from the policy of the mentally ill offender legislation from which the term was taken. That policy was based on information that, among mentally ill persons with criminal histories, violent acts were indicative of future dangerousness even if the results of those acts were not especially

serious. Consequently, the 1998 legislation expanded the meaning of "likelihood of serious harm" to include threats when there was a history of violent acts and provided a definition of violent act that expanded what could be considered violent.

In June 2003, the US Supreme Court decided *Sell v. United States*, ___ US ___ (2003). In the *Sell* decision, the court divided the issue of seriousness of the offense from whether an offense was violent in the context of court ordered involuntary medication for the purpose of competency restoration. The *Sell* decision:

- explicitly excludes discussion of violent offenses;
- makes it unconstitutional to order involuntary medication to restore the competency of defendants when the charged crime is neither serious nor violent;
- establishes a four-prong test to order involuntary medication for the purpose of competency restoration for persons charged with crimes that are serious but not violent.

Two major concerns were raised following the *Sell* decision. First, Washington law did not divide crimes into "serious" and "non-serious" and there would be little consistency across the state in how those determinations would be made. Second, one prong of the *Sell* test requires that it is "substantially likely" that involuntary medication will restore the defendant's competency. Making a "substantially likely" assessment partly depends on the length of time permitted to restore competency. The current statute establishing the time periods for non-felony competency restoration has not been consistently interpreted.

Summary: The term "non-fatal injuries" means the same thing as "bodily injury."

For purposes of determining whether a court may order involuntary medication to restore or maintain a defendant's competency, offenses in listed categories are serious offenses. If a defendant is charged with a crime that is not listed as a serious offense, the court may determine that, under the factual circumstances of the case, the offense is serious if it meets the stated criteria.

Release of mental health information to a court in which there is a pending motion for involuntary medication to restore competency is mandatory.

Votes on Final Passage:

Senate	49	0	
House	96	0	(House amended)
Senate	47	0	(Senate concurred)

Effective: March 26, 2004

Partial Veto Summary: The Governor vetoed Section 6, which would have required the Department of Social and Health Services to study and identify the need, options and plans to address the increasing need for capacity in the state hospital forensic units.

VETO MESSAGE ON SB 6274-S2

March 26, 2004

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 Second Substitute Senate Bill No. 6274 entitled:

“AN ACT Relating to competency restoration;”

This bill defines "nonfatal injuries" and "serious offense" for purposes of competency restoration for criminal defendants found incompetent to stand trial, including involuntary administration of medication.

Section 6 would have directed the Department of Social and Health Services to study and identify, in its budget request to the Office of Financial Management, "the need, options, and plans to address the increasing need for capacity in the forensic units of the state hospitals." Though intended to address an important issue, this language would have intruded on the budget development process of the executive branch. Ultimately, the Legislature will determine what is funded, but it should not attempt to direct development of the proposed budget within the executive branch. Further, Section 6 does not specify the fiscal period to which it applies. Although the section is not codified, it could be interpreted to require such an analysis every year into the future.

For these reasons, I have vetoed section 6 of Engrossed Second Substitute Senate Bill No. 6274.

With the exception of section 6, Engrossed Second Substitute Senate Bill No. 6274 is approved.

Respectfully submitted,



Gary Locke
Governor

SSB 6286
C 203 L 04

Modifying provisions of the heating oil pollution liability protection act.

By Senate Committee on Natural Resources, Energy & Water (originally sponsored by Senator Morton).

Senate Committee on Natural Resources, Energy & Water

House Committee on Financial Institutions & Insurance

Background: In recent years, a significant increase in the number of claims filed under the state's heating oil tank insurance program has been reported by the Pollution Liability Insurance Agency (PLIA). The amount of claim payments significantly exceeds the amount contributed to the heating oil insurance trust account from the existing fee of six tenths of one cent (.006 cents) per gallon of heating oil purchased within the state. As provided by law, the difference is being paid out of the state's pollution liability insurance trust account, which is funded mainly by the Petroleum Products Tax of fifty one-hundredths of 1 percent (.5 percent) on the wholesale value of petroleum, when first introduced into the state, and which was initially created to provide pollution

liability insurance for regulated petroleum underground storage tanks. As a result, PLIA and representatives of the commercial petroleum and home heating oil industries are engaged in efforts to address funding and management of the state's pollution liability insurance programs for petroleum underground storage tanks and home heating oil tanks.

Summary: The pollution liability insurance fee for heating oil is set at one and two-tenths (.012) cents per gallon. Coverage of \$60,000 per occurrence for heating oil tanks is specified as being up to that amount of coverage.

An advisory committee of stakeholders must be created by the director of the Pollution Liability Insurance Agency to advise on all aspects of program operations and fees and on pollution prevention. The membership of the committee is specified and includes representatives of the commercial petroleum and home heating oil industries and insured owners of home heating oil tanks. The director must monitor agency expenditures, ensure responsible financial stewardship, study if appropriate user fees are necessary to supplement program funding, and develop recommendations for legislation to authorize such fees.

Funds in the heating oil pollution liability trust account that must be transferred to the pollution liability insurance program trust account must be transferred at the end of the calendar year and are to be in excess of those needed for the next January's administrative costs.

Liquefiable gases like butane, ethane, and propane are removed from the petroleum products that are taxed for the purpose of funding pollution liability insurance programs.

Votes on Final Passage:

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

Effective: June 10, 2004

July 1, 2004 (Section 3)

SSB 6302
C 161 L 04

Establishing additional protections for persons ordered to active military service.

By Senate Committee on Government Operations & Elections (originally sponsored by Senators Murray, Schmidt, Rasmussen, Roach, Kastama, Winsley, Haugen and Oke).

Senate Committee on Government Operations & Elections

House Committee on Higher Education

Background: The Servicemembers Civil Relief Act (SCRA), signed into law by President Bush on Decem-

2SSB 6304

C 24 L 04

ber 19, 2003, as a complete revision of the Soldiers' and Sailors' Civil Relief Act (SSCRA) provides a number of significant protections to federal service members or National Guard members called into federal service aimed at postponing or suspending certain civil obligations while the service member is deployed. For example, provisions in the SCRA allow the termination of preservice lease agreements, provide protection from evictions, cap interest rates on preservice loans, stay civil lawsuits, and allow the termination of preservice automobile leases.

The SCRA does not contain any provision regarding tuition refunds for service members called into duty.

Summary: A student at a postsecondary education institution that is ordered to active state service or active federal service for more than 30 days and provides the requisite notice is entitled to: (1) withdraw from courses without negative annotation on their record and have tuition and fees credited to the person's account at the institution; (2) be given an incomplete and the ability to complete the course upon release from duty; or (3) continue and complete the course for full credit with any classes missed due to performance of military service counted as excused absences and not used in any way to adversely impact the student's grade. If the student chooses to withdraw, he or she has a right to be readmitted and enrolled without penalty at the institution within one year following release from military service.

The student is also entitled to receive a refund of amounts paid for room, board, and fees attributable to the time the student was serving in the military and did not use the facilities for which the amounts were paid.

Language regarding the rights of students called into active military duty is placed in higher education statutes so that public institutions of higher education must adopt policies that comply with the provisions of the act. Private schools are encouraged to provide students called into active military duty the same rights and opportunities provided by public schools.

A provision is added to the Deed of Trust Act (RCW 61.24) stating that all of the rights and duties conveyed under the federal SCRA apply to deeds of trust under Washington law. No interest or penalties may be assessed for the period of April 30, 2003 through April 30, 2005 on delinquent 2003 or 2004 property taxes for military personnel that participate in Operation Enduring Freedom.

Votes on Final Passage:

Senate	49	0	
House	95	0	(House amended)
Senate	47	0	(Senate concurred)

Effective: March 26, 2004

Providing tax relief for aluminum smelters.

By Senate Committee on Ways & Means (originally sponsored by Senators Brandland, Parlette, Spanel, Morton, Doumit, T. Sheldon and Rasmussen).

Senate Committee on Economic Development
Senate Committee on Ways & Means
House Committee on Finance

Background: The aluminum smelting industry in the state has contracted in recent years as a result of declining aluminum prices in the global aluminum commodities market and local increases in the price of electricity, a major cost driver in aluminum prices. In 1998, the industry in the state employed over 5,300 people and had taxable income of \$2.4 billion. In fiscal year 2002, taxable income for the industry was down to \$700 million and only 2,200 persons were employed.

Prior to 1996, the industry received most of its electricity from the Bonneville Power Administration (BPA) at preferential rates. Since 1996, the BPA has reduced the energy allocated to the industry to less than half of the smelter electricity demand, requiring smelters to rely more on the wholesale market. The price of electricity is expected to drop after 2006.

Summary: The business and occupation (B&O) tax rates under manufacturing and wholesaling are reduced for aluminum smelters to 0.2904 percent through 2006. Aluminum smelters may take a credit against B&O tax liability for property taxes paid through 2006.

Businesses that sell electricity or natural or manufactured gas to aluminum smelters may receive a credit against tax liability under either the public utility tax (PUT) or the B&O tax, if the price of the electricity or gas is reduced by the tax savings. The B&O tax and PUT credits do not apply to income received from resale of electricity that was originally sold under contract for the purposes of smelting.

Through 2006, aluminum smelters may take a credit against retail sales and use tax liability for the amount of the state portion of sales and use taxes paid on property and labor and services associated with the property. Aluminum smelters are exempt from the brokered natural gas use tax through 2006.

Legislative fiscal committees must report by December 1, of 2005, 2006, and 2010 on incentives in the bill. Smelters must make an annual report if receiving any incentive in the bill. This report must contain detailed employment information and information on the quantity of aluminum smelted. The report information, and the amount of taxes that are due if a report is not filed, must be disclosed to the public upon request.

Votes on Final Passage:

Senate	46	1	
House	91	4	(House amended)
Senate	47	0	(Senate concurred)

Effective: July 1, 2004

SB 6314
C 252 L 04

Concerning the community economic revitalization board.

By Senators T. Sheldon, Hale, Kohl-Welles, Swecker, Eide, Thibaudeau, Finkbeiner, Brown, B. Sheldon, Shin, Franklin, Regala, Keiser, Doumit, Prentice, McAuliffe, Fraser, Kline, Winsley, Mulliken and Rasmussen.

Senate Committee on Economic Development
House Committee on Trade & Economic Development

Background: The Community Economic Revitalization Board (CERB) was created in 1982 to provide funding for publicly-owned economic development infrastructure. Through CERB, direct loans and grants are available to counties, cities, and special purpose districts for feasibility studies and for public improvements such as the acquisition, construction, or repair of water and sewer systems, bridges, railroad spurs, telecommunication systems, roads, structures, and port facilities. CERB funds are only made available if a specific private development or expansion is ready to occur and will occur only if the public improvements are made.

The board membership is made up of 11 members appointed by the Governor, four nonvoting ex officio members, and one member from each of the two major caucuses in the Senate and the House of Representatives.

In 2002, the Legislature added federally recognized Indian tribes to the list of eligible recipients of CERB funds.

Summary: One representative of a federally recognized Indian tribe is added to the list of those board members appointed by the Governor. References to federally recognized Indian tribes are added in the definition of "public facilities," the section of the CERB statute relating to grants, and the section relating to application for assistance from the economic development account.

Votes on Final Passage:

Senate	49	0	
House	54	42	(House amended)
Senate	46	3	(Senate concurred)

Effective: June 10, 2004

SSB 6325
C 222 L 04

Adjusting provisions of the special license plate law.

By Senate Committee on Highways & Transportation (originally sponsored by Senators Haugen and Esser).

Senate Committee on Highways & Transportation
House Committee on Transportation

Background: The Special License Plate Review Board was created in the 2003 session and charged with reviewing special license plate applications from groups requesting the creation of a special plate. For those applicants who cannot prepay, the initial revenue generated from the plate sales must be deposited into the motor vehicle account until the state has been reimbursed for the implementation costs. The state must be reimbursed within two years from the initial date of sale or the plate series will be put on probation for one year. If the state has not been fully reimbursed at the end of the probationary period, the plate series must be discontinued.

A governmental entity applying for a special license plate must be a political subdivision, a federally recognized tribe, a state agency, or a community or technical college. Agencies that apply must have both the permission of the director of the agency and express statutory authority to apply for a special license plate.

Summary: The requirement that an agency have express statutory authority to apply for a special license plate is removed.

A technical correction is made clarifying the time period in which the state must be reimbursed.

The Department of Licensing (DOL) must offer disabled parking versions of special license plates to persons who qualify for disabled parking privileges. The plates must display an emblem of the universal symbol of access incorporated in the background of the special license plate. DOL may charge the appropriate fee for the special license plate, but may not charge any additional fee for the inclusion of the disabled parking symbol on the special plate. The disabled parking version of a special license plate is to be administered in the same manner as the special disabled parking license plates issued by DOL under current law.

Votes on Final Passage:

Senate	48	0	
House	74	20	

Effective: June 10, 2004

November 1, 2004 (Sections 1 and 2)

SB 6326
C 118 L 04

Defining prohibited bus conduct.

By Senators Esser, McCaslin, Oke, Roach, Eide, Kline and Rasmussen.

Senate Committee on Judiciary
House Committee on Transportation

Background: It is a misdemeanor while in a municipal transit vehicle or municipal transit station to: discard litter except in a receptacle; play sound producing equipment without headphones; spit or expectorate; carry flammable liquid, explosives, acid, or other material likely to cause harm; intentionally impede the flow of transit vehicles; intentionally disturb others; destroy or deface property; or smoke on a municipal transit vehicle. "Municipal transit station" and "municipal transit vehicle" are defined. Their definitions do not include facilities or vehicles operated by a regional transit authority.

Summary: The definitions of "municipal transit station" and "municipal transit vehicle" are amended to include facilities or vehicles operated by a regional transit authority. The unlawful bus conduct offenses apply to persons in facilities or vehicles operated by regional transit authorities.

Votes on Final Passage:

Senate	48	0
House	94	0

Effective: June 10, 2004

SSB 6329
C 227 L 04

Extending the date for implementation of ballast water discharge requirements.

By Senate Committee on Parks, Fish & Wildlife (originally sponsored by Senator Oke).

Senate Committee on Parks, Fish & Wildlife
House Committee on Fisheries, Ecology & Parks

Background: The Department of Fish and Wildlife is authorized to implement a ballast water management program. The program enters ballast water reporting data, evaluates the vessel exchanges and compliance with the state's requirements and assesses ballast treatment systems. Discharge into waters of the state of Washington are authorized if a vessel has conducted an open sea exchange of ballast water.

A ballast water task force is currently working on recommendations to the Legislature regarding ballast water treatment programs for the state of Washington.

Summary: The date for required treatment of ballast water is changed from July 1, 2004, to July 1, 2007. The ballast water work group is extended to June 30, 2007, and representatives from the Department of Fish and Wildlife, the shellfish industry, tribes, and maritime labor are added to the work group. A report to the Legislature is required by December 15, 2006. Staff is provided by the Puget Sound water quality action team.

Masters, owners, operators or persons-in-charge shall submit to the department an interim ballast water management report by July 1, 2006, describing actions needed to implement ballast water requirements.

Votes on Final Passage:

Senate	26	22	
House	96	0	(House amended)
Senate	47	0	(Senate concurred)

Effective: June 10, 2004

SB 6337
C 53 L 04

Revising the fee for birth certificates suitable for display.

By Senators Regala, Parlette, Winsley, Stevens, Hargrove, Oke and Kohl-Welles; by request of Washington Council for Prevention of Child Abuse and Neglect.

Senate Committee on Children & Family Services & Corrections

House Committee on Appropriations

Background: The Washington Council for the Prevention of Child Abuse and Neglect (WCPCAN) was created in 1982 to increase public awareness of child abuse prevention programs and to advocate for public policies that support families and protect children. Members of the council are appointed by the Governor. The children's trust fund is administered by WCPCAN and accepts contributions, grants and cash gifts. It also receives the proceeds from the sale of "heirloom" birth certificates. Current law sets the fee for "heirloom" birth certificates at \$25.

Summary: WCPCAN can establish the fee for an "heirloom" birth certificate at its discretion.

Votes on Final Passage:

Senate	49	0
House	94	0

Effective: June 10, 2004

SB 6338
C 122 L 04

Creating an affirmative defense from theft and possession of stolen merchandise pallets.

By Senators Johnson and Kline.

Senate Committee on Judiciary
House Committee on Criminal Justice & Corrections

Background: There are businesses in Washington that repair or recycle pallets. Sometimes, in the ordinary course of business, a pallet recycler will receive pallets that have been mislaid or misplaced and the recycling business arranges to have them returned to their rightful owners. A fee is charged for this service.

Summary: In a prosecution for theft or possession of stolen property, it is a sufficient defense that the property was merchandise pallets that were received by a pallet recycler or repairer in the ordinary course of its business.

Votes on Final Passage:

Senate	48	0
House	94	0

Effective: June 10, 2004

SB 6339
C 212 L 04

Regulating seed-related business practices.

By Senators Swecker and Rasmussen.

Senate Committee on Agriculture
House Committee on Agriculture & Natural Resources

Background: The Washington State Department of Agriculture (WSDA) administers the Commission Merchants Act (CMA) program which generally protects agricultural producers against theft, fraud, and unfair business practices. The program is funded by license fees. With certain exceptions, any person acting as a commission merchant, dealer, broker, or cash buyer of agricultural commodities must comply with CMA licensing and bonding requirements.

A commission merchant's contract may not preclude producer involvement in determining when consigned products will be sold, with an exception related to commodity pooling contracts.

According to WSDA, a 1999 seed company bankruptcy left 55 Washington growers unpaid for seed valued at \$4.5 million. The department also reports that 30 of the state's 54 known seed companies are not currently licensed and bonded under the CMA. As directed by Substitute House Bill 1100, WSDA has studied mechanisms to better protect seed producers in the event of nonpayment or seed company bankruptcy and provided suggested legislation based on the recommendations of

an advisory group of seed producers and seed companies.

Summary: Seeds, as defined in Washington's Seed Labeling Act, are expressly added to the CMA definition of "agricultural product," clarifying that CMA requirements apply to those involved in buying, selling or consigning seeds. The bonding formula is simplified. The same bonding formula applies to all seed types and contracts, including seed produced under proprietary seed bailment contracts.

A commission merchant's contract may preclude a seed producer's involvement in determining when consigned seeds will be sold. Disputes regarding seed clean-out responsibilities are governed by contracts between seed producers and the conditioners or processors of the seed.

Votes on Final Passage:

Senate	48	0	
House	94	0	(House amended)
Senate			(Senate refused to concur)
House			(House refused to recede)
Senate	48	0	(Senate concurred)

Effective: June 10, 2004

SSB 6341
C 51 L 04

Concerning the licensing of cosmetologists and others under chapter 18.16 RCW.

By Senate Committee on Commerce & Trade (originally sponsored by Senator Oke).

Senate Committee on Commerce & Trade
House Committee on Commerce & Labor
House Committee on Appropriations

Background: Cosmetology relates to the care of: (a) hair on the scalp, face and neck; (b) nails on the hands and feet; and (c) the skin. Barbering, manicuring and esthetics concern a narrower range of functions within the practice of cosmetology. The Department of Licensing (DOL) regulates all of these professions.

In 2002, an advisory board recommended, and the Legislature made, several changes in the licensing and regulation of the cosmetology industry. Definitions of the various practice areas were refined to create fewer overlaps in the functions performed under each license, and the training requirements for manicurists and estheticians were increased. The 2002 legislation also allowed currently licensed cosmetologists to obtain separate licensing in manicuring and esthetics without additional examination, provided the request was submitted prior to July 1, 2003.

Summary: A person who held a cosmetology license any time between June 30, 1999, and June 30, 2003, has until July 1, 2005 to renew that license and to request an

additional license in barbering, manicuring and/or esthetics, without meeting the current training and examination requirements. Barbers, manicurists, and estheticians who were licensed during the same period may also renew those licenses under the same circumstances. DOL must mail a written summary of this act to the affected cosmetologists, barbers, manicurists, and estheticians that have currently valid addresses on file with DOL.

Engaging in the commercial practice of, or instructing in the practice of, cosmetology without the benefit of a license "in good standing" is unlawful. DOL is authorized to take disciplinary action against applicants and licensees that engage in such unlawful practices, or who violate the Consumer Protection Act.

An "inactive" licensing status is created. A person holding an "inactive" license cannot engage in the licensed activities until the license is returned to "good standing" status. A person returning to "good standing" status from "inactive" status must pay only a two-year renewal fee, and may be required to take refresher training on changes in health standards and other requirements that occurred while the licensee was "inactive."

Votes on Final Passage:

Senate	47	1	
House	95	1	(House amended)
Senate	48	0	(Senate concurred)

Effective: March 22, 2004

ESSB 6352

C 13 L 04

Revising provisions concerning selection of telephone calling systems for offenders in state correctional facilities.

By Senate Committee on Children & Family Services & Corrections (originally sponsored by Senators Stevens, Hargrove, Esser, Schmidt, Poulsen, Berkey, McAuliffe and Kohl-Welles).

Senate Committee on Children & Family Services & Corrections

House Committee on Criminal Justice & Corrections

Background: The Department of Corrections (DOC) is authorized to intercept and record telephone calls from an offender or resident of a state correctional facility. The statute requires that these calls be collect calls with operator announcement to the call receiver that the call is coming from a prison resident and that it may be monitored and recorded.

With the development of calling cards and three-way calling capability, concern exists that offenders are able to make calls circumventing these requirements. Technology exists which would make the calls more secure and less expensive to inmate families, but this improved

technology cannot be used with the current outdated equipment in place at DOC facilities.

Summary: The Department of Corrections is authorized to approve a new calling system which is at least as secure as the previous system. Consideration must be given to public safety, reduction of telephone fraud, and low-cost options. The requirement that offenders make only "collect" calls is removed. Provisions requiring the department to be able to monitor calls and make operator announcements remain in effect.

Votes on Final Passage:

Senate	48	0
House	92	2

Effective: June 10, 2004

SB 6356

C 163 L 04

Modifying physician assistant provisions.

By Senators Honeyford and Rasmussen.

Senate Committee on Health & Long-Term Care

House Committee on Commerce & Labor

Background: A worker who, in the course of employment, is injured or suffers disability from an occupational disease is entitled to benefits under Washington's industrial insurance law. These benefits include proper and necessary medical and surgical services from a physician of the worker's choice. Currently, a worker entitled to compensation files an application with a certificate from the physician who attended him or her.

Physician assistants are licensed to practice medicine or osteopathic medicine to a limited extent under the supervision of a licensed physician or osteopathic physician respectively. Physician assistants may fill out certificates for workers' compensation, but the certificates must be signed by a physician.

Summary: Physician assistants may assist workers applying for compensation for simple industrial injuries. Physician assistants are prohibited from rating a worker's permanent partial disability or determining a worker's entitlement to compensation. The Department of Labor and Industries must adopt necessary rules.

The Department of Labor and Industries must report to the Senate Committee on Commerce and Trade and the House Committee on Commerce and Labor on the implementation of this bill by December 1, 2006. Included in the report shall be the effects of this bill on injured worker outcomes, claim costs, and disputed claims.

This bill expires July 1, 2007.

Votes on Final Passage:

Senate	49	0	
House	96	0	(House amended)
Senate	49	0	(Senate concurred)

Effective: July 1, 2004

SB 6357

C 69 L 04

Modifying criminal trespass law.

By Senators Johnson, Keiser, Esser, Eide, Prentice, McCaslin, Rasmussen, Winsley and Oke.

Senate Committee on Judiciary
House Committee on Judiciary

Background: Criminal trespass is committed if a person knowingly enters or remains unlawfully in a building or upon the premises of another. Defenses to a charge of criminal trespass include: (1) the building was abandoned; (2) the premises were open to the public and the defendant complied with any conditions imposed; (3) the defendant reasonably believed he or she had a license to enter or would have had license to enter; and (4) the defendant was attempting to serve legal process.

A person who enters or remains upon unimproved and apparently unused land, which is neither fenced nor otherwise enclosed in a manner designed to exclude intruders, does so with license and privilege unless notice against trespass is personally communicated to him by the owner of the land or some other authorized person, or unless notice is given by posting in a conspicuous manner. Land that is used for commercial aquaculture or for growing an agricultural crop or crops, other than timber, is not unimproved and apparently unused land if a crop or any other sign of cultivation is clearly visible or if notice is given by posting in a conspicuous manner. Similarly, a field fenced in any manner is not unimproved and apparently unused land.

Summary: A person who enters or remains upon improved and apparently used land that is open to the public at particular times, and is not fenced or enclosed in a manner to exclude intruders, does so with license and privilege unless notice of prohibited times of entry are posted in a conspicuous manner.

Votes on Final Passage:

Senate	48	0
House	89	6

Effective: June 10, 2004

E2SSB 6358

PARTIAL VETO

C 166 L 04

Improving collaboration regarding offenders with treatment orders.

By Senate Committee on Ways & Means (originally sponsored by Senators Hargrove and Stevens).

Senate Committee on Children & Family Services & Corrections

Senate Committee on Ways & Means
House Committee on Criminal Justice & Corrections
House Committee on Appropriations

Background: Concerns have been raised that, for offenders under supervision by the Department of Corrections (DOC) who are subject to treatment orders for mental health or chemical dependency, the level of communication and collaboration may need improvement. There is confusion over the degree to which the Health Insurance Portability and Accountability Act permits communication between multi-disciplinary teams.

There is also concern that where a person's mental disorder is caused by methamphetamine or other drugs, or caused by head trauma, that person is not considered appropriate for civil commitment despite meeting the standard for commitment.

Summary: When a person has a mental disorder and is otherwise committable, the cause of the disorder does not make the person ineligible for commitment.

When a court issues an order for mental health or chemical dependency treatment, the order must contain a statement that if the person is, or becomes, subject to DOC supervision, the person must notify his or her treatment provider and the person's mental health or chemical dependency treatment information must be shared with DOC. When a person is convicted in superior court, the judgment and sentence must contain an equivalent statement. Upon petition by a person who has no history of violent acts, the court may find that public safety would not be enhanced by the sharing of this person's information.

When DOC is determining an offender's risk management level, DOC must ask and must be told whether the offender is subject to court-ordered mental health or chemical dependency treatment. When an offender discloses he or she is subject to court-ordered treatment, DOC must request an authorization to share treatment information and notify the offender that the information will be shared. DOC must make a written request for information from the treatment provider. The authorization and the written request do not expire until the end of the supervision. If an offender has failed to report to DOC as required, or in an emergent situation, the treatment provider may share information related to mental health services delivered to the offender and, if known,

where an offender may be found on an oral request from DOC. Oral requests must be confirmed with a written request which may be made by email or facsimile. A request for treatment information does not require the consent of the offender. There is a parallel provision for mental health and chemical dependency treatment providers. The law enforcement exception to the mental health confidentiality law includes DOC and is mandatory upon the provider.

When a state hospital admits a person with a history of violent acts from a correctional facility or who is or has been under DOC supervision, the hospital must consult with the appropriate corrections and chemical dependency personnel and forensic staff to conduct a discharge review to determine whether the person presents a likelihood of serious harm and whether the person is appropriate for a less restrictive alternative. If the person is returned to a correctional facility, the hospital must notify the correctional facility that the person was subject to a discharge review.

When a jail releases a person subject to a discharge review, the jail must notify the county designated mental health professional (CDMHP) or county designated chemical dependency specialist (CDCDS) 72 hours in advance of the release, or upon release if the jail did not have 72 hours notice. The CDMHP or CDCDS, as appropriate, must evaluate the person within 72 hours of release.

When a CDMHP or CDCDS becomes aware that an offender is in violation of the terms of his or her supervision that relate to public safety, or when the CDMHP or CDCDS detains a person, the CDMHP or CDCDS must notify the person's treatment provider and DOC. When DOC becomes aware that an offender is in violation of the terms of his or her court-ordered mental health or chemical dependency treatment order, DOC must notify the CDMHP or CDCDS of the violation and request an evaluation for purposes of revocation of the less restrictive alternative or conditional release. When an offender that DOC has classified as high risk or high needs becomes the subject of a civil commitment petition, DOC must provide the court and the petitioner with documentation of its risk assessment or other concerns.

Mental health and chemical dependency treatment providers do not have a duty to supervise offenders.

Persons acting in good faith compliance with the provisions of this act and without gross negligence are protected from civil liability.

DOC and the Department of Social and Health Services (DSHS) must develop a training plan for information sharing on offenders under supervision who are subject to mental health or chemical dependency treatment orders. DOC, DSHS and the Washington Association of Prosecuting Attorneys must develop a model for multi-disciplinary case management and release planning for offenders with high resource needs in multiple

service areas. DSHS must assess the needed and available capacity for crisis response and ongoing treatment for persons with mental disorders, chemical dependency and for those with multiple disorders or complex causation. Legislative staff must review other state programs.

Votes on Final Passage:

Senate	48	0	
House	94	0	(House amended)
Senate	41	0	(Senate concurred)

Effective: March 26, 2004 (Sections 6, 20 and 22)
July 1, 2004

Partial Veto Summary: The Governor vetoed the intent section.

VETO MESSAGE ON SB 6358-S2

March 26, 2004

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 Second Substitute Senate Bill No. 6358 entitled:

“AN ACT Relating to improved collaboration regarding offenders with treatment orders;”

This bill requires more comprehensive and effective communication between correctional authorities and treatment providers regarding people who are subject to both correctional supervision, based on criminal charges or convictions, and civil commitment, based on mental illness or chemical dependency.

Section 1 of this bill contained language that may have given an inaccurate view of the current environment, knowledge of state and local agencies, and procedures followed. Taken out of context, this language could have been misunderstood and used to indicate an admission of liability when none exists. To avoid these unintended consequences and the inadvertent misuse of this language, I have vetoed section 1.

For these reasons, I have vetoed section 1 of Engrossed Second Substitute Senate Bill No. 6358.

With the exception of section 1, Engrossed Second Substitute Senate Bill No. 6358 is approved.

Respectfully submitted,



Gary Locke
Governor

SSB 6367
C 206 L 04

Protecting the integrity of national historical reserves in the urban growth area planning process.

By Senate Committee on Land Use & Planning (originally sponsored by Senators Haugen, Spanel and Winsley).

Senate Committee on Land Use & Planning
House Committee on Local Government

Background: The Growth Management Act (GMA) requires cities and counties to include areas and densities

SB 6372

C 14 L 04

within their urban growth areas (UGAs) that are sufficient to accommodate the population growth projected by the Office of Financial Management for the succeeding 20-year period.

The GMA provides cities and counties discretion in the comprehensive planning process to make many choices about accommodating projected growth, but it directs in-fill by requiring that urban growth should be located first in areas already characterized by urban growth that have adequate existing public facility and service capacities; second in areas already characterized by urban growth that will be served by a combination of existing and new public facilities and services; and third in the remaining areas of the UGAs.

Ebey's Landing National Historic Reserve (Reserve) on central Whidbey Island was established by Congress in 1978 as the first unit of its kind within the National Park System. It was created "to preserve and protect a rural community which provides an unbroken historic record from... 19th century exploration and settlement in the Puget Sound to the present time." The Reserve is comprised of over 90 percent private property in Island County and encompasses the town of Coupeville, and two state parks.

Administration and management of the Reserve is the responsibility of a local Trust Board that includes local residents and representatives from State Parks and the National Park Service. The Trust Board utilizes preservation principles to fulfill its mission to protect, in perpetuity, the historic, natural, cultural, scenic, recreational and community resources. According to the Trust Board, the preservation principles are not intended to inhibit or stop growth, but serve as guides for understanding how much change and what kinds of change can occur before the cultural context and historic integrity of the landscape is lost.

Summary: The requirement that cities and counties must include areas and densities sufficient to permit the urban growth projected for the succeeding 20-year period does not apply to those urban growth areas contained totally within a national historical reserve.

When an urban growth area is contained totally within a national historical reserve, the city may restrict densities, intensities, and forms of urban growth as it determines necessary and appropriate to protect the physical, cultural, or historic integrity of the reserve.

Votes on Final Passage:

Senate 49 0
House 94 0

Effective: June 10, 2004

Creating a state parks centennial committee.

By Senators Oke, Doumit, Sheahan, B. Sheldon, McAuliffe, Regala, Spanel, Haugen, Roach, Fraser and Shin.

Senate Committee on Parks, Fish & Wildlife
House Committee on Fisheries, Ecology & Parks

Background: In 1913, the Legislature established the Washington State Board of Parks Commissioners, marking the first year for Washington State Parks. Now the Washington State Parks and Recreation Commission manages a system of 120 parks, and a variety of recreation programs. State Parks is governed by a seven-member commission appointed by the Governor and confirmed by the Senate.

The State Parks and Recreation Commission has developed a plan for 100 projects to complete by 2013, to celebrate the State Parks centennial.

Summary: The Washington State Parks Centennial Advisory Committee is created to develop a proposal to implement the centennial 2013 plan. The chair and vice-chair of the State Parks and Recreation Commission serve as the chair and vice-chair of the committee. The nine other members include four legislators, a representative of the Governor, the director of the Office of Financial Management, and three members of the public as appointed by the chair of the State Parks and Recreation Commission.

The proposal to implement the centennial 2013 plan must include a complete description of the policy and fiscal components of the plan, and the cost and time frame for implementation. The commission must review the proposal and submit a draft to the Office of Financial Management and the Legislature by September 1, 2004. A final proposal must be developed by January 1, 2005, and updated by June 30 of each even-numbered year thereafter.

The act expires December 31, 2013.

Votes on Final Passage:

Senate 48 0
House 95 0

Effective: March 12, 2004

SSB 6377

C 162 L 04

Revising provisions relating to renewal of transient accommodation licenses.

By Senate Committee on Commerce & Trade (originally sponsored by Senator Honeyford).

Senate Committee on Commerce & Trade
House Committee on Commerce & Labor

Background: Transient accommodations are facilities, such as hotels, motels, resorts, condominiums, etc., that offer "three or more lodging units to travelers and transient guests."

Transient accommodations are regulated by the Department of Health. They must "secure each year an annual operating license" from the department. An application to renew a transient accommodation license must be made 30 days before it expires.

Summary: An application to renew a transient accommodation license must be either (a) postmarked by midnight on the expiration date of the license; or (b) received by the department by 5:00 p.m. on the expiration date of the license, if the application is electronically submitted or physically presented to the department.

An application for renewal that is late or otherwise deficient does not invalidate the underlying license, as long as the deficiencies are corrected within five weeks of the expiration date of the license.

Votes on Final Passage:

Senate	48	0
House	92	4

Effective: June 10, 2004

SB 6378

C 119 L 04

Prohibiting unauthorized recording of motion pictures.

By Senators Esser, Haugen, McCaslin, Prentice, Hale, B. Sheldon and Keiser.

Senate Committee on Judiciary
House Committee on Criminal Justice & Corrections

Background: While it is a crime in Washington State to reproduce sound or use the recording of a live performance without owner consent, there is no statute making it a crime to record motion pictures without consent.

Summary: It is a crime to knowingly record a motion picture being shown in an exhibition facility without the consent of both the owner/lessee of the facility and the licensor of the motion picture. Offenders are guilty of a gross misdemeanor, punishable by up to one year in jail and/or a fine not to exceed \$5,000.

Owners, lessees, licensors, agents, and employees of motion picture exhibition facilities may not be held

liable in any civil action for measures taken, in good faith, to detain a person reasonably believed to be recording a motion picture. However, the plaintiff, detainee, may rebut the owner with clear and convincing evidence that (1) the detention was manifestly unreasonable, or (2) the detention period was unreasonably long.

This crime does not apply to persons who operate recording functions of audiovisual devices in retail establishments. Nor does this crime apply to the use of recording devices in lawfully authorized investigative, protective, law enforcement, or intelligence gathering activities involving the recording of motion pictures in exhibition facilities.

Votes on Final Passage:

Senate	49	0	
House	96	0	(House amended)
Senate	48	0	(Senate concurred)

Effective: June 10, 2004

SSB 6384

C 15 L 04

Imposing penalties against convicted domestic violence offenders to pay for domestic violence programs.

By Senate Committee on Judiciary (originally sponsored by Senators Esser, Thibaudeau, Keiser, Regala, Eide, McCaslin, Rasmussen, Oke, Prentice, B. Sheldon, Kline, Murray, McAuliffe, Kohl-Welles and Roach).

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

Background: Domestic violence includes, but is not limited to, crimes such as assault, stalking, malicious mischief, and rape, when committed by one family or household member against another.

Under Washington law, all crimes are punishable by imprisonment, payment of a fine, or both. In addition to criminal fines, courts may be required to impose additional assessments against convicted persons. For example, a superior court must impose a crime victims and witness penalty assessment of \$250 against a person convicted of a misdemeanor, and \$500 for a gross misdemeanor or felony.

Generally, all fees, fines, forfeitures, and penalties assessed and collected by courts must be remitted and distributed between local governments and the state. Usually, the distribution is 32 percent to the state public safety and education account and 68 percent to local government.

Summary: A new penalty of up to \$100 is established for anyone convicted of a crime involving domestic violence. All superior courts and courts of limited jurisdiction may impose this penalty, in addition to any other penalty, restitution, fine or cost already required under law. Judges are encouraged to solicit input from victims

when assessing an offender's ability to pay this penalty. Specifically, judges should inquire into the families' financial circumstances.

Revenues collected must be used to fund domestic violence advocacy, prevention, and prosecution programs in the city or county in which the court imposing the penalty is located. In cities and counties where domestic violence programs do not exist, revenues may be used to contract with recognized community based domestic violence program providers. The Legislature intends the revenue to be in addition to existing sources of funding to enhance or help and prevent the reduction and elimination of domestic violence programs.

Revenues collected from this new penalty are not subject to remittance requirements or subject to distribution to the state public safety and education account.

Votes on Final Passage:

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

Effective: June 10, 2004

SSB 6389

C 116 L 04

Prohibiting weapons in restricted access areas of commercial service airports.

By Senate Committee on Judiciary (originally sponsored by Senators Brandland, Haugen, Esser, Rasmussen, Kline, Murray and Kohl-Welles).

Senate Committee on Judiciary
House Committee on Judiciary

Background: It is a gross misdemeanor for any person to enter the following places when he or she knowingly possesses a weapon: (a) restricted areas of jails or law enforcement facilities; (b) areas in public buildings used in connection with court proceedings; (c) restricted areas of public mental health facilities; or (d) that portion of an establishment classified by the state Liquor Control Board as off-limits to persons under the age of 21. It is unlawful for a person to carry a firearm onto, or to possess on, public or private elementary or secondary school premises, school-provided transportation, or areas of facilities while being used exclusively by public or private schools. This offense is also a gross misdemeanor.

Summary: It is a gross misdemeanor to enter the restricted areas of a commercial service airport, including the passenger screening checkpoints, while knowingly possessing or controlling a weapon. The areas do not include airport drives, walkways and general parking areas, as well as areas of the terminal outside the screening checkpoints that are normally open to unscreened passengers and visitors. Restricted access areas must be

clearly indicated by signs indicating that firearms and other weapons are prohibited in the area.

Votes on Final Passage:

Senate	48	0	
House	96	0	(House amended)
Senate	49	0	(Senate concurred)

Effective: June 10, 2004

ESSB 6401

C 28 L 04

Protecting military installations from encroachment of incompatible land uses.

By Senate Committee on Land Use & Planning (originally sponsored by Senators Rasmussen, Roach, Kastama, Franklin, Doumit, Shin, Schmidt, Oke, Haugen and Murray).

Senate Committee on Land Use & Planning
House Committee on Local Government

Background: The federal Defense Base Closure and Realignment Act establishes a process for the Secretary of Defense to evaluate military installations and make recommendations to Congress for the closure or realignment of those installations. Final selection criteria for the upcoming round of base realignment and closures (BRAC) are currently being developed and will be published in February 2004. The draft criteria focuses on operating costs and the ability of the bases to complete their missions or undertake new missions, including the availability and condition of the land, facilities, and associated airspace.

Concerns have been raised about current or potential encroachment around some of the military installations in Washington and how that encroachment may negatively affect the evaluation of Washington bases in the BRAC process.

Current state law does not require local governments to protect military installations from encroachment in their land use and planning processes.

Summary: Legislative findings are made regarding the importance of the United States military as a vital component of the Washington State economy, and it is identified as a priority of the state to protect the land surrounding our military installations from incompatible development.

Comprehensive plans, development regulations, and amendments to either should not allow development in the vicinity of a military installation that is incompatible with the installation's ability to carry out its mission requirements.

A process is established whereby counties and cities with federal military installations employing 100 or more personnel must notify the commander of an affected military installation of their intent to adopt or

amend comprehensive plans or development regulations to address lands adjacent to the installation in order to ensure those lands are protected from incompatible development.

The commander must be provided 60 days to submit written recommendations and supporting facts related to the use of land being considered. Failure of a commander to submit a response may be presumed to mean that the proposed plan, regulation, or amendment will not have any adverse effect on the operation of the installation.

This new process will begin as part of each city and county's regularly-scheduled Growth Management Act update, with a one-year extension for those jurisdictions subject to a December 2004 update deadline.

Votes on Final Passage:

Senate	49	0	
House	91	5	(House amended)
Senate	48	0	(Senate concurred)

Effective: June 10, 2004

SSB 6402

C 136 L 04

Giving landlords the flexibility to deposit landlord trust account funds in any financial institution.

By Senate Committee on Financial Services, Insurance & Housing (originally sponsored by Senators Benton, Rasmussen, Winsley, Keiser and Kohl-Welles).

Senate Committee on Financial Services, Insurance & Housing

House Committee on Financial Institutions & Insurance

Background: Washington State landlord-tenant law provides that landlords put tenants' security deposits in separate trust accounts. These accounts may currently be kept in a bank, savings and loan association, or mutual savings bank, or with a licensed escrow agent.

Summary: A landlord, including a mobile home landlord, has the option of placing the tenant's security deposit in a separate trust account at a credit union, rather than another type of financial institution, or with a licensed escrow agent.

Votes on Final Passage:

Senate	49	0	
House	94	0	(House amended)
Senate	43	0	(Senate concurred)

Effective: June 10, 2004

SB 6407

C 60 L 04

Concerning school district superintendent credential preparation programs.

By Senators Shin, McAuliffe, Kohl-Welles and Carlson; by request of State Board of Education.

Senate Committee on Higher Education
House Committee on Higher Education

Background: Under current Washington law, only the University of Washington and Washington State University are authorized to offer training for superintendents over and above that which is required for teaching certificates and principals' credentials.

Summary: Central Washington University, Eastern Washington University, Western Washington University, and The Evergreen State College are authorized to offer training for superintendents over and above that required for teaching certificates and principals' credentials.

Votes on Final Passage:

Senate	49	0
House	95	0

Effective: June 10, 2004

ESB 6411

C 54 L 04

Reducing hunger.

By Senators Brandland, Rasmussen, Sheahan, Hargrove, Swecker, Brown, Jacobsen, McAuliffe, Regala, Eide, Kline, Kohl-Welles and Winsley.

Senate Committee on Children & Family Services & Corrections

Senate Committee on Ways & Means

Background: Food insecurity describes a household where finances are short enough that the household members are not sure that no household members will go hungry. Food insecurity with hunger describes households in which the finances are such that at least one family member does go hungry at times because there is not enough money for food.

According to the USDA *Household Food Security* report, which measures food insecurity and food insecurity with hunger, Washington State is the fifth most "hungry" state and 14th in food insecurity. The states in the top four are Oklahoma, Oregon, Utah, Mississippi, and Arizona is tied with Washington for fifth place. Washington has been in the top five states for hunger since the federal government began tracking the information in 1996. Washington's rate of hunger has dropped from a high of 5 percent in 2000 to 4.4 percent in 2002 but all Washington rates are at least above the national average. While Washington's food insecurity ranking is lower,

approximately 40 percent of Washington food insecure families are also hungry. This compares to a 30 percent national average and a 32 percent average for the western states.

Washington has a food stamp program that provides a valuable source of food for qualifying food insecure families.

Some persons do not qualify for food stamps because of a post 1996 felony drug conviction. This ban does not apply to other felonies. Federal law now provides states the opportunity for states to lift the lifetime ban on food stamp eligibility for persons with felony drug convictions.

Summary: School districts with schools serving grades kindergarten through four where 25 percent of the students qualify for free or reduced price lunches must implement a school lunch program. Applications must be sent to the families to determine whether 25 percent of the students qualify. School lunch programs implemented under this section must be implemented for the 2005-2006 school year.

School districts that have schools with summer academic, enrichment, or remedial programs where 50 percent of the students qualify for free or reduced price lunches must implement a summer food service program that is open to area children unless there is a compelling reason not to open the program. For schools with existing school lunch programs, summer food service programs must be implemented in summer 2005; for other schools, they must be implemented the summer following the implementation of a school lunch program.

There is a good cause exception to both school food service provisions.

To the maximum extent allowable under federal law, the Department of Social and Health Services (DSHS) must implement simplified reporting for food stamps before November 1, 2004. DSHS must also provide, beginning on October 31, 2005, transitional food stamp assistance for a period of five months following the cessation of TANF assistance so long as the family is not on sanction status. If necessary, DSHS must extend the household's food stamp certification until the end of the transition period. With this bill, the state also exercises the federal option for states to opt out of the drug felony eligibility ban.

Votes on Final Passage:

Senate 44 0
House 77 18

Effective: June 10, 2004

ESSB 6415

C 225 L 04

Concerning the conditioning of industrial and construction storm water general discharge permits.

By Senate Committee on Natural Resources, Energy & Water (originally sponsored by Senators Morton, Doumit, Hewitt, Hargrove, Honeyford, T. Sheldon, Hale, Murray and Stevens).

Senate Committee on Natural Resources, Energy & Water

Background: A combination of federal, state, and local laws govern storm water management in Washington. The water quality implications of storm water runoff are addressed in the federal Clean Water Act. State water pollution control statutes also regulate water quality aspects of storm water management.

As required under the Clean Water Act, the U.S. Environmental Protection Agency developed Phase I of the NPDES (National Pollution Discharge Elimination System) Storm Water Program in 1990. In addition to large municipal storm water systems, the Phase I program requires certain categories of industrial activity and construction activity that disturbs more than five acres to obtain permits. The Phase II Final Rule extended NPDES permit requirements to construction activity disturbing between one and five acres.

In addition to NPDES permit responsibilities, the Department of Ecology (DOE) administers a state program regulating discharges from certain commercial or industrial operations to ground or to publicly-owned treatment plants. Washington statute requires all pollution dischargers to use all known, available, and reasonable treatment methods to prevent and control water pollution. Annual permit fees must be established to fully recover but not exceed permit program expenses, including permit processing, monitoring, compliance, evaluation, inspection, and overhead costs.

Though a number of legal disputes surrounding these permit requirements have recently been settled or dismissed, at least three major issues—regarding compliance schedules, mixing zones and permit modifications—remain under appeal in the courts.

Summary: In accordance with federal Clean Water Act requirements, DOE is required to include pollutant specific, water quality-based effluent limitations in construction and industrial storm water general permits if there is a reasonable potential to cause or contribute to a state water quality standard excursion. Both technological and water quality-based effluent limitations may be expressed in terms that are narrative or numerical, or a combination of both. General permits must include specified adaptive management mechanisms.

A preference for the use of narrative effluent limitations is established and conditioned to require

compliance with water quality standards. General storm water permittees are given a presumption of compliance with water quality standards if they meet all permit conditions and fully implement all applicable and appropriate on-site pollution control best management practices (BMPs) as contained in, or demonstrably equivalent to practices contained in, DOE approved technical manuals. Demonstrated site specific discharge violations remove the presumption of compliance.

Numeric limits apply when specified effluent discharges are subject to certain industry-specific limitations, to limitations based on a completed total maximum daily load analysis (or other pollution control measure), or to limitations based on a DOE determination that a reasonable potential to cause or contribute to a violation of water quality standards exists and nonnumeric BMPs will not be effective in achieving state water quality standards. For existing discharges to 303(d) impaired waters, DOE must provide a report to the Legislature (by September 2008) specifying how the department will implement general industrial storm water permit modifications (that must be made by May of 2009) to require permittee compliance with numeric effluent limitations.

DOE must conduct compliance, assistance, inspections and sampling, without notice whenever practicable. DOE may provide notice that a permittee's discharge causes or has the reasonable potential to cause or contribute to a water quality standard violation. A permittee issued such notice must take, and document, all actions necessary to ensure that future discharges do not cause or contribute to such a violation. DOE may terminate coverage under a general permit and issue an alternative permit when violations recur or remain. Compliance does not preclude enforcement under the federal Clean Water Act for the underlying violation.

Follow-up inspections are to be conducted based on specified criteria, priorities, and timelines. The department is directed to take additional actions necessary to ensure compliance with state and federal water quality requirements, though this is not to be construed to limit the department's enforcement discretion. DOE must report to the Legislature on the effectiveness of permit monitoring.

Storm water pollution prevention plan development and implementation must be monitored, and a provision for storm water monitoring plans is added. DOE must report to the Legislature on the effectiveness of permit monitoring.

DOE may only authorize mixing zones that comply with applicable laws and regulations. Receiving water sampling may only be a permit requirement if it can be conducted without endangering the health and safety of permittee employees.

In accordance with the Administrative Procedure Act, and after taking specified factors into account, DOE is authorized to establish general industrial and construc-

tion storm water permit fees to fund specified activities required by statute. DOE must issue a detailed biennial accounting related to such permit fees. The act expires January 1, 2015. The act is null and void without funding.

Votes on Final Passage:

Senate	33	13	
House	95	1	(House amended)
Senate	49	0	(Senate concurred)

Effective: June 10, 2004

SB 6417

C 266 L 04

Incorporating the 2003 changes into Title 29A RCW.

By Senators Roach and Kastama; by request of Secretary of State.

Senate Committee on Government Operations & Elections

House Committee on State Government

Background: Title 29 was reorganized last session and became Title 29A. Several elections bills were also independently passed last year amending Title 29, but not Title 29A. There are also several references in the RCWs to Title 29 statutes rather than Title 29A statutes.

Summary: Bills passed last year amending Title 29 statutes are reenacted in Title 29A. References to Title 29 statutes are updated to reflect the correct Title 29A statutes.

Votes on Final Passage:

Senate	47	0
House	95	0

Effective: July 1, 2004

SSB 6419

C 267 L 04

Implementing the Help America Vote Act.

By Senate Committee on Government Operations & Elections (originally sponsored by Senators Roach, Kastama, McAuliffe, Oke and Winsley; by request of Secretary of State).

Senate Committee on Government Operations & Elections

Senate Committee on Ways & Means

House Committee on State Government

House Committee on Appropriations

Background: The Help America Vote Act of 2002 (HAVA) mandates changes to elections administration and provides federal funds for such purposes. Specifically, HAVA requires the creation of a statewide voter

registration data base; provisional voting capabilities; a driver's license or Social Security number from an individual registering to vote; mail-in registration forms to include certain questions relating to citizenship and age; early disability access voting; the establishment of a local government grant program; and applying the administrative complaint procedures to elections.

Summary: HAVA requirements are implemented.

Voter Registration: A voter registration application must include a Washington driver's license number or the last four digits of a prospective voter's social security number and a checked box confirming citizenship. In cases where the prospective voter has neither a driver's license or a social security card, a unique voter registration number must be given to the voter.

Statewide Voter Registration Data Base: The Secretary of State (SoS) must create and operate a statewide voter registration data base which contains the name and registration information of every legally registered voter in the state and assigns a unique identifier to each voter. At a minimum, the data base must comply with federal HAVA restrictions; identify duplicate registrations; screen against the Department of Corrections, the Department of Health, and the Department of Licensing; and simplify the verification processes for checking registrations. The centralized list is the official list for verification rather than the county lists, and only voters appearing on the SoS list are eligible to vote in an election.

When a person found on the Department of Corrections' felon list has his or her voter registration cancelled, notice of the cancellation must be sent to the person at his or her last known address.

Courts must notify the appropriate county auditor when the court determines, during a guardianship proceeding, that a person is incapacitated and unable to exercise the right to vote. The county auditor must then cancel that voter's registration.

In addition to the statewide data base, some other registration requirements are changed. Because of the data base, the SoS becomes responsible or joins in responsibility for many of the duties that were held solely by the county auditors. Checking for deceased individuals or felons on the voter rolls, checking for duplicate registrations, checking petition signatures, and the issuance of various registration notices are all added to SoS duties.

An election official who knowingly uses or alters information on the state or local data base in a manner inconsistent with the performance of his or her duties is guilty of a class C felony.

County auditors are prohibited from destroying canceled voter registration information and must record and retain a record of each date upon which an individual has voted.

Local Government Grant Program: The SoS is instructed to establish a competitive local government grant program along with an advisory committee to determine rules and criteria for the awarding of the grants. Grants must be designed to help implement HAVA requirements. The SoS is instructed to create an advisory committee to review proposals and adopt rules governing the grant process.

Disability Access: An early voting process is created for disabled voters. Specific dates, locations and hours for disabled voting must be designated by the county auditor. The in-person disabled voting period may take place as early as 20 days prior to the primary or election, and end the day before a primary or election. The end of the disabled voting period depends on the county auditor's ability to print and distribute poll books. Statutes are amended to reflect the creation of disability access voting locations.

Administrative Complaint Procedure: The administrative complaint procedure required by HAVA is adopted by the state. The procedure is permitted in all general elections, special elections and primaries.

Provisional Ballots: Ballots are segregated in the event of a court, state or federal order which extends the official poll closing time. Should an order to extend poll hours be made, the ballots made pursuant to the order will be segregated from those made in the course of the original polling hours.

Miscellaneous Provisions: "Voting system" is defined as the combination of equipment used to define ballots; cast and count votes; display results; and produce audit trail information. Technical amendments are made to election statutes to implement the bill; rule-making authority for disability access and the statewide data base is granted; and effective dates are provided.

The SoS must consult with the Information Services Board in developing technical standards for disability access voting systems and formats for transferring voter registration data.

Votes on Final Passage:

Senate	47	1	
House	96	0	(House amended)
Senate	49	0	(Senate concurred)

Effective: March 31, 2004 (Sections 103, 104, 115-118)
June 10, 2004
July 1, 2004 (Sections 119, 140, 201-203, 321, 401, 501, 702)
January 1, 2005 (Sections 301-320)
January 1, 2006 (Sections 101, 102, 105-114, 120-139, 601, 701, 704)

SSB 6428

C 259 L 04

Concerning industrial insurance health care providers.

By Senate Committee on Commerce & Trade (originally sponsored by Senator Honeyford).

Senate Committee on Commerce & Trade
House Committee on Commerce & Labor

Background: If the Department of Labor and Industries (L&I) suspends a provider's eligibility to provide services to industrially injured workers and the provider appeals the suspension order to the Board of Industrial Insurance Appeals (BIIA), L&I's suspension order is stayed pending the outcome of the appeal. As a result of the stay, the provider can continue to provide workers' compensation health services.

Summary: If a provider of services related to the treatment of industrially injured workers appeals to the BIIA an order issued by L&I suspending the provider's authority to provide services, L&I may petition the BIIA for an order immediately suspending the provider's eligibility to participate as a provider of services in workers' compensation cases. The BIIA must grant the petition if there is good cause to believe the workers subject to the workers' compensation laws may suffer serious physical or mental harm if the suspension is not granted. BIIA must expedite the hearing of L&I's petition.

Votes on Final Passage:

Senate	27	21	
House	96	0	(House amended)
Senate	49	0	(Senate concurred)

Effective: June 10, 2004

SB 6439

C 126 L 04

Enhancing motorcycle safety curriculum.

By Senators Horn, Haugen, Swecker, T. Sheldon, Schmidt, Johnson, Poulsen, B. Sheldon, Jacobsen, Stevens, Mulliken, Hale, Spanel, Eide, Rasmussen and Winsley.

Senate Committee on Highways & Transportation
House Committee on Transportation

Background: Washington residents under age 18 are required to take a driver training class in order to obtain a driver's license, except under very limited and specific circumstances. Courses are offered at both public high schools and private driver training schools.

The Superintendent of Public Instruction sets the basic course requirements for traffic safety education courses offered in public schools. The Driver's Instructors' Advisory Committee is required to create a basic minimum curriculum for courses offered at private

driver training schools. Both the Superintendent and the Advisory Committee are required to include information in driver education courses on the effects of alcohol and drug use on motor vehicle operators and proper use of the left hand lane.

Summary: The Superintendent of Public Instruction must include information on motorcycle awareness, approved by the Motorcycle Safety Foundation, in instructional materials used in traffic safety education courses.

The basic minimum curriculum set by the Driver's Instructors' Advisory Committee must include information on motorcycle awareness approved by the Motorcycle Safety Foundation.

Votes on Final Passage:

Senate	48	0
House	95	0

Effective: June 10, 2004

SB 6448

C 254 L 04

Transferring responsibility for collecting certain telephone program excise taxes from the department of social and health services to the department of revenue.

By Senators Zarelli, Prentice and Winsley; by request of Department of Revenue.

Senate Committee on Ways & Means

Background: The telecommunications relay service (TRS) excise tax is levied on telephone service lines at a rate of no more than 19 cents per month per line. Proceeds from this tax fund services to the deaf, hard of hearing, and deaf-blind communities throughout Washington, such as distributing teletypewriters, amplified phones, and signaling devices. The tax is identified on consumers' bills as "Funds federal ADA requirement." The Utilities and Transportation Commission (UTC) determines the tax rate necessary to fund the program, and the Department of Social and Health Services (DSHS) collects the tax.

The telephone assistance excise tax is also levied on telephone service lines, at a rate of no more than 14 cents per month per line. Proceeds from this tax fund help provide telephone services to low-income residents of the state, such as a reduced basic service charge, a 50 percent discount on connection fees, and waivers to deposits for local service. The tax is identified on consumers' bills as "Washington telephone assistance program." As with the TRS excise tax, above, the UTC determines the tax rate necessary to fund the program, and DSHS collects the tax.

The Department of Revenue is given statutory authority to administer, collect, and enforce most excise

taxes in the state, such as the retail sales and use tax and the business and occupation tax.

Regarding the retail sales and use and the business and occupation taxes, statute allows businesses to deduct amounts relating to taxes previously paid or remitted on debts that go unpaid. Businesses that sell items or services for resale do not collect retail sales taxes but must follow certain documentation requirements concerning sales to resellers.

Summary: The administrative responsibility for collecting the TRS and telephone assistance excise taxes is transferred from DSHS to the Department of Revenue (DOR). DSHS remains the administrator of the funds under their respective programs.

DOR must calculate the amount of monthly tax to be collected per switched access line in the same manner that UTC has previously calculated the tax. After consumers remit the taxes to their local telephone companies, DOR collects the taxes and forwards them to the state treasury.

Provisions are included governing the collection, remittance, and administration of the taxes. Existing DOR excise tax administrative requirements apply to the telephone program excise taxes, and DOR may adopt rules necessary to administer the taxes. Taxes are due at the same time and with the same returns for other excise taxes administered by the department.

DOR may enforce collections from subscribers who refuse to pay. Local exchange companies must collect and remit taxes and are liable for unpaid taxes. Subscribers who do not pay, and local exchange companies that fail to remit taxes, are guilty of misdemeanors.

Businesses may take credits for taxes previously remitted with respect to debts that go unpaid. Businesses that sell services for resale must obtain a resale certificate from the buyer and follow certain other documentation requirements concerning sales to resellers.

Votes on Final Passage:

Senate 47 0
House 97 0

Effective: July 1, 2004

ESB 6453

PARTIAL VETO

C 271 L 04

Enacting a qualifying primary.

By Senators Roach, Hargrove, Hale, T. Sheldon, Schmidt, Winsley, McCaslin, Carlson, Fairley and Rasmussen; by request of Secretary of State.

Senate Committee on Government Operations & Elections

Senate Committee on Ways & Means

Background: The method used in Washington to nominate candidates for the general election ballot is called the "blanket primary." This primary allows the votes of voters who are not members of a major political party to be counted in determining what candidate will run in the general election as the major political party's candidate or standard bearer. This feature of the Washington blanket primary was held unconstitutional by the federal Court of Appeals because, in the court's opinion, the major political parties' First Amendment right of free association was violated.

Summary: A "top-two" primary is enacted. Nominees of a political party are not selected at the primary election. Rather, the purpose of the primary is to certify two candidates for any partisan office as qualified to appear on the general election ballot. All candidates appear on the primary ballot, and are qualified to proceed to the general election ballot when they receive either the most or second most votes cast for each office appearing on the primary ballot. All voters are permitted to vote for the candidate they prefer for each office.

If a court rules that a candidate cannot state a political party that best approximates his or her political philosophy on the declaration of candidacy, the Secretary of State must issue a notice to the Governor, leaders of the Legislature, Code Reviser, and all county auditors that the state can no longer hold a qualifying primary. Instead, the state will use a nominating primary commonly referred to as an open, private choice primary, or the "straight Montana" primary. The notice must be issued by June 1 in order to switch primaries for that year.

The open, private choice primary is used to nominate major party candidates for office. Voters must affiliate with one political party for the day, and may only vote for candidates of that party. Voters cannot cross over and vote for candidates of another party as they move down the ballot. All eligible registered voters may participate in the primary, and there is no party registration. The political party a voter selects is not public information. Neither government nor political organizations may maintain any records that identify a voter with information marked on a ballot, including party affiliation.

Minor party and independent candidates in the open, private choice primary go directly to the general election ballot once they have satisfied the nominating convention requirements. The number of signatures required for nomination is increased from 200 to 1,000 for President, U.S. Senate, U.S. House of Representatives, or statewide office; and from 25 to 100 for a legislative or local office. Major parties that did not receive more than 10 percent of the votes cast for any office can opt out of major party status and nominate candidates via nominating conventions.

County auditors have the option of using two types of ballots for the primary: a consolidated ballot that lists all major party candidates and includes a party affiliation check-off box; or physically separate ballots for each major party. The order that names appear on the ballot remains at random, but county auditors no longer have to rotate the names.

Existing election statutes are amended to implement the open, private choice primary.

Votes on Final Passage:

Senate	28	20	
House	51	46	(House amended)
Senate	36	12	(Senate concurred)

Effective: April 1, 2004

June 1 following Secretary of State issuing a notification that no qualifying primary may be held in this state (Sections 102-193)

Partial Veto Summary: The "top two" primary is vetoed.

VETO MESSAGE ON SB 6453

April 1, 2004

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 1 through 57, section 101 and section 201, Engrossed Senate Bill No. 6453 entitled:

“AN ACT Relating to a qualifying primary;”

This bill would create a so-called "modified blanket primary" in which each candidate would self-designate a political party of that candidate's choosing to appear with his or her name on the ballot, each voter could vote for any candidate listed on the resulting ballot, and the top two candidates receiving the most votes would advance to the general election with their political party self-designation. The bill would also provide as an alternative the "open primary/private choice" system, where voters choose among candidates of one political party in the primary, and where those choices are private.

At the outset, I must reiterate my extreme frustration and disappointment with the State Republican and Democratic parties for challenging the constitutionality of our blanket primary. The blanket primary has served our state well for almost seventy years. Nonetheless, as a result of the parties' action, the United States Court of Appeals for the Ninth Circuit has ruled that the blanket primary violates the First Amendment rights of the political parties, and the Supreme Court of the United States has chosen to let that decision stand as law. As Governor, I must respect both the letter and the spirit of the federal courts' rulings while ensuring that the state of Washington has an effective and

constitutional replacement to the invalidated blanket primary in time for the September 14, 2004 primary election. As demonstrated by their actions and reflected in their deliberations, I know the Legislature and Secretary of State share my goal of ensuring we have a viable replacement for the blanket primary in time for the 2004 primary election.

The Legislature, in passing ESB 6453, knowingly forwarded to me two alternatives to the blanket primary system. Both alternatives are less than ideal, but for the reasons set forth below I am choosing the open primary/private choice system, which I believe better preserves voter choice in the general election, provides more certainty with regard to the state's authority to conduct the primary election, and presents less likelihood that our state's new primary system will be challenged in, or delayed or rewritten by, the federal courts.

During the legislative session, I consistently raised concerns about the "modified blanket primary," which would advance to the general election only the two candidates, regardless of party, who receive the most votes in the primary. I believe this option would frustrate many voters' expectations by removing from the general election the ability to choose from a list of candidates representing a broad political spectrum. The level of participation is almost twice as high in the general election than in the primary. In 1996, 1,043,000 more citizens participated in the general election than in the primary. In 2000, 1,197,000 more citizens participated in the general election than in the primary. In 2002, a year with no statewide races on the ballot other than judicial elections, 700,000 more citizens participated in the general election than in the primary. The scope of these voters' disenfranchisement in the general election would be enormous if they were forced to select from a ballot with no candidate representing either their preferred party or their general political views.

The modified blanket primary would also hurt the ability of minority and independent candidates to engage the electorate by effectively denying them access to the general election ballot. In 2000, for example, no fewer than eight political parties were represented on the general election ballot for statewide and legislative races, not including independent candidates. Minority parties bring diverse perspectives to political debate and additional choice to voters. They should not be foreclosed from meaningful participation in the democratic process.

Moreover, I believe that adoption of the modified blanket primary would almost certainly result in major parties nominating their candidates through caucuses and embroiling the state in lengthy litigation over the use of party labels by candidates who have not been nominated according to party rules. The legislation as passed acknowledges doubts about the constitutionality of the modified blanket primary system by providing that if a court finds that candidates cannot use party labels unless nominated by the parties, then the state shall move to an open primary/private choice system, similar to that used in Montana. However, for a variety of reasons, including a requirement that all appeals be exhausted before this alternative may go into effect, the provision for triggering that contingency is fundamentally flawed.

Finally, there is a distinct likelihood that the political parties would promptly block the modified blanket primary in federal court. This year, next year, and until final judicial resolution, we would have a primary system written and imposed by the federal courts, and which does not respect our voters' desire for privacy. Our state deserves to have in place immediately a system that is one of the two alternative primary systems written and enacted by the Washington Legislature - not one written and imposed by the federal courts at the urging of the major political parties.

Because of these concerns, I am persuaded that the open primary/private choice alternative in the bill presented to me by the Legislature is the better - and more legally viable - alternative, and the one that we should implement without delay. Under this option, candidates qualify for the general election through a process in which voters are not required to register with a party,

but choose among candidates of a single party, with their choice of ballot neither public information nor a public record. I believe this alternative protects voter privacy, offers voter choice consistent with the federal court ruling, and provides county auditors with a system that can be administered without undue complexity.

Section 205 expresses the intent of the Legislature that the adoption of a new primary system is necessary for the immediate preservation of the public peace, health, or safety, and the support of the state government and its existing public institutions; that enactment should take effect immediately, and that the new system should not be subject to being put on hold by referendum. I wholeheartedly concur. The integrity and smooth operation of our electoral processes are at the core of our democratic form of government. Indeed, men and women in uniform risk their lives daily to protect our democracy, and the public institutions that support that democracy.

Many public officials and concerned citizens have suggested that if no new primary system were put in place this legislative session, confusion as to election processes would occur in the fall. The Secretary of State has suggested that he would cancel the primary if a replacement law was not enacted or if the law was suspended because of referral to the general election ballot. In the September 2000 primary, more than 1.3 million voters expressed their preference as to which candidate should represent each party in the general election. With open seats for Governor, Attorney General and Congress, the primary election to determine which candidates appear on the general election ballot will likely draw even more voters. No elected official has any intention of creating a risk that more than a million voters will be denied the opportunity to have a public primary to determine the general election candidates. To the contrary, everyone involved in the legislative process for this bill has recognized the urgency of having a constitutional primary system in place for the September 14, 2004 primary, and the emergency nature of this legislation. Moreover, I am aware that county auditors need to know by early summer the laws they must implement so that they can prepare for the primary election this September. For these reasons, I agree with the Legislature that this bill should go into effect immediately and not be subject to being put on hold by referendum.

The emergency declaration in section 205 applies in these circumstances to the entire bill as I have signed it into law. Any other reading would thwart the manifest purpose of the Legislature and lead to an absurd result. Obviously, the reference to sections 102 through 193 was intended only to apply if the bill signed into law had multiple inconsistent primary systems. With my veto actions, however, this is not the case.

Some have urged me to veto section 205 to remove what they see as an ambiguous reference to sections 102 through 193, but doing so might create an unintended but more significant ambiguity with respect to whether an emergency need for a primary system exists. I have not done that because, as all of us involved in the legislative process for this bill recognize, assuring that the primary system established by this bill takes effect for the upcoming September 14, 2004 primary is of utmost urgency to the public and democratic self-governance in our state.

Accordingly, I have left section 205 in the bill because the existing text and the circumstances in which this bill was enacted make it clear beyond reasonable dispute that the intent of all concerned was to have this bill's new primary system in place for the voters this September without risk of cancellation of this bill's primary due to any hold or delays caused by referendum.

For these reasons, I have vetoed sections 1 through 57, section 101 and section 201 of Engrossed Senate Bill No. 6453.

With the exception of sections 1 through 57, section 101, and section 201, Engrossed Senate Bill No. 6453 is approved.

Respectfully submitted,



Gary Locke
Governor

SB 6465
C 132 L 04

Extending the expiration date of the dairy inspection program assessment.

By Senators Swecker and Rasmussen.

Senate Committee on Agriculture
House Committee on Agriculture & Natural Resources

Background: The milk inspection program is funded by a combination of state general fund dollars and an assessment on fluid milk. The maximum rate of assessment is 0.54 cents per hundredweight.

Current authority of the Department of Agriculture for the assessment expires on June 30, 2005.

Summary: The authority for the Department of Agriculture to collect an assessment on fluid milk is extended until June 30, 2010.

Votes on Final Passage:

Senate	48	0
House	95	0

Effective: June 10, 2004

SSB 6466
C 34 L 04

Regarding the admission of residents to nursing facilities.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senator Fairley).

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

Background: The expansion of opportunities in the long-term care industry has resulted in companies that offer residents the spectrum of living arrangements, from the independent continuing care retirement communities (CCRC), to assisted living, to nursing homes, often on the same campus, or the same neighborhood. The arrangements provide residents with the security they will be able to transfer to the more intensive care situation as they need it. There is concern that residents who need to leave their CCRC or assisted living situation because of a sudden decline in their health are not able to go to the head of the waiting list for admission to the nursing facility under the same ownership.

Summary: Nursing facilities under common ownership with boarding homes or independent housing are not required to place the names of applicants from those facilities on the same waiting list as outside applicants for their nursing facility placements. Denying admission to an outside applicant is not considered discrimination if it is done to accommodate someone from a commonly owned boarding home or CCRC. Nursing facilities must readmit residents who have been hospitalized, or have been gone on therapeutic leave, if the resident needs nursing facility services and is Medicaid eligible.

Votes on Final Passage:

Senate	48	0	
House	95	0	(House amended)
Senate	46	0	(Senate concurred)

Effective: March 22, 2004

ESSB 6472
C 120 L 04

Revising provisions relating to victims of crime.

By Senate Committee on Children & Family Services & Corrections (originally sponsored by Senators Hargrove, McAuliffe, Esser, Regala, Stevens and Kohl-Welles; by request of Department of Community, Trade, and Economic Development).

Senate Committee on Children & Family Services & Corrections

House Committee on Juvenile Justice & Family Law

Background: Currently, victims, survivors of victims, and witnesses of crimes committed by adults have statutory rights, including notification of criminal proceedings and the right to participate in them, protection from harm for cooperating with law enforcement, the right to have a crime victim advocate from a crime victim/witness program present at interviews and court proceedings, and payment of restitution from the defendant. Victims of juvenile offenders are not specifically given these rights by statute. Concern exists that provisions regarding victims' rights and restitution are not consistent in adult and juvenile courts, and that victims may be treated differently depending on the age and status of the person who committed the crime against them.

The Washington Supreme Court in *State of Washington v. J.P.*, 149 Wn.2d 444 (2003), identified an inconsistency in statutes regarding restitution available to victims of juvenile offenders. RCW 13.40.190, which contains requirements for disposition orders and restitution, allows restitution for counseling costs "reasonably related to the offense." In 1990, the definition of restitution in RCW 13.40.020(22) was expanded to include "costs of the victim's counseling reasonably related to the offense if the offense is a sex offense." After interpreting legislative intent, the court ruled that juvenile

offenders can only be ordered to pay counseling costs for victims of sex offenses, not for victims of all offenses, thereby precluding the award of restitution for counseling costs for a victim of assault in the fourth degree with sexual motivation.

Restitution is not mandatory in diversion agreements in juvenile court. If restitution is not paid, the court can relieve the juvenile of an obligation to pay restitution if the juvenile is unable to pay. The court can modify the amount of a restitution order for both juvenile offenders and for juveniles subject to diversion. Juvenile offenders who are prosecuted through the formal court system are required to pay restitution.

Summary: Victims, survivors of victims, and witnesses of crimes committed by juveniles are given the same rights as victims of adult offenders. Victims of both adult and juvenile violent and sexual offenders are entitled to have a support person of the victim's choosing attend witness interviews and judicial proceedings so long as they do not unnecessarily delay the investigation and prosecution of the crime. Victims of a juvenile in a diversion program must be advised of the diversion process and given forms for victim impact letters and restitution claims.

The same definition of "victim" is added to the chemical dependency disposition alternative for juvenile offenders and to juvenile restitution provisions. "Victim" includes any person who has sustained emotional, psychological, physical, or financial injury as a direct result of the crime, as well as a known parent or guardian of a minor victim or of a victim who is not a minor but is incapacitated, incompetent, disabled, or deceased.

Legislative intent regarding restitution for juvenile offenders is clarified. Restitution for counseling costs reasonably related to the offense is authorized for victims of all juvenile offenses, not just for sex offenses.

Judges are given discretion to relieve a juvenile offender of an obligation to pay restitution to an insurance provider if the juvenile does not have the means to pay and could not reasonably acquire the means to pay over a ten-year period. Judges are also given discretion to relieve juveniles of the requirement to pay restitution in diversion cases, and if that relief is granted, the court may order an appropriate amount of community restitution (compulsory service for the benefit of the community). Unlike a fine or monetary penalty, the crime victim penalty assessment required of juvenile offenders cannot be converted to community restitution.

Language governing orders in dispositions involving sex offender treatment is clarified to ensure that a court must order that an offender shall not attend the same school as the victim or the victim's siblings.

Votes on Final Passage:

Senate	48	0	
House	96	0	(House amended)
Senate	46	0	(Senate concurred)

Effective: July 1, 2004

SB 6476
C 210 L 04

Designating manufactured housing communities as non-conforming uses.

By Senators Mulliken and T. Sheldon.

Senate Committee on Land Use & Planning
House Committee on Local Government

Background: There is concern that local jurisdictions are improperly using zoning ordinances to eliminate existing manufactured housing communities, a source of lower-cost housing.

Summary: Local governments are authorized to designate new manufactured housing communities as a non-conforming use, but are prohibited from ordering removal or phased elimination of existing manufactured housing communities on the basis of status as a nonconforming use.

Votes on Final Passage:

Senate	48	0
House	96	0

Effective: June 10, 2004

ESSB 6478
C 52 L 04

Increasing the regulation of the sale of ephedrine, pseudoephedrine, and phenylpropanolamine.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Brandland, Franklin, Deccio, Rasmussen, McCaslin, Murray, B. Sheldon, Parlette, Winsley and Regala; by request of Department of Health and Washington State Patrol).

Senate Committee on Health & Long-Term Care
House Committee on Criminal Justice & Corrections

Background: Precursor drugs are substances that can be used to manufacture controlled substances. Ephedrine, pseudoephedrine, and phenylpropanolamine are precursor substances used in manufacturing methamphetamine.

In 2001, legislation was enacted restricting the sale and distribution of ephedrine, pseudoephedrine, and phenylpropanolamine. It is a gross misdemeanor to sell at retail more than three packages of products containing ephedrine, pseudoephedrine, or phenylpropanolamine, or a single package containing more than three grams in a single transaction. Retailers of products containing ephedrine compounds may take either of two measures to prevent their unlawful sale and purchase: (1) they may program their registers to alert sales persons of

potential violations, or (2) they may place signs on the premises to notify customers of the law.

Manufacturers and wholesalers are required to report suspicious transactions in precursor drugs to the Board of Pharmacy. "Suspicious transactions" are sales under circumstances leading a reasonable person to believe the substance is likely to be used for making a controlled substance, or for more than \$200 in cash. The Board of Pharmacy was authorized to establish criteria in rule for determining whether a transaction is suspicious, and the board has adopted such rules.

Summary: Shopkeepers, who are not licensed pharmacies, and itinerant vendors may purchase ephedrine, pseudoephedrine, or phenylpropanolamine only from wholesalers or manufacturers licensed by the Department of Health. A shopkeeper or itinerant vendor who violates this must be warned by the Board of Pharmacy. If the shopkeeper or itinerant vendor commits a subsequent violation, the Board of Pharmacy may suspend or revoke their registration.

Shopkeepers and itinerant vendors who purchase ephedrine products in a suspicious transaction are subject to percentage-of-sales and record-keeping requirements. Such shopkeepers and itinerant vendors may not sell any quantity of ephedrine products if the total prior monthly sales of these products exceed 10 percent of the shopkeeper's or itinerant vendor's total monthly sales of nonprescription drugs in March through October, or 20 percent from November through February. The board may suspend or revoke the license of a shopkeeper or itinerant vendor who violates this limitation. Such shopkeepers and itinerant vendors must also maintain inventory records of the receipt and disposition of nonprescription drugs. Records must be available for inspection by the board or any law enforcement agency and must be maintained for two years. The board may suspend or revoke the shopkeeper's or itinerant vendor's registration for violating this record requirement.

No wholesalers may sell any quantity of ephedrine products if the total prior monthly sales of these products to persons in Washington exceeds 5 percent of the wholesaler's total prior monthly sales of nonprescription drugs to persons in Washington in March through October. This limit is 10 percent for November through February. The board may suspend or revoke the license of a wholesaler that violates this limitation. The board may exempt a wholesaler from this limitation if the wholesaler is related by common ownership to the retailer and neither the wholesaler nor the retailer has a history of suspicious transactions in precursor drugs.

Wholesalers located in Washington and outside of Washington who sell both legend drugs and nonprescription drugs, and those who sell only nonprescription drugs to pharmacies, practitioners, and shopkeepers in Washington must be licensed by the Department of Health. Wholesalers are prohibited from selling any quantity of

ephedrine products to any person in Washington other than a licensed pharmacy, shopkeeper or itinerant vendor registered in Washington, or a practitioner. A violation of this prohibition is punishable as a class C felony.

It is unlawful for any person to sell or distribute ephedrine products unless the person is licensed or registered by the Department of Health under the statute concerning pharmacists or is a practitioner as defined in statute.

Practitioners authorized to prescribe drugs may sell, transfer or otherwise furnish ephedrine products as long as a single transaction does not exceed the three package, three gram limitation.

The Board of Pharmacy must transmit to the Department of Revenue a copy of each report of a suspicious transaction that it receives.

The Board of Pharmacy may exempt specific ephedrine products from the sales restriction, upon application of a manufacturer, if the product meets the federal definition of an ordinary over-the-counter pseudoephedrine product, and the net weight of the pseudoephedrine base is equal to or less than three grams, even though the package's total weight exceeds three grams. For the exemption to apply, the board must determine that the value of the product to the people of Washington outweighs the danger, and the product, as packaged, has not been used in the illegal manufacture of methamphetamine.

Votes on Final Passage:

Senate 45 0
House 95 0

Effective: July 1, 2004

SB 6480
C 133 L 04

Modifying special occasion liquor license provisions.

By Senators Hewitt, Deccio, Hale, Doumit, Rasmussen, Honeyford and Mulliken.

Senate Committee on Commerce & Trade
House Committee on Commerce & Labor

Background: Currently, a not-for-profit society or organization may obtain a special occasion liquor license to sell spirits, beer and wine by the individual serving, for on-premises consumption at a specified date and time. The special occasion licensee may sell beer and/or wine in original unopened containers for off-premises consumption, if prior permission from the Liquor Control Board (LCB) is obtained. The fee for such a license is \$60 per day. Sales under this license are limited to 12 calendar days per year.

Before the LCB issues a liquor license, it must notify (a) the chief executive officer of the incorporated city or town if the application is for a license within an incorpo-

rated city or town or (b) the county legislative authority if the application is for a license outside the boundaries of incorporated cities or towns. The cities, towns or county legislative authorities, as the case may be, who are notified of a liquor license application may file written objections with the LCB within a certain time period.

Summary: Special occasion licensees that are "agricultural area fairs" or "agricultural county and district fairs" may, once a calendar year, count as one event, fairs that last multiple days. These licensees may do this only if alcohol sales are at set dates, times and locations and the licensee notifies the Liquor Control Board of those dates, times and locations. The fee is \$60 per day.

If the special occasion liquor license is for an event held during a county, district, or area fair and the fair is located on property owned by the county but located within an incorporated city or town, the county legislative authority shall be the entity notified by the Liquor Control Board.

Votes on Final Passage:

Senate 49 0
House 96 0 (House amended)
Senate 49 0 (Senate concurred)

Effective: June 10, 2004

ESSB 6481
C 274 L 04

Governing class 1 racing associations' authority to participate in parimutuel wagering.

By Senate Committee on Commerce & Trade (originally sponsored by Senators Hewitt, Jacobsen, Deccio, Rasmussen and Honeyford).

Senate Committee on Commerce & Trade
House Committee on Commerce & Labor
House Committee on Finance

Background: The Horse Racing Commission regulates parimutuel wagering on horse race meets and defines a class 1 racing association as one owning and operating its own race facility with at least 40 days of racing each year. Currently, there is one class 1 racing association operating in Washington: Emerald Downs in Auburn.

In addition to being authorized to conduct "live" horse races at the track in Auburn, the class 1 racing association is also permitted (a) to send or transmit simulcasts of live horse races conducted at the Auburn facility to other licensed racing associations within Washington, plus to one satellite location in each county, and race tracks outside of the state; and (b) to receive or import simulcast live horse races from out-of-state racing facilities. Parimutuel wagering on imported simulcasts is limited to 14 hours during any 24-hour period. In most instances, one imported simulcast race may be

sent to satellite locations each day that live horse races are conducted at the live racing facility.

No Washington statute currently authorizes a person in this state to place a wager on a licensed horse race within or outside of this state over the phone or other off-track electronic means.

Summary: The limitations on the number of imported simulcast races that may be received are deleted, with respect to any class 1 racing association that has been in operation for at least one full racing season. The 14 hours-per-day limit on wagering on imported simulcast races at a live racing facility is removed, as is the limit on the number of imported simulcast races that may be sent to satellite locations. Simulcasting of races outside of a class 1 racing association may occur only at approved satellite locations. The Horse Racing Commission may, by rule, reduce the minimum requirements for a new class 1 association to become eligible to simulcast races outside of the facility.

Advance deposit wagering on horse races within the authority of a class 1 racing association is allowed. Advance deposit wagering is defined as a form of parimutuel wagering in which an individual deposits money in an account with an entity authorized by the commission, and the account funds are then used to pay for parimutuel wagers made in person, by telephone or through communication by other electronic means. An entity offering advance deposit wagering on horse racing is prohibited from extending credit to participants, must verify the identity, residence and age of a person establishing an account, and may not allow anyone under the age of 21 to open, own, or have access to an advance deposit wagering account. The provisions authorizing account deposit wagering expire on October 1, 2007.

Members of the Horse Racing Commission are prohibited from placing wagers on horse races conducted under the commission's authority.

Votes on Final Passage:

Senate	38	10	
House	79	17	(House amended)
Senate	42	7	(Senate concurred)

Effective: April 1, 2004

SB 6485
C 261 L 04

Improving the regulatory environment for hospitals.
By Senators Deccio and Winsley.

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

Background: In late 2002, the Washington State Hospital Association (WSHA) issued its report "How Regulations Are Overwhelming Washington Hospitals," outlining the difficulty and costs hospitals face in

complying with the various federal, state and local regulations that govern their construction and operation. During the 2003 session, SB 5833 was introduced, requiring the coordination of hospital surveys and audits conducted by state agencies.

Prompted by this, in June 2003, the Governor directed the formation of the Hospital Onsite Survey Coordination Workgroup, made up of representatives of the WSHA and the various state agencies that regulate hospitals. He charged the workgroup with "exploring ways to streamline the frequency and duration of onsite survey activities, improving hospital notification when possible, and fostering greater coordination and less duplication of efforts." The workgroup issued a progress report, including its findings and recommendations, in November 2003.

A hospital is required to get a certificate of need from the Department of Health prior to increasing bed capacity or adding a tertiary health service. The department must consider certain criteria specified in statute when determining whether or not to issue the certificate of need.

The Federal Balanced Budget Act of 1997 established the Critical Access Hospital Program. The program is intended to increase access to care in rural areas by allowing more flexibility in staffing, simplifying billing methods, and creating incentives to integrate health delivery systems. One of the conditions for participation in the program is that the hospital have no more than 25 acute care patients at any one time. Washington currently has 29 hospitals certified as critical access hospitals.

Public Hospital Districts (PHD's) are special purpose districts that operate hospitals and provide other health-related services. Commissioners of a PHD are publicly elected officials. A PHD may contract or join with another hospital, a PHD, or other entity to provide health care services or operate health care facilities by forming a nonprofit joint legal entity. The governing body of such a joint entity must include representatives of the PHD, including the PHD commissioners.

Summary: The Department of Health (DOH) must oversee a pilot project, including other relevant state agencies, which implements and evaluates strategies to reduce the burden on hospitals of government surveys and audits. Results of the pilot project must be reported to the Legislature by December 1, 2004.

By July 1, 2004, each state agency which conducts hospital surveys or audits must post to its agency web site a list of the most frequent problems identified in its surveys or audits, information on how to address the identified problems, and the name of a person within the agency that a hospital may contact with questions or for further assistance.

By July 1, 2004, the Department of Health must develop an instrument, to be provided to every hospital

upon completion of a state survey or audit, which allows the hospital to evaluate the survey or audit process. DOH must distribute the completed evaluations to the relevant agencies, and compile them in an annual report to the Legislature.

Except when responding to complaints or immediate public health and safety concerns, or when such prior notice would conflict with other state or federal law, any state agency that provides notice of a hospital survey or audit must do so no less than four weeks prior to the date of the survey or audit.

State hospital fire protection and enforcement standards must be consistent with the standards adopted by the federal centers for Medicare and Medicaid services for hospitals that care for Medicare or Medicaid beneficiaries.

The Office of the State Fire Marshal and relevant local agencies are added to the list of entities with whom DOH is to coordinate when conducting hospital inspections. DOH must notify each agency at least four weeks prior to any inspection, invite their attendance, and provide each a copy of its inspection report upon completion.

DOH must coordinate its hospital construction review process with other state and local agencies having similar review responsibilities. Inconsistencies or conflicts among the agencies must be identified and eliminated.

A health care facility that is certified as a critical access hospital is not required to apply for a certificate of need when increasing its total number of licensed beds to the maximum of 25 as permitted by federal law. The beds may also be redistributed among acute care and nursing home care without requiring a certificate of need review. The exception to the certificate of need review requirement does not apply if there is a nursing home within 27 miles of the hospital unless the hospital had designated nursing home beds before December 31, 2003 or the hospital is using up to five swing beds.

If the hospital discontinues its certified status as a critical access hospital, the hospital may revert back to the number of beds and types of beds that it had when it originally requested critical access hospital certification.

If a PHD enters into a joint entity, the governing body of the joint entity must still include representatives of the PHD, but no longer must include the PHD commissioners.

Votes on Final Passage:

Senate	46	0	
House	95	0	(House amended)
Senate			(Senate refused to concur)
House	97	0	(House amended)
Senate	49	0	(Senate concurred)

Effective: June 10, 2004

SB 6488

C 209 L 04

Ordering a study of the designation of agricultural lands in four counties.

By Senators Mulliken and Parlette.

Senate Committee on Land Use & Planning
House Committee on Local Government

Background: Information on the results of designation of agricultural resource land will help the Legislature to evaluate the designation requirements of the state's Growth Management Act.

Summary: By December 1, 2004, the Department of Community, Trade, and Economic Development must report to the Senate Committee on Land Use and Planning and the House Local Government Committee regarding designation of agricultural resource land in King, Lewis, Chelan, and Yakima counties. The report must cover how much land is designated, how much is in production, changes in these amounts since 1990, comparison with other land uses, threats to maintaining the agricultural land base, measures by local governments to better maintain the base and to enhance agricultural industry, and effect on tax revenue.

Votes on Final Passage:

Senate	49	0	
House	96	0	(House amended)
Senate	43	0	(Senate concurred)

Effective: June 10, 2004

E2SSB 6489

C 167 L 04

Revising provisions relating to correctional industries.

By Senate Committee on Ways & Means (originally sponsored by Senators Hargrove and Stevens).

Senate Committee on Children & Family Services & Corrections

Senate Committee on Ways & Means
House Committee on Criminal Justice & Corrections
House Committee on Appropriations

Background: The Department of Corrections (DOC), through the Correctional Industries Board of Directors, operates five classes of correctional industry work programs. Inmates working in class I-IV programs receive financial compensation for their work, while class V programs involve court-ordered community work without financial compensation.

Concern exists that some correctional industries work programs compete unfairly with Washington businesses.

Class I "free venture industries" are operated and managed by for-profit and nonprofit corporations.

Inmates working in these industries do so voluntarily 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.

Class II "tax reduction industries" are state-owned and operated industries designed to reduce the costs paid by public and nonprofit entities for products which can be produced by inmates. The products of these industries may be sold only to state agencies and nonprofit corporations and to private contractors when the goods purchased will ultimately be used by a public agency or a nonprofit organization. Inmates work in class II industries by 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 III "institutional support industries" include work such as janitorial duties and food preparation. Class IV "community work industries" include work crews and labor camps, such as litter control and fighting forest fires.

Wages paid to inmates in class I and II industries are subject to mandatory deductions, which are used to satisfy inmate obligations to crime victims' compensation, costs of incarceration, child support, legal-financial obligations, and to create an inmate savings account. Wages paid to inmates in class III industries are subject to deductions for crime victims' compensation, and wages for inmates in class IV industries are subject to deductions for the cost of incarceration.

Summary: Class I correctional industries work programs cannot be newly established and existing class I work programs cannot be significantly expanded unless the board of directors determines that the new business or expansion will not compete unfairly with any existing Washington business. Unfair competition is defined as any net competitive advantage that a business may acquire as a result of a correctional industries contract, labor costs, rent, tax advantages, utility rates, and other overhead costs. The fair competition requirement must be liberally construed by the Correctional Industries Board of Directors. Significant expansion is defined as any expansion into a new product line or service resulting from an increase in benefits provided by DOC.

For class I work programs, the board of directors must make a threshold analysis of whether the proposed new or expanded program will impact any Washington business. If a Washington business will be impacted, the board of directors must complete a business impact analysis before the board permits the establishment of the new business or significant expansion of the existing business. The analysis must include detailed statements identifying the scope and types of impact and the actual business costs of the proposed work program compared to the costs of the impacted Washington business. The completed threshold analysis and any completed impact analysis must be shared with local chambers of

commerce, trade or business associations, labor unions, and government entities before the impact analysis is completed.

Upon completion of the business impact analysis, the board of directors must conduct a public hearing and take public testimony. Notification of the public hearing may be by a publicly accessible DOC website. The board must then determine if the proposed change or expansion will unfairly impact any Washington business existing on the effective date of this act. A proposed new or expanded class I industry which will compete unfairly with any Washington business is prohibited.

Business impact analyses are not required for class II, III and IV correctional industries. The Correctional Industries Board of Directors can review any class III and IV programs at the board's discretion. Except for class IV industries operated in work camps, the board sets policies for class III and IV work crews and must be provided quarterly detail statements regarding work crews.

Inmates with a release date more than 120 months in the future cannot comprise more than 10 percent of inmates participating in a new class I correctional industry not in existence on the effective date of the act.

A schedule containing targets for expansion of inmate employment in class I and II work programs is implemented. By June 30, 2005, DOC must increase inmate participation in class I and II work programs by at least 200 inmates compared to the level of inmates working in such programs on June 30, 2003. Gradually increasing targets are provided, with DOC required to increase the number of participating inmates by at least 1500 by June 30, 2010 over the number employed on June 30, 2003. The expansion requirement is subject to availability of funds for the correctional industries program.

Institutions of higher education must convene the correctional industries business development advisory committee and work collaboratively with correctional industries to develop plans to increase purchases of correctional industries products. The plan and its implementation must be reported to the Legislature by January 30, 2005. Institutions of higher education are directed to set targets to purchase 1 percent of their total yearly requirement of goods and services from class II inmate work programs by June 30, 2006, and to purchase 2 percent of their total yearly requirement of goods and services from those programs by June 30, 2008.

Documents obtained during the process of determining whether a new business or expansion will unfairly impact Washington business are exempt from public disclosure.

The act is null and void if specific funding is not provided by June 30, 2004.

Votes on Final Passage:

Senate	48	0	
House	94	0	(House amended)
Senate	41	0	(Senate concurred)

Effective: June 10, 2004

July 1, 2005 (Section 3)

SB 6490

C 152 L 04

Exempting fuel cells from sales and use taxes.

By Senators Zarelli and Kline; by request of Department of Revenue and Department of General Administration.

Senate Committee on Ways & Means

Background: Sales tax is imposed on retail sales of most items of tangible personal property and some services. The use tax is imposed on the same privilege of using tangible personal property or services in instances where the sales tax does not apply. Examples of such instances include purchases made in other states and purchases from sellers who do not collect Washington sales tax. Sales and use taxes are levied by the state, counties, and cities. Rates vary between 7 and 8.9 percent, depending on location in the state. Use tax is paid directly to the Department of Revenue.

In 1996, the Legislature provided an exemption from the retail sales and use taxes for machinery and equipment used directly to generate at least 200 watts of electricity using wind or solar energy, and in 1998 expanded the exemption to include landfill gas as a power source. In 2001, the Legislature amended the law to lower the electricity generation threshold to 200 watts and to include fuel cells as a power source. However, the use tax modifications in the 2001 law omitted a reference to fuel cells, and the definition of machinery and equipment for the purposes of both the sales and use tax exemption was not modified to accommodate fuel cells. As a result, although fuel cells are exempt from the retail sales tax for the purposes provided in the exemption, a person that acquires a fuel cell for such purposes owes use tax.

Summary: Machinery and equipment used directly to generate at least 200 watts of electricity using fuel cells are exempt from the use tax.

Votes on Final Passage:

Senate	48	0
House	97	0

Effective: June 10, 2004**SB 6493****PARTIAL VETO**

C 268 L 04

Changing provisions relating to responsibility for costs of elections.

By Senators Horn, Kastama, Roach, Haugen and Esser.

Senate Committee on Government Operations & Elections

House Committee on State Government

Background: Cities, towns, and special purpose districts are responsible for their proportionate share of election costs. In odd-numbered year elections, the state is responsible for its share of costs related to state officers and measures on the ballot. The state pays no costs in even-year elections.

In determining shares of elections costs, some counties will first calculate costs related to state officers and measures, factor those costs out and then prorate the remaining costs among the jurisdictions with races or issues on the ballot. This effectively means the county assumes the costs related to state races or issues. Other counties will not deduct state costs prior to prorating. This effectively spreads the costs associated with state races and issues among all jurisdictions with races or issues on the ballot.

Summary: Costs associated with statewide races and measures in even-numbered years must be borne by the county. Cities, towns, and special purpose districts costs shall not include any costs associated with the election of statewide officers or ballot measures.

A noncharter code city can submit a change of government proposal to the voters at the next general election. The existing statutory requirement that the change of government proposal be voted on at a general election held within 180 days or at a special election is eliminated.

Votes on Final Passage:

Senate	48	0	
House	96	0	(House amended)
Senate	47	0	(Senate concurred)

Effective: July 1, 2004

Partial Veto Summary: The provision prohibiting counties from prorating costs related to statewide races and ballot measures in even-year elections is vetoed.

VETO MESSAGE ON SB 6493

March 31, 2004

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,
Senate Bill No. 6493 entitled:

“AN ACT Relating to costs of elections;”

This bill addresses the allocation of election costs for statewide officers and ballot measures. It also provides that non-charter code cities, when making changes in their form of governance, place that decision before voters at the next general election, rather than calling a special election within 180 days.

This bill was adopted unanimously by the Legislature. However, following its delivery to me, King County and the associations that represent county officials and county governments recognized its potential impacts and requested that section 1 be vetoed.

Section 1 would have affected the sharing of election costs in even-numbered years. It would have prohibited counties from prorating any portion of the costs of statewide races or ballot measures to cities, towns, or special purpose districts. Currently, counties can distribute those costs among all jurisdictions that participate in an election.

This section would have had particularly severe effects in King County, which could have faced added costs of \$600,000 to \$700,000 in the 2004 election alone. The biggest beneficiary of the county's increased expense would have been the Regional Transportation Investment District (RTID). This is unfair because RTID received close to \$2 million in the 2003-05 operating budget specifically for election-related costs. The cities and towns in King County also would have experienced savings, but with a cumulative total of \$270,000, these would have been relatively small for each of them.

For these reasons, I have vetoed section 1 of Senate Bill No. 6493.

With the exception of section 1, Senate Bill No. 6493 is approved.

Respectfully submitted,



Gary Locke
Governor

SSB 6494
C 115 L 04

Preventing the use of complete social security numbers on health insurance cards.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Parlette, Mulliken, Roach and Kline).

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

Background: A health carrier typically issues to its enrollees a card which the enrollees must present to a treating provider to facilitate claims processing. There is concern that including a person's Social Security number on the card, as some carriers reportedly do, increases the risk of identity theft.

"Identity theft" refers to the unauthorized use of another person's personal identifying information to obtain credit, goods, services, money, or property.

Summary: After December 31, 2005, a health carrier that issues a card identifying a person as an enrollee, and requires the person to present the card to providers for purposes of claims processing, may not display on the card an identification number that includes more than a

four-digit portion of the person's complete Social Security number. This also applies to cards issued under the Basic Health Plan or Medical Assistance Administration.

Votes on Final Passage:

Senate 49 0

House 95 0

Effective: June 10, 2004

SSB 6501
C 46 L 04

Regarding instructional materials for students with disabilities at public and private institutions of higher education.

By Senate Committee on Higher Education (originally sponsored by Senators Carlson, Kohl-Welles, Pflug, Jacobsen, Schmidt, Rasmussen, Shin, Winsley and McAuliffe; by request of State Board for Community and Technical Colleges).

Senate Committee on Higher Education
House Committee on Higher Education

Background: Providing instructional materials in specialized formats for students with print access disabilities is a challenge facing coordinators of services for students with disabilities. Under current federal and state law, Washington State's public and private higher education institutions must ensure that students with disabilities receive the appropriate services necessary to provide equal access. However, the tools available to translate instructional material into specialized formats are often cumbersome, costly and time-consuming.

Many publishers understand this and support students' work by providing electronically formatted instructional materials. Response to students' need remains at the pleasure of publishing firms, and response is varied. Electronic versions are readily available for textbooks and instructional materials – in fact, these files are created as part of the manufacturing process.

Summary: Publishers or manufacturers of instructional materials used by students attending public or private higher education institutions in the state of Washington must provide any instructional material in a mutually agreed upon electronic format at no additional cost and in a timely manner to a postsecondary institution upon receipt of a written request. The written request certifies a real need by the institution and the student to be served.

Instructional material, print access disability, structural integrity, and specialized format are defined. Copyrights are protected and exceptions are allowed when the technology is not available. Failure to comply is a violation under the state law against discrimination.

Votes on Final Passage:

Senate	48	0	
House	94	0	
House	96	0	(House reconsidered)

Effective: June 10, 2004**SB 6515**

C 153 L 04

Correcting errors in and omissions from chapter 168, Laws of 2003, which implemented portions of the streamlined sales and use tax agreement.

By Senators Zarelli, Regala and Winsley; by request of Department of Revenue.

Senate Committee on Ways & Means

Background: In the 2002 session, the Legislature adopted the Simplified Sales and Use Tax Administration Act, which authorized the Department of Revenue to be a voting member in the Streamlined Sales Tax Project (SSTP), a multi-state effort to simplify state sales and use tax structures and make them more uniform. Many other states have also authorized such participation, and representatives have met to develop an agreement to govern the implementation of the SSTP. This agreement, called the Streamlined Sales and Use Tax Agreement (SSTA), was adopted by 34 states and Washington D.C. in November 2002.

During the 2003 session, the Legislature enacted legislation at the request of the Department of Revenue that implements the uniform definition and administrative provisions of SSTA. Most of the provisions of the legislation were made to be effective July 1, 2004; provisions associated with changes to food-related definitions were effective January 1, 2004. The delayed effective dates were intended to allow the department and stakeholders sufficient time to correct errors or omissions prior to full implementation of the law.

After the 2003 session, the department found that the taxable nature of some items changes under the new legislation. A number of medical devices that are exempt from sales and use tax before July 1, 2004, are taxable after that date. Food sold by manufacturers at retail, formerly exempt, are now taxable. Bakery items that are heated and then sold are taxable. All beverages with less than 50 percent fruit juice are considered soda and are therefore taxable.

State law provides a credit for sales taxes previously paid on debts which are considered deductible as worthless for federal income tax purposes. The SSTA includes similar language, allowing a deduction for bad debts using the standards of the 2003 Internal Revenue Code (IRC) with adjustments. The 2003 legislation included the SSTA uniform provisions for the treatment of bad

debts for sales tax, but did not include a complimentary provision for the use tax.

Bad debt deductibility provisions also exist under the state business and occupation (B&O) tax, the public utility tax (PUT), and the E-911 tax. The SSTA does not require conformance of these provisions.

The Department of Revenue is prohibited from attributing nexus to any business solely because the business registers under the SSTA. Nexus is a legal principle under tax law that provides rationale for taxation based on a minimum presence or level of activity within a jurisdiction.

When a business collects more than legally required from a person for sales or use tax, the person may bring an action against the business in court, but only after the person has notified the business in writing and the business has been allowed 60 days to respond.

In situations in which it is not practicable for a seller to collect tax as a separate item from the customer at the time of a transaction, such as with a gum ball machine, the department is authorized to allow sellers to pay retail sales tax in a different manner.

Regarding the taxability of telephone service under the B&O tax, a sale is deemed to take place in Washington when a call originates from or is received on any telephone or other telecommunications equipment in Washington and the cost for the telephone service is charged to that equipment, regardless of where the actual billing invoice is sent. Under the provisions of the SSTA that were adopted into state law in 2003, the sourcing of tax related to telephone service depends on whether the service is wireline, mobile, prepaid, or postpaid, and whether the service is sold on a call-by-call basis or not. Depending on these factors, the tax is sourced either to the jurisdiction where the call originates; where the call terminates; the business location of the seller; the customer's place of primary use; the location of the purchaser; the origination point of the telecommunications signal; or from where the service was provided or property shipped.

Summary: The 2003 legislation that implements the uniform definition and administrative provisions of the SSTA is amended to restore the exempt status under the retail sales and use tax of a number of medical items, including:

- Prosthetics prescribed by dentists, audiologists, ophthalmologists, opticians, and optometrists;
- Food and food ingredients prescribed by naturopaths;
- Insulin and osmotic items sold over-the-counter;
- Nebulizers;
- Parts and services to repair, clean, alter, or improve kidney dialysis machines.

A prescription for items or drugs that are exempt must be prescribed by a person whose license authorizes him or her to prescribe the item or drugs.

Sales and use tax exemptions are restored for certain foods. Bakery items sold in a heated state are exempt. Food sold by manufacturers at retail is exempt. The exemptions are made retroactive to January 1, 2004.

The SSTA deduction for bad debts using 2003 IRC standards is adopted under the use tax. The bad debt deduction provisions in the B&O tax, the PUT, and the E-911 tax are conformed to the SSTA bad debt deduction.

Retail sales for a telephone business for B&O tax purposes are sourced according to the method under the SSTA for sales tax purposes.

If a purchaser has notified a seller about over-collection of sales or use tax, the seller is presumed to have a reasonable business practice, if in the collection the seller uses a provider or a system certified by the state for the collection of tax, or has properly remitted to the state all taxes collected.

In the department's authorization to allow sellers to pay sales tax in a manner other than under conventional circumstances, the reference to coin receptacles is updated to refer to vending machines. Vending machines are defined to mean a machine or other mechanical device that accepts any sort of payment and then provides property or services to the purchaser.

A number of drafting errors are corrected.

Votes on Final Passage:

Senate	48	1
House	97	0

Effective: January 1, 2004 (Section 201)
July 1, 2004

SB 6518
C 75 L 04

Changing the general election ballot for the office of judge of the district court.

By Senator McCaslin.

Senate Committee on Judiciary
House Committee on State Government

Background: When a primary election is held for a nonpartisan office, the names of the candidates who placed first and second appear on the general election ballot in the order in which they placed during the primary election. If, during the primary election for the office of Justice of the Supreme Court, Judge of the Court of Appeals, Judge of the Superior Court, or Superintendent of Public Instruction, a candidate receives a majority of the votes cast, only the name of that candidate is printed on the general election ballot.

Summary: If, during the primary election for the office of Judge of the District Court, a candidate receives a majority of the votes cast, only the name of that candidate is printed on the general election ballot.

Votes on Final Passage:

Senate	44	3
House	95	0

Effective: July 1, 2004

SSB 6527
C 123 L 04

Increasing the statutory rate for attorney fees.

By Senate Committee on Judiciary (originally sponsored by Senators Johnson, Berkey, Esser and Sheahan).

Senate Committee on Judiciary
House Committee on Judiciary

Background: The prevailing party in a lawsuit is entitled to recover the costs of suit. "Costs" include filing and service fees and a statutory attorney's fee of \$125. For cases in superior court, the Court of Appeals or the Supreme Court, the statutory attorney's fee has not been adjusted since 1985. For district courts, the statutory attorney's fee was raised from \$50 to \$125 in 1993.

Summary: For cases in district court, superior court, the Court of Appeals or the Supreme Court, the statutory attorney's fee is raised from \$125 to \$200. If a district court judgment is over \$50, but less than \$200, the statutory attorney's fee remains at \$125.

Votes on Final Passage:

Senate	48	0
House	96	0

Effective: June 10, 2004

SSB 6534
C 208 L 04

Designating processes and siting of industrial land banks.

By Senate Committee on Land Use & Planning (originally sponsored by Senators Hargrove and Mulliken).

Senate Committee on Land Use & Planning
House Committee on Local Government

Background: For a limited time, certain counties meeting specified population, geographic, and unemployment criteria are authorized to designate a bank of no more than two master planned locations outside of an urban growth area (UGA) that is suitable for major industrial development. Major industrial developments include manufacturing or industrial businesses that:

- require a parcel of land so large no suitable parcels are available within the UGA;
- are natural resource-based industries requiring a location near resource land upon which they are dependent; or

- require a location with characteristics such as proximity to transportation facilities or related industries such that there is no suitable location in an UGA. The bank may not be for retail commercial development or multi-tenant office parks.

The following criteria must be met prior to including a master planned location within an industrial land bank:

- provision for new infrastructure or payment of impact fees;
- implementation of transit-oriented site planning and traffic demand management programs;
- buffering between the development and adjacent nonurban areas;
- provision of environmental protection, including air and water quality;
- establishment of development regulations to ensure urban growth will not occur in adjacent nonurban areas;
- mitigation of adverse impacts on resource lands;
- consistency of the development plan with critical areas regulations;
- preparation of an inventory determining land suitable to site the location is unavailable within the UGA;
- establishment of an interlocal agreement regarding infrastructure cost and revenue sharing between the county and interested cities;
- provisions for determining alternative sites within UGAs and the long-term annexation feasibility of sites outside UGAs; and
- establishment of development regulations that limit commercial and service businesses to a maximum of 10 percent of the total gross floor area of facilities within an industrial land bank.

Inclusion of a master planned location within an industrial land bank is considered an amendment to a county's comprehensive plan.

Summary: The requirements for including master planned locations within industrial land banks and for siting specific development projects are separated so that designation of master planned locations may occur during the comprehensive planning process before a specific development project has been proposed.

Some of the current criteria for designating a master planned location within an industrial land bank may be delayed until the process for siting specific development projects within a land bank occurs. The following requirements must be met during the process for reviewing and approving proposals to authorize siting of specific major industrial development projects within an approved industrial land bank:

- new infrastructure is provided for and/or applicable impact fees are paid;
- transit-oriented site planning and traffic demand management programs are implemented;

- buffers are provided between the adjacent nonurban areas;
- environmental protections have been addressed and provided for;
- provision is made to mitigate adverse impacts on designated agricultural, forest, and mineral resource lands; and
- an interlocal agreement related to infrastructure cost and revenue sharing between the county and interested cities is established.

Designating master planned locations within an industrial land bank is considered an adopted amendment to a comprehensive plan, and approval of a specific development project does not require any further amendment to a comprehensive plan.

A definition of "industrial land bank" is added, and counties are authorized to designate two land banks within one county.

Votes on Final Passage:

Senate	48	0
House	96	0

Effective: June 10, 2004

ESSB 6554
C 262 L 04

Eliminating credentialing barriers for health professions.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Franklin, Parlette, Keiser, Winsley and Thibaudeau; by request of Department of Health).

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

Background: In 2002, the Health Care Personnel Shortage Task Force examined the extent of Washington's health care personnel shortage and developed recommendations for addressing the shortage of health care workers. The task force's final report identified shortages of health care personnel in numerous fields, including nurses, medical aides, dental hygienists, billers and coders, laboratory personnel, pharmacists, physicians, and radiology technologists. Several of these health care providers are regulated by the Department of Health.

The Department of Health and the various health profession boards and commissions issue credentials to 57 types of health care providers in this state. The general qualifications that health care providers must meet are established in statute. The department and the boards and commissions are responsible for developing more specific minimum standards to determine entrance into a profession based upon these statutory requirements.

Summary: Changes are made to the licensing requirements for acupuncturists, dental hygienists, dispensing

opticians, nurses, psychologists, and respiratory care practitioners.

The clinical training provisions requiring that applicants for an acupuncture license demonstrate the completion of a combination of quarter credits, patient contacts, and treatments is eliminated and replaced with a flat 500 hours of approved clinical training.

An applicant for a dental hygienist license may obtain a temporary license. An initial limited license is valid for 18 months and renewable upon demonstration of successful passage of the examination for administering local anesthetic and nitrous oxide/oxygen analgesia. A person practicing with a renewed limited license may not place restorations, carve, contour, or adjust contacts and occlusion of the restoration. Dental hygiene students may practice dental hygiene when under the direction and supervision of instructors who are licensed dentists or dental hygienists.

Citizenship requirements for dispensing optician license applicants are eliminated.

The requirement that applicants for a nursing license provide evidence of a diploma from a school of nursing is changed to a transcript demonstrating an applicant's graduation and successful completion of a nursing program. Active licensed practical nurses who complete an approved nontraditional registered nurse program can meet their supervised clinical experience requirement by acquiring the experience: (1) under the supervision of a registered nurse preceptor with an unrestricted license, and at least two years of experience in the same type of practice setting as where the preceptorship will occur; and (2) within six months of completing the nontraditional program.

An applicant for a license to practice psychology must pass an exam; however, the requirement that there be both a written and oral exam is eliminated. The right to discuss exam performance with the Board of Psychology is eliminated. The requirement that one of the two years of supervised experience required for a license be obtained after receiving the doctoral degree is removed. A temporary practice permit may be granted to an applicant who is a member of a professional organization and holds a certificate that the Board of Psychology finds to meet the profession's standards. A license may be granted without oral examination if the applicant is a member of a professional organization and holds a certificate that the Board of Psychology finds meets the profession's standards.

An applicant for the respiratory care licensure examination must have completed an accredited respiratory program. The educational criteria required for licensure may be satisfied by meeting the educational criteria established by the National Board for Respiratory Care to sit for the National Board for Respiratory Care's advanced practitioners' exams. Alternatively, an applicant may satisfy the educational criteria if he or she has

been credentialed as a registered respiratory therapist by the national board.

Votes on Final Passage:

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

Effective: March 31, 2004 (Sections 13 and 14)
June 10, 2004

SSB 6560
C 220 L 04

Creating the crime of unlawful use of a hook.

By Senate Committee on Parks, Fish & Wildlife (originally sponsored by Senators Oke, Fraser, Swecker, Kline, Kohl-Welles, Jacobsen, Thibaudeau, Fairley and Winsley).

Senate Committee on Parks, Fish & Wildlife
House Committee on Judiciary

Background: The method of using treble hooks covered with rabbit fur to snag coyotes has been used in some states on the east coast. That practice appears to be legal in the state of Washington and does not violate the Fish and Wildlife Code. A dog was caught on one of these baited treble hooks in Olympia in 2003.

Summary: The animal cruelty statute is amended to provide that the use of a hook that pierces the flesh of a bird or mammal constitutes animal cruelty. The unlawful use of a hook is a gross misdemeanor.

Votes on Final Passage:

Senate	48	0	
House	95	0	(House amended)
Senate	49	0	(Senate concurred)

Effective: March 29, 2004

SB 6561
FULL VETO

Strengthening linkages between K-12 and higher education systems.

By Senators Carlson, McAuliffe and Kohl-Welles.

Senate Committee on Higher Education
House Committee on Education

Background: Research suggests that students are well-served by an education system that blurs the boundaries between the K-12 system and the higher education system. The term "seamless education system" has been used for a number of years. Because research also shows that citizens need more than a high school education to be successful in the economic climate of today, some believe it is imperative for students to have access to a

variety of postsecondary options while still in high school.

Washington has a number of options for students still in high school that allow them to earn both high school and college credits concurrently. The existing dual credit programs include, but are not limited to, Running Start, Tech-Prep, College in the High School, Advanced Placement, and International Baccalaureate.

Summary: The State Board for Community and Technical Colleges, the Higher Education Coordinating Board, the Council of Presidents, the Superintendent of Public Instruction, representatives from secondary school principals and school district superintendents, and the Workforce Training and Education Coordinating Board are instructed to expand and strengthen dual enrollment programs by removing barriers and creating incentives.

The expansion of dual enrollment programs on high school campuses is not intended to reduce dual enrollment programs on college campuses.

By December 15, 2004, the group reports to the education and higher education committees of the Legislature on actions taken to eliminate barriers and create incentives. The report includes actions for the Legislature to take to encourage the availability of dual enrollment and programs on high school campuses.

Votes on Final Passage:

Senate	48	0	
House	96	0	(House amended)
Senate			(Senate refused to concur)
House			(House refused to recede)
Senate	48	0	(Senate concurred)

VETO MESSAGE ON SB 6561

March 31, 2004

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Senate Bill No. 6561 entitled:

“AN ACT Relating to strengthening linkage between K-12 and higher education systems;”

This bill would have directed the State Board for Community and Technical Colleges, the Higher Education Coordinating Board, the Council of Presidents, the Workforce Training and Education Coordinating Board, the Superintendent of Public Instruction, public school secondary principals, and public school district superintendents to strengthen and expand dual enrollment programs on high school campuses.

I strongly agree with the intent of this bill. However, Substitute House Bill No. 3103 provides ample direction to the appropriate state boards and agencies with regard to expanding dual enrollment options for students.

The Superintendent of Public Instruction, the State Board for Community and Technical Colleges, and the Higher Education Coordinating Board are responsible for implementing dual enrollment programs on high school campuses. I intend to work with these agencies to create incentives to offer these programs and remove barriers that inhibit their availability. A report on the results of these efforts will be submitted to the Legislature by December 15, 2004.

For these reasons, I have vetoed Senate Bill No. 6561 in its entirety.

Respectfully submitted,



Gary Locke
Governor

SSB 6568

C 150 L 04

Directing the institute for public policy to develop a proposal for establishing a Washington state women's history center or information network.

By Senate Committee on Higher Education (originally sponsored by Senators Fraser, Winsley, Kline, Kohl-Welles, Jacobsen, B. Sheldon, Spanel, Keiser, Franklin and Thibaudeau).

Senate Committee on Higher Education
House Committee on Higher Education

Background: According to some people, the state of Washington is recognized as a bellwether state with regard to its efforts to achieve substantial improvements in legal rights and opportunities for women and girls. It is believed there has been no systematic effort to compile this landmark history.

Summary: The Washington State Institute for Public Policy undertakes a study and makes recommendations to the 2005 Legislature for the development of a center or an information network to achieve the following: (1) a systematic approach to collect, preserve, maintain, and provide public access to historically valuable records and artifacts of women's history in Washington, (2) a general outline of where these records and artifacts are located and may be accessed, (3) a method for encouraging citizens with historically significant items to preserve them and make them accessible, (4) programs and displays that can tour throughout the state, (5) a way to make material available to the K-12 and higher education systems, (6) promotion of a collection of oral histories, (7) research collection about women's history, and (8) private donations of funds as well as loans or donations of records and artifacts.

The Institute may create an advisory committee or in other ways consult with interested parties that are enumerated.

Votes on Final Passage:

Senate	48	1
House	95	1

Effective: June 10, 2004

SSB 6575

C 214 L 04

Concerning use classifications for irrigation district conveyance and drainage facilities.

By Senate Committee on Natural Resources, Energy & Water (originally sponsored by Senators Honeyford and Sheahan).

Senate Committee on Natural Resources, Energy & Water

House Committee on Agriculture & Natural Resources

House Committee on Appropriations

Background: The Department of Ecology designates "uses" for each water body in the state. Uses include items such as swimming, fishing, aquatic life habitat, and agricultural and domestic water supplies. Once the state has designated a use or uses for a water body, water quality standards designed to protect those uses must be adopted and enforced. If the set water quality standards are not met for the designated uses, the department must develop and implement a total maximum daily load analysis for waters.

A state may, under certain circumstances, remove or modify a water body's designated use. To receive Environmental Protection Agency approval for such a change, a supporting "use attainability analysis" must be performed.

"Use attainability analysis" is a structured scientific assessment of the factors affecting the attainment of a designated use in a water body. The assessment may include consideration of physical, chemical, biological and economic factors.

Summary: The Department of Ecology will, as resources allow, at the request of the United States Bureau of Reclamation and federal reclamation project irrigation districts, cooperatively conduct a use attainability analysis of water bodies located within the boundaries of the federal reclamation project.

Once the use attainability analysis has been completed, and if it shows that the designated uses of the water should be modified, then DOE must undertake rulemaking to remove or modify the water body's designated use.

The department's rules designating uses for water bodies within the federal reclamation project, consistent with federal laws and regulations, that support beneficial uses consistent with primary authorized project purposes of constructed storage and conveyance facilities. The rules must recognize the unique site-specific characteristics of the arid and semi-arid regions of the state of Washington where federal reclamation projects are located and recognize the need to deliver water and the associated activities necessary to operate the project's facilities.

Votes on Final Passage:

Senate	49	0	
House	96	0	(House amended)
Senate	46	0	(Senate concurred)

Effective: June 10, 2004

SSB 6581

C 216 L 04

Funding forest fire protection.

By Senate Committee on Natural Resources, Energy & Water (originally sponsored by Senator Hargrove).

Senate Committee on Natural Resources, Energy & Water

House Committee on Agriculture & Natural Resources

Background: Owners of forest land are required to adequately protect against the spread of fire from or onto their property during the fire season. The Department of Natural Resources (DNR) provides fire protection for forest landowners who are unable to provide their own fire protection and imposes an assessment to cover these costs.

Owners of multiple parcels of forest land located within the same county may apply to DNR for a refund of a portion of the fire protection assessment paid. These owners may submit to DNR a single application listing the parcels owned. The county must bill the forest fire protection assessment on the one parcel identified by the department for collection of the assessment.

Property owners with the following number of parcels may apply for a single assessment in the year indicated:

<u>Year</u>	<u>Number of Parcels</u>
2004	6 or more parcels
2005	4 or more parcels
2006 and thereafter	2 or more parcels

Summary: Property owners with six or more parcels of forest land located within the same county may apply for a single assessment in 2004 and thereafter. Owners of fewer than six parcels may not seek a single assessment.

Votes on Final Passage:

Senate	48	0
House	96	0

Effective: June 10, 2004

SSB 6584

C 62 L 04

Modifying liquor licensing provisions.

By Senate Committee on Commerce & Trade (originally sponsored by Senators Hewitt, McAuliffe, Honeyford and Eide).

Senate Committee on Commerce & Trade
House Committee on Commerce & Labor

Background: Under current law, generally, no manufacturer, importer or distributor of liquor, or other person financially interested in the business may have any financial interest in any licensed retail business.

Spirits, beer and wine restaurants and beer and/or wine restaurants can apply for a caterer's endorsement. This endorsement allows the establishment to remove the types of alcohol it has approval to sell on premises for services at events held by a nonprofit society or organization or private events held by invitation only.

Summary: A restaurant licensee with a caterer's endorsement may operate on the premises of a domestic winery. Licensees that hold a caterer's endorsement may use this endorsement on a domestic winery premises if (a) agreements between the winery and the licensee are in writing, contain no exclusivity clauses regarding the liquor to be served and are filed with the Liquor Control Board; and (b) the winery and licensee are separately contracted and compensated for their service by people sponsoring the event.

Votes on Final Passage:

Senate	48	0
House	94	1

Effective: June 10, 2004

SB 6586

C 67 L 04

Concerning electrical work on boilers.

By Senators Honeyford and Prentice.

Senate Committee on Commerce & Trade
House Committee on Commerce & Labor

Background: The Board of Boiler Rules (Boiler Board) advises the Department of Labor and Industries (L&I) on the regulation and inspection of boilers and unfired pressure vessels. The scope of these regulations does not extend to most electrical work on boilers.

The Electrical Board advises L&I regarding rules governing electrical installations and standards. These rules require electrical permits and inspections for all new boiler installations and major conversions of boiler systems. Although most routine electrical maintenance work on boilers is exempt from these permitting and inspection requirements, such work must be performed

only by licensed electrical contractors and certified electricians.

Chapter 399, Laws of 2003 provided that, until July 1, 2004, L&I must stop enforcing the licensing, certification, inspection and permitting requirements, "as applied to maintenance work on the electrical controls of a boiler performed by an employee of a service company." That legislation also directed the Boiler Board and the Electrical Board to "jointly evaluate whether electrical licensing, certification, inspection, and permitting requirements" should apply to such maintenance work. The boards were directed to submit their joint findings and recommendations to the Legislature by December 1, 2003.

The boards jointly submitted a report containing findings, but it contains no recommendations.

Summary: The July 1, 2004, ending date of the enforcement moratorium is postponed to July 1, 2005. The boards are redirected to report their joint findings and recommendations on the issues posed to them by December 1, 2004.

Votes on Final Passage:

Senate	48	0
House	95	0

Effective: June 10, 2004

SB 6593

C 256 L 04

Prohibiting discrimination against consumers' choices in housing.

By Senators Prentice, Carlson, Keiser, T. Sheldon and Winsley.

Senate Committee on Financial Services, Insurance & Housing

House Committee on Local Government

Background: Federal law preempts state regulation of manufactured housing. Washington State's uniform building code is equivalent to the federal code.

Summary: No city, town, code city, or county may enact any statute or ordinance that directly or indirectly has the effect of discriminating against consumer choice in the placement or use of a home that does not apply equally to all homes. Homes built to the federal manufactured housing construction standards must be regulated in the same manner as site built homes, factory built homes, and homes built to any other state construction standard.

Cities, towns, code cities, and counties may require manufactured housing to be set on a permanent foundation that meets manufacturer standards and may require concrete or a concrete product to be put between the base of the home and the ground, be thermally equivalent to the state energy code, meet local design standards and

otherwise meet all other requirements for a designated manufactured home.

The provision subjecting a city's comprehensive plan that does not allow for the siting of manufactured homes on individual lots to a review by the city for the need and demand for such homes by December 31, 1990 is stricken. "New manufactured home" is defined.

Cities and code cities over 135,000 in population are permitted to designate their building official as the person responsible for all permits, including labor and industries permits, for alterations, remodeling, or expansion.

Votes on Final Passage:

Senate	49	0	
House	85	11	(House amended)
Senate	41	8	(Senate concurred)

Effective: July 1, 2005

ESB 6598
C 158 L 04

Regulating the provision of wholesale telecommunications services by public utility districts.

By Senators Esser, Schmidt, Mulliken, Rasmussen, Parlette and Stevens.

Senate Committee on Technology & Communications
House Committee on Technology, Telecommunications & Energy

Background: The powers of public utility districts (PUDs) and port districts are governed by statutes and a long history of court decisions. PUDs are expressly authorized, among other things, to provide electricity, water, and sewer service. They have additional incidental and implied authorities that are necessary for accomplishing their primary purposes.

A law passed in 2000 authorizes PUDs and rural port districts, which were in existence in 2000, to acquire and operate telecommunications facilities for their own internal telecommunications needs and to provide wholesale telecommunications services within their district limits. PUDs are also allowed to provide wholesale services to other PUDs by contract.

The subsections authorizing districts to provide wholesale telecommunications services include this provision: "Nothing in this subsection shall be construed to authorize public utility districts [or rural port districts] to provide telecommunications services to end users." The term "end user" is not defined in statute. In 2001, Attorney General Opinion No. 3 concluded that "end user" means "retail customer," and that a PUD or rural port district may not use an interlocal agreement to sell or lease telecommunications facilities or services to other public agencies.

In addition to authorizing wholesale telecommunications services, the 2000 law requires PUDs and rural port districts to ensure their rates, terms, and conditions on wholesale services are not unduly or unreasonably discriminatory or preferential. Furthermore, districts must keep separate accountings of revenues and expenditures for their wholesale telecommunications activities when they establish a separate utility function to provide wholesale telecommunications services. Revenues from the wholesale activities must be used to pay off the costs incurred in building and maintaining the telecommunications facilities.

Districts must charge themselves the true and full value of telecommunications services provided by their separate telecommunications functions to the district. PUDs and rural port districts may not exercise powers of eminent domain to acquire telecommunications facilities or contractual rights to such facilities. The 2000 law also establishes a process for reviewing a district's wholesale telecommunications rates, terms, and conditions by the Washington Utilities and Transportation Commission.

A savings clause was included in the 2000 law clarifying that PUDs and rural port districts may exercise any of the powers granted to them under their current enabling statutes and other applicable law, and that nothing in the 2000 law limits any existing legal authority of the districts.

The Governor vetoed two provisions in the 2000 law: (1) a process for public review of a PUD or rural port district's plans for wholesale telecommunications projects; and (2) a requirement that PUDs and rural port districts providing wholesale telecommunications services report biennially to the Legislature on their activities.

Summary: A PUD providing wholesale telecommunications services is not required to establish a separate utility system or function. But a PUD providing wholesale telecommunication services must separately account for any revenues and expenditures for the services according to standards established by the State Auditor. The accounting standards must be consistent with the provisions of Title 54 RCW, establishing PUD powers and duties.

Under conditions set forth in the existing law, a PUD's revenues from the provision of wholesale telecommunications services must be dedicated to the costs incurred to build and maintain any telecommunications facilities constructed, installed, or acquired to provide the services.

When a PUD provides wholesale telecommunications services, all telecommunications services rendered to the district for the district's internal telecommunications needs must be allocated or charged at their true and full value.

Votes on Final Passage:

Senate 47 0
House 96 0

Effective: June 10, 2004

2SSB 6599**PARTIAL VETO**

C 272 L 04

Monitoring cholinesterase.

By Senate Committee on Ways & Means (originally sponsored by Senators Honeyford, Swecker, Parlette, Haugen, Sheahan and Rasmussen).

Senate Committee on Agriculture
Senate Committee on Ways & Means
House Committee on Commerce & Labor

Background: The Department of Labor and Industries (L&I) has adopted a new regulation that requires agricultural employers to provide blood testing for workers who handle toxicity class I or II organophosphate or N-methyl-carbamate pesticides. L&I began this rule-making last year as the result of a Washington State Supreme Court decision (*Rios v. L&I*). The rule was adopted December 3 and became effective February 1, 2004. The rule generally requires certain agricultural employers to evaluate their pesticide worker protection program and make preventative corrections if significant cholinesterase depression is identified in an employee.

Cholinesterase is a human enzyme that serves as the nervous system's "off switch." It is essential to normal nervous system function. Exposure to organophosphate or N-methyl-carbamate pesticides may reduce the activity of cholinesterase. The purpose for monitoring cholinesterase levels in the blood is to detect cholinesterase depression prior to the onset of serious illness.

The rule requires employers of agricultural pesticide handlers who use covered pesticides to: record the number of hours employees handle these pesticides; implement a medical monitoring program for workers who could meet or exceed the handling threshold of 50 or more hours in any consecutive 30-day period in 2004; identify a medical provider for medical monitoring services; make baseline and periodic cholinesterase testing available to employees who could meet or exceed the handling threshold; investigate work practices when a handler's red blood cell (RBC) or plasma cholinesterase level drops more than 20 percent below the employee's personal baseline; remove employees from handling and other exposures to organophosphate and N-methyl-carbamate pesticides when recommended by the health care provider; provide training to covered employees; and maintain medical monitoring and other records for seven years.

With input from stakeholder and science advisory groups, L&I will analyze the 2004 data and determine whether the rule's default change—from a 50 hour per month testing threshold in 2004 to a 30 hour per month testing threshold in 2005—is warranted.

Summary: Employers are required to submit monthly records to L&I indicating the name of each worker tested for cholinesterase depression and the number of hours handling covered pesticides over both the past 30 days and the current calendar year. L&I and the Department of Health must work together to correlate data on hours exposed and employee test results.

Beginning no later than January 1, 2005, L&I must require employers to report this data to the appropriate health care professional and laboratory when each employee's cholinesterase test is taken. Employers must provide a tested employee with access to and copies of specified reports and records upon request.

L&I must make reasonable reimbursements on a quarterly basis as specified in the 2003-05 operating budget.

L&I must report results to appropriate legislative committees and identify technical issues regarding cholinesterase testing or administration.

Votes on Final Passage:

Senate 30 19
House 95 0 (House amended)
Senate 49 0 (Senate concurred)

Effective: April 1, 2004

Partial Veto Summary: The veto of section 3 removes the requirement that L&I reimburse agricultural employers on a quarterly basis. This gives L&I flexibility in setting the reimbursement schedule. Section 214 of the 2004 supplemental operating budget (ESHB 2459) includes appropriations to cover testing and data management costs and to reimburse employers for training, travel, and record-keeping costs related to compliance with the cholinesterase monitoring rule.

VETO MESSAGE ON SB 6599-S2

April 1, 2004

*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, Second Substitute Senate Bill No. 6599 entitled:

“AN ACT Relating to required elements of cholinesterase monitoring programs for certain pesticide handlers;”

Second Substitute Senate Bill No. 6599 requires the Department of Labor and Industries to collect, correlate, and analyze certain data related to cholinesterase tests.

Section 3 would have required the department to make reasonable reimbursements on a quarterly basis as specified in the operating budget. This section refers to an appropriation in the operating budget that is to be used to reimburse agricultural employers for training, travel, and record-keeping costs related to complying with the cholinesterase monitoring rule.

In order to directly reimburse employers, the department will have to create a new payment system. Section 3 dictates how the

department should reimburse employers, thus limiting the agency's flexibility on the design of the new system. The agency may decide that it is more practical to reimburse monthly, biannually or annually. In any case, the department should have the flexibility to make this decision.

For these reasons, I have vetoed section 3 of Second Substitute Senate Bill No. 6599.

With the exception of section 3, Second Substitute Senate Bill No. 6599 is approved.

Respectfully submitted,

Gary Locke
Governor

SSB 6600
C 257 L 04

Revising construction liability provisions.

By Senate Committee on Judiciary (originally sponsored by Senators Brandland, T. Sheldon, Hale, Stevens and Murray).

Senate Committee on Judiciary
House Committee on Judiciary

Background: Under current industrial insurance law, if a third person, working for a separate employer, is or may become liable to pay damages for a worker's injury, the worker may elect to seek damages from the third person. An exception to the ability to elect to seek damages from a third party exists for design professionals and their employees. An injured worker or beneficiary may not seek damages against third party design professionals or their employees who have been retained to perform professional services on a construction project, unless responsibility for safety practices is specifically assumed by contract or the design professional actually exercised control over the portion of the premises where the worker was injured. This immunity does not apply to the negligent preparation of design plans and specifications.

Summary: There is a six-year statute of limitations for all claims or causes of action of any kind against any person, arising from the person having constructed, altered or repaired any improvement upon real property, or having performed or furnished any design, planning, surveying, architectural or construction or engineering services, or supervision or observation of construction, or administration of construction contracts for any construction, alteration or repair of any improvement upon real property. This applies only to persons having performed work for which the persons must be registered or licensed as architects, contractors, engineers, surveyors, landscape architects, or electricians.

Votes on Final Passage:

Senate 48 0
House 83 13

Effective: June 10, 2004

SSB 6601
C 139 L 04

Limiting obesity lawsuits.

By Senate Committee on Judiciary (originally sponsored by Senators Brandland, T. Sheldon, Stevens, Roach, Murray and Oke).

Senate Committee on Judiciary
House Committee on Judiciary

Background: There have been a number of high profile cases in which plaintiffs have sued fast food distributors for obesity-related health problems. None of the plaintiffs have yet to prevail.

Summary: Manufacturers, packers, distributors, carriers, holders, sellers, marketers, or advertisers of food or alcoholic beverages are not subject to liability actions by a private party arising out of weight gain, obesity, or any associated health condition caused by or the result of long-term purchase or consumption of food.

Votes on Final Passage:

Senate 41 8
House 95 1 (House amended)
Senate 48 0 (Senate concurred)

Effective: June 10, 2004

SB 6614
C 250 L 04

Removing the damages floor for unauthorized impounds.

By Senators Poulsen, Murray, Hewitt, Sheahan and Brown.

Senate Committee on Highways & Transportation
House Committee on Transportation

Background: Under current law, if a person believes that his or her vehicle has been impounded in violation of state law, he or she has a right to a hearing in district or municipal court to contest the impoundment. If the court rules the impoundment to be improper, the registered and legal owners of the vehicle do not have to pay the cost for impoundment, towing, or storage fees. The person or agency who authorized the impoundment is liable for the impoundment, towing, and storage fees. In addition, the court shall enter judgment in favor of the registered and legal owners of the vehicle for the amount of the filing fee, as well as reasonable damages for loss of the use of the vehicle during the time the vehicle was

impounded, for not less than \$50 a day, against the person or agency authorizing the impound.

Summary: The \$50 a day minimum is removed from a court judgment for loss of use of the vehicle during an improper impound.

Votes on Final Passage:

Senate	48	0	
House	92	3	(House amended)
Senate			(Senate refused to concur)
House	92	5	(House receded)

Effective: June 10, 2004

SSB 6615

C 258 L 04

Encouraging employment of workers with developmental disabilities.

By Senate Committee on Commerce & Trade (originally sponsored by Senators Honeyford, Mulliken, Rasmussen and Prentice).

Senate Committee on Commerce & Trade
House Committee on Commerce & Labor

Background: To encourage employment of injured workers, an employer who hires an injured worker, who is not rehired by the employer in whose employ the worker was injured, shall be excused from paying workers' compensation premiums for that "preferred worker" under certain circumstances. The employer who hires the preferred worker is excused from paying premiums during the worker's employ but not to exceed 36 months.

Summary: The preferred worker status is provided to employers of developmentally disabled persons who have suffered a workplace injury. This status is provided even though the employer in whose employ the worker was injured continued to employ the developmentally disabled worker.

Votes on Final Passage:

Senate	48	0
House	96	0

Effective: June 10, 2004

SSB 6636

FULL VETO

Developing a policy on the disposal of animals.

By Senate Committee on Agriculture (originally sponsored by Senators Rasmussen, Swecker, Jacobsen, Brandland, Doumit, Fairley, Kohl-Welles, Eide, Fraser, Regala, Shin, Prentice, Honeyford, Kline, Thibaudeau, Poulsen, Spanel, Franklin, Keiser, Winsley, Oke and Esser).

Senate Committee on Agriculture
House Committee on Agriculture & Natural Resources
House Committee on Appropriations

Background: On December 23, the United States Department of Agriculture (USDA) announced that one cow imported from Canada tested positive to the Bovine Spongiform Encephalopathy (BSE) test. On January 12, 2004, the USDA announced the adoption of BSE rules that prevent nonambulatory disabled cattle from being slaughtered for human consumption. The ban applies only to cattle and not other species of livestock. According to the federal register, the rationale for the ban is that in Europe there was a higher incidence of BSE found in nonambulatory cattle.

On January 26, 2004, the United States Department of Health and Human Services (USHHS) announced a ban on any material from downer cattle and cattle that die on the farm from FDA-regulated human food (including dietary supplements) and cosmetics. This generally applies to rendered products to further strengthen safeguards from exposure to BSE. Rules adopted by USDA and USHHS are interim final rules that went into effect immediately and the agencies are receiving written public comment prior to the adoption of permanent rules.

The Department of Ecology regulates landfills and has evaluated whether particular landfills are suitably equipped for disposal of animals including those that may be diseased.

Down and dead animals that may no longer be slaughtered or rendered and are not deposited in a landfill are subject to a rule adopted by the State Board of Health and also a state statute. The rule, WAC 246-203-120(3), requires any dead animal to be removed and disposed of by burial, incineration, or other proper method within 24 hours, covered by at least two feet of earth, and located at least 100 feet from a well, spring, stream or other surface water. If the animal's death resulted from a communicable disease, it is to be enveloped in unslaked lime.

RCW 16.68.020 requires any diseased animal to be immediately buried at least three feet deep. Local health jurisdictions may have additional regulations for onsite disposal of animals that apply in their jurisdiction.

There are several forms of transmissible spongiform encephalopathies, including chronic wasting disease, that affect deer, bovine spongiform encephalopathy that affects cattle, and scrapie that affect sheep and goats. All are caused by misshaped prions that are difficult to destroy by conventional means. According to USDA estimates, there are between 150,000 and 200,000 non-ambulatory cattle in the nation each year.

Additionally, state legislation is being considered to ban the trade in live non-ambulatory livestock and require animals to be humanely euthanized prior to transport.

Summary: An interagency work group must be formed by the Department of Health, the Department of Agriculture, and the Department of Ecology to develop a comprehensive policy on disposing of animal carcasses that protects other animals and humans. The work group is to seek the involvement of local health departments, other state and federal agencies that have an interest or expertise in the issue, university scientists, meat processors, animal feeding operations, and affected constituency groups.

The work group must review existing rules for their adequacy in protecting the public health and animal health from possible transmission of diseases including various forms of transmissible spongiform encephalopathies. The possible vectors of disease transmission must be examined including air, land, water, birds, and scavengers.

The review must include an evaluation of existing and proposed federal regulations and draft technical guides. The state policy may include references to federal regulations and guidance documents. The group shall strive for a high degree of consistency between jurisdictions. Also, the work group shall review existing laws for on-site disposal of animals. The work group must include an education component that will inform animal owners and the public how to comply with the state policy and associated rules.

The work group must report to the Legislature any statutes that need to be amended to carry out the comprehensive state policy. A report to the Legislature is required by December 17, 2004 and December 16, 2005 that summarizes the actions, findings, and recommendations of the work group. The work group expires on December 30, 2005.

Until December 30, 2005, the Department of Agriculture may adopt emergency rules for the disposal of carcasses of diseased animals, which may be supplemental to or contrary to RCW 16.68.020.

The bill is null and void if specific funding is not provided in the supplemental appropriations bill.

Votes on Final Passage:

Senate	49	0	
House	94	0	(House amended)
Senate	47	0	(Senate concurred)

VETO MESSAGE ON SB 6636-S

March 29, 2004

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 No. 6636 entitled:

“AN ACT Relating to the disposal of animals;”

This bill would have created an interagency work group charged with developing a comprehensive state policy on proper methods for disposing of diseased animal carcasses. It also authorized the Department of Agriculture to issue emergency rules for the disposal of diseased animal carcasses.

Since the Bovine Spongiform Encephalopathy (BSE) incident in our state last December, our Departments of Agriculture, Ecology, and Health have worked closely together responding to the event, working with federal agencies, local governments, and affected stakeholders. These agencies have already undertaken an evaluation of the incident with a particular focus on disposal. The agencies will be providing me with a report on their findings and recommendations for any necessary changes.

Sections 2 and 3 of the bill would have provided the Department of Agriculture emergency rulemaking authority for rules relating to the disposal of diseased animal carcasses. RCW 16.68.170 currently authorizes the Department to write rules relating to the disposal of diseased animal carcasses. RCW 16.36.040 also gives the director authority to adopt rules relating to the prevention of the spread of infectious animal diseases. In both cases, the director may promulgate emergency rules as provided by RCW 34.05.350.

Finally, the Legislature failed to provide specific funding for the purposes of this bill.

For these reasons, I have vetoed Substitute Senate Bill No. 6636 in its entirety.

Respectfully submitted,



Gary Locke
Governor

SSB 6641
C 226 L 04

Reducing the risk of oil spills and spill damage.

By Senate Committee on Natural Resources, Energy & Water (originally sponsored by Senators B. Sheldon, Oke, Spanel, Carlson, Fraser, Shin, Regala, Winsley, Kohl-Welles, Poulsen, Kline, Fairley, Jacobsen, Prentice, Haugen, Berkey, Brown, McAuliffe, Franklin, Rasmussen and Keiser).

Senate Committee on Natural Resources, Energy & Water

House Committee on Fisheries, Ecology & Parks
House Committee on Appropriations

Background: The Legislature enacted oil spill prevention and response measures in 1991 to promote the safety of marine transportation and protect state waters from oil spills. The director of the Department of Ecology (DOE) has the primary authority to oversee prevention, abatement, response, containment, and cleanup efforts for oil

ESSB 6642

C 147 L 04

spills in state waters. The oil spill program requires oil spill prevention plans, contingency response plans, and documentation of financial responsibility for vessels and facilities that may discharge oil into navigable waters.

Owners and operators of onshore and offshore facilities must prepare and submit oil spill contingency and prevention plans. The plans are valid for five years and may be combined into a single document. Facilities may opt to submit contingency plans for tank vessels unloading at the facility.

Persons or facilities conducting ship refueling and bunkering, or lightering of petroleum products, are required to have containment and recovery equipment readily available according to standards adopted by DOE. In addition, any person or facility transferring oil between an onshore or offshore facility and a tank vessel are also required to have containment and recovery equipment readily available. DOE has rule-making authority to adopt standards for the circumstances under which containment equipment should be deployed.

Summary: The primary objective of the state oil spill program is to adopt a zero spills strategy and prevent the release of oil or hazardous substances from entering marine waters.

DOE's statewide plan must include a process for notifying tribes of any oil spill.

DOE must, by June 30, 2006, adopt rules for directing when a boom should be deployed. The rules apply to any person or facility conducting ship refueling and bunkering, or the lightering of petroleum products. The DOE rules must be suitable to the environmental and operational conditions of the facilities and the U.S. Coast Guard must be consulted when the rules are developed. DOE may require additional alternative oil prevention methods such as automatic shutoff devices and alarms, extra personnel or additional containment equipment.

DOE is directed to work with stakeholders to develop a report describing fueling practices and regulations for covered vessels and ships, and report recommendations and findings to the Legislature by December 15, 2004. The report must describe the current federal and state spill prevention and response requirements and recommendations for any new authorities necessary to establish a protective regulatory system for fueling ships.

Votes on Final Passage:

Senate	49	0	
House	96	0	(House amended)
Senate	49	0	(Senate concurred)

Effective: June 10, 2004 (except for Sections 5 and 6, which are null and void, since they were not referenced in the omnibus transportation appropriations act)

Ordering case conferences following shelter care hearings.

By Senate Committee on Children & Family Services & Corrections (originally sponsored by Senators Stevens, Hargrove, Schmidt, Carlson, Mulliken, Hewitt, Roach and McAuliffe).

Senate Committee on Children & Family Services & Corrections

House Committee on Children & Family Services

House Committee on Appropriations

Background: Current law allows parents in a dependency action to request that the Department of Social and Health Services facilitate a meeting of the parties. The purpose of the conference is for the department and the parents to discuss their expectations regarding the care and placement of the child. Concerns have been expressed that such conferences rarely occur, either because parents are not aware of them, or because they are not deemed to be helpful.

Summary: A case conference must be convened no later than 30 days prior to the fact-finding hearing.

A written service agreement must be created which establishes voluntary services for the parent.

The participants in the case conference are specifically limited to include only the parties, their counsel and other persons agreed upon by the parties.

A shelter care order must include a provision establishing a case conference unless the parent is not present at the shelter care hearing or does not agree to the case conference.

Notice of the case conference is provided in the shelter care order.

The court is permitted to order a conference or meeting as an alternative to the case conference so long as the ordered conference includes the requirements of the case conference, including a written agreement establishing the services to be provided to the parent.

The bill is null and void unless funded in the omnibus appropriations act.

Votes on Final Passage:

Senate	48	0	
House	96	0	(House amended)
Senate	42	0	(Senate concurred)

Effective: July 1, 2004

SB 6643
C 146 L 04

Providing guidelines for family visitation for dependent children.

By Senators Stevens, Hargrove, Schmidt and Carlson.

Senate Committee on Children & Family Services & Corrections

House Committee on Children & Family Services

Background: The 2001 Legislature requested the Chair of the Washington State Office of Public Defense Advisory Committee to appoint a committee to examine specific problem areas in dependency and termination cases. These included court continuances, the appointment of experts, and parents' access to services.

The Dependency and Termination Equal Justice Committee (DTEJ), chaired by Justice Bobbe Bridge, consisted of a multi-disciplinary group of judges, legislators, Department of Social and Health Services representatives, an assistant attorney general, parents' attorneys, court administrators, a county commissioner, and other professionals involved in dependency and termination cases.

Five statewide surveys were conducted and reviewed. Based on the survey results, the extensive experience of its membership, and other information, the DTEJ Committee adopted recommendations to address the areas identified by the Legislature. These recommendations were published in a report in December 2003 and addressed issues relating to caseload, evaluators, services, visitation, family drug courts and parents' representation.

Current law does not prohibit courts from limiting parent-child visitation as a sanction for failure to comply with court directives.

Summary: Visitation is the right of the family, including the child and the parent, in cases in which visitation is in the best interest of the child.

The agency charged with a child's care shall encourage the maximum parent and child and sibling contact possible when it is in the best interest of the child.

Reliance upon specified resources to provide transportation and supervision for visitation is limited to the extent that those resources are available, and appropriate, and the child's safety would not be compromised.

The court may order expert evaluations of parties regarding visitation or other issues in a case by appointed evaluators who are mutually agreed upon. If no agreement can be reached, the court selects the expert evaluator.

The Department of Social and Health Services (DSHS) must develop consistent visitation policies and protocols, to be implemented consistently throughout the state. DSHS must develop the policies and protocols with researchers, community-based agencies, court-

appointed special advocates, parents' representatives, and court representatives. The policies and protocols must include the structure and quality of visitations, training, visitation supervisors, and foster parents and visitation. The policies and protocols must also be consistent with the provisions of Chapter 13.34 RCW and implementation of the policies and protocols shall be consistent with relevant orders of the court.

DSHS must report on the policies and protocols concerning visitation for dependent children to the appropriate committees of the Legislature by January 1, 2005.

Votes on Final Passage:

Senate	49	0	
House	94	0	(House amended)
Senate	42	0	(Senate concurred)

Effective: June 10, 2004

SSB 6649
C 137 L 04

Retaining fees for mobile/manufactured homes and factory built housing and commercial structures.

By Senate Committee on Financial Services, Insurance & Housing (originally sponsored by Senators Benton, Keiser, Berkey and Winsley; by request of Department of Labor & Industries).

Senate Committee on Financial Services, Insurance & Housing

House Committee on Commerce & Labor

Background: In 2001 the Legislature created a joint legislative task force to review the regulation of mobile/manufactured home alteration and repair. In 2002 the Legislature supported the task force's recommendations and encouraged the relevant agencies to conduct a pilot project to test an interagency coordinated system for processing mobile/manufactured home alteration permits. As part of implementing the pilot project, the Department of Labor and Industries was authorized to adopt a temporary statewide fee schedule, allowing the department to restructure its fees and billing process.

The temporary fee schedule decreased fees for mobile/manufactured home alteration permits and increased fees for plan review and inspection services for factory-built housing and commercial structures. These fee increases were allowed to exceed the fiscal growth factor by up to 40 percent, as necessary, to fund the cost of administering the factory-assembled structures program. Indigent permit applicants may obtain a fee waiver for mobile/manufactured home alteration permits.

On April 1, 2004, the department's authority to adopt a temporary fee schedule expires. After expiration, the department must adopt the fee schedule that was in place

prior to the temporary pilot schedule, adjusted for inflation.

Summary: The expiration date for the department's authority to adopt statewide fee schedules is extended from April 1, 2004, to April 1, 2009. Therefore, the department may continue to operate under the fee schedule system currently in use and is not required to revert back to the fee schedule that was in place prior to the temporary schedule established in 2002.

The department's authority to increase fees above the fiscal growth factor is removed.

It is clarified that the bill's purpose is not related to a pilot project and that indigent applicants may continue to obtain fee waivers for mobile/manufactured home alteration permits.

Votes on Final Passage:

Senate	48	0	
House	92	3	(House amended)
Senate	48	0	(Senate concurred)

Effective: March 31, 2004

SB 6650

C 66 L 04

Providing the department of labor and industries with the rule-making authority to address recommendations of the elevator safety advisory committee relating to the licensing of private residence conveyance work.

By Senators Keiser and Hewitt; by request of Department of Labor & Industries.

Senate Committee on Commerce & Trade
House Committee on Commerce & Labor

Background: In 2002, new licensing requirements for elevator mechanics and contractors were enacted. In 2003, those requirements were amended to exempt certain workers who are regularly employed to maintain conveyances at manufacturing, industrial, agricultural, and similar facilities. The 2003 legislation also exempted, until July 1, 2004, work on conveyances located at private residences if the work is performed at the direction of the owner, and the owner resides at the residence.

In the legislation, adopted last year, the Elevator Safety Advisory Committee was directed to review the regulation of conveyances in private residences and report its findings to the Legislature by January 1, 2004. The advisory committee made the following recommendations:

- (a) Licensing requirements should be established for work (installation, maintenance, etc.) done on conveyances at private residences, and the Department of Labor and Industries (L&I) should be authorized to establish such requirements by rule.

- (b) Maintenance work performed by the owner of a residence, or at the owner's direction, should be exempt from licensing if the owner resides in the residence and the conveyance is not accessible to the general public.

- (c) The Legislature should consider providing L&I with additional resources to more effectively ensure that owners of private residence conveyances know their legal duties.

Summary: L&I is directed to adopt rules establishing licensing requirements for work on conveyances located at private residences, with maintenance work performed by or at the direction of the owner exempt from licensing, if the owner resides in the residence, and the conveyance is not accessible to the general public. Conveyances located in or at boarding homes, adult family homes, and similarly licensed care-giving facilities are not included within this exemption. The rules are to take effect July 1, 2004.

Votes on Final Passage:

Senate	48	0
House	95	0

Effective: June 10, 2004

SSB 6655

C 160 L 04

Regulating authorized representatives of beer and wine manufacturers and distributors.

By Senate Committee on Commerce & Trade (originally sponsored by Senators Hewitt, Keiser and Rasmussen).

Senate Committee on Commerce & Trade
House Committee on Commerce & Labor

Background: Breweries and wineries outside Washington but within the United States must have a certificate of approval from the Liquor Control Board (LCB) to sell in Washington. The fee for this certificate is \$100 per year. In order to obtain a certificate, breweries and wineries agree to abide by all liquor control laws and rules, and, in addition, to submit a monthly report of sales. Certificate of approval holders, among others, must file their prices with the LCB.

Breweries and wineries outside Washington often sell through authorized representatives, or marketing agents, who purchase the beer and wine and resell it to wholesalers or distributors in Washington. There is no provision in statute for marketing agents to obtain a certificate of approval. Thus, beer and wine produced in the United States, but outside Washington, can be sold in Washington only directly by the brewery or winery.

Marketing agents may sell wine and beer produced outside the United States to an importer or distributor in Washington without a certificate of approval.

Summary: Authorized representatives for breweries and wineries outside of Washington, both within and outside of the United States, must obtain a certificate of approval from the LCB to sell beer or wine in Washington.

The LCB is directed to set the fee for a certificate of approval at an amount sufficient to cover the cost of regulating certificate of approval holders.

Various prohibitions on and requirements for manufacturers (wineries and breweries), distributors, and importers are also applied to certificate of approval holders.

Votes on Final Passage:

Senate 49 0
House 96 0 (House amended)
Senate 45 0 (Senate concurred)

Effective: January 1, 2005

SB 6663
C 253 L 04

Modifying promoters requirements for vendor tax registration.

By Senators Hewitt, Rasmussen, Honeyford, Prentice, Kastama, Doumit and Sheahan.

Senate Committee on Commerce & Trade
House Committee on Finance

Background: During the first special session of 2003, the Legislature revised certain statutory provisions relating to the duties of the Department of Revenue (DOR) in order to increase revenue. Among those provisions is a requirement that most promoters of special events (auto show, garden show, flea market, etc.) must not allow vendors to solicit retail sales at these events unless the promoter verifies that the vendors are registered with DOR. Special events that charge vendors less than \$200 to participate, charitable events, and on-going athletic contests are exempt from the verification requirement, as are promoters who only provide a venue for an event, without organizing, operating, or sponsoring the event.

A promoter subject to this verification requirement must keep records about the date and location of the event and the vendors at the event, and must provide this information to DOR on request. A promoter failing to meet these requirements is subject to penalties of \$100 for each failure to verify that a vendor has a certificate of registration from DOR; \$100 for each vendor from whom the promoter fails to collect required information; and \$250 if the information is not received by DOR within 20 days of request. The total penalty for a first-time violation cannot exceed \$2,500 per event. A promoter is not liable for a vendor's unremitted sales or B&O tax.

Summary: Promoters making a "good faith effort" to obtain required verification are deemed to comply with the act. A vendor may demonstrate a "good faith effort" by including specified language in written contracts with vendors, requiring vendors to indicate their DOR number on those contracts, and by timely providing the information requested by DOR. The retention period for maintaining the required information is one year from the date of the event.

Votes on Final Passage:

Senate 48 0
House 94 0 (House amended)
Senate 42 0 (Senate concurred)

Effective: June 10, 2004

SSB 6676
C 223 L 04

Permitting transfer of license plates.

By Senate Committee on Highways & Transportation (originally sponsored by Senators Murray, Haugen, Horn, Oke, Benton and Rasmussen; by request of Department of Licensing).

Senate Committee on Highways & Transportation
House Committee on Transportation

Background: Under current law personalized license plates may be transferred to a different vehicle. Additionally, under statute and rule, the following special license plates may be transferred to a different vehicle: medal of honor winner plates, prisoner of war plates, square dancer plates, disabled veteran plates, purple heart recipient plates, HAM and MARS (Military Affiliate Radio System) operator plates, ride share plates, collegiate plates and baseball stadium plates. A fee of \$5 is charged for transferring license plates. This fee is not collected for the transfer of medal of honor winner plates and prisoner of war plates.

General issue license plates may not be transferred to a different vehicle.

Summary: The type of license plate that may be transferred is expanded to include general issue license plates.

The fee for transferring the following types of license plates is increased to \$10: square dancer plates, baseball stadium plates, purple heart recipient plates, collegiate plates, all special license plates approved by the special license plate review board, ride share plates, HAM and MARS operator plates, personalized plates, and general issue plates.

Votes on Final Passage:

Senate 48 0
House 52 42 (House amended)
Senate (Senate refused to concur)
House 55 40 (House receded)

Effective: June 10, 2004

SSB 6688

C 48 L 04

Authorizing a special "Helping Kids Speak" license plate.

By Senate Committee on Highways & Transportation (originally sponsored by Senators Haugen, Benton, B. Sheldon, T. Sheldon, Rasmussen and Shin).

Senate Committee on Highways & Transportation
House Committee on Transportation

Background: The Special License Plate Review Board was established in 2003 and charged with reviewing special license plate applications from groups requesting the creation of a special license plate series. Upon approval, the board forwards the application to the Legislature.

On January 26, 2004, the board formally approved the Help Kids Speak special license plate application.

Summary: The Department of Licensing (DOL) must issue a special license plate displaying a symbol recognizing an organization that supports programs that provide free speech pathology services for children.

The Help Kids Speak plates are available beginning November 1, 2004.

An applicant for a Help Kids Speak license plate must pay an initial fee of \$40 and a renewal fee each year thereafter of \$30. The initial revenue generated from the plate sales must be deposited into the motor vehicle account until the state has been reimbursed for the implementation costs. Upon reimbursement, the revenue must be deposited into the Helping Kids Speak account.

DOL must enter into a contract with a qualified non-profit organization requiring that the organization use the plate revenue to provide free diagnostic and therapeutic services to families of children who suffer from a delay in language or speech development.

Votes on Final Passage:

Senate	48	0
House	96	0

Effective: June 10, 2004

ESSB 6731

C 211 L 04

Concerning standards and grades for fruits and vegetables.

By Senate Committee on Agriculture (originally sponsored by Senators Honeyford, Mulliken and Rasmussen).

Senate Committee on Agriculture
House Committee on Agriculture & Natural Resources

Background: Currently, it is mandatory that the Department of Agriculture establish grades and standards that asparagus must meet. For several other agricultural commodities, the department has discretion to establish standards. Additional flexibility is sought to assist the asparagus industry in selling product in other states.

Summary: The requirement that rules be adopted establishing standards for asparagus does not apply to asparagus shipped out of state for fresh packing.

This provision expires on December 31, 2005.

Votes on Final Passage:

Senate	48	0
House	95	0

Effective: March 29, 2004

ESB 6737

C 269 L 04

Changing provisions relating to distribution of liquor.

By Senators Hewitt and Honeyford.

Senate Committee on Commerce & Trade
House Committee on Commerce & Labor

Background: Beer and wine price postings are open for inspection to all trade buyers in the state of Washington. The postings are not considered confidential information. No price can be posted that is below the cost to acquire the beer or wine plus 10 percent.

Summary: Future beer and wine price postings are considered "investigative information" and are not subject to public disclosure prior to their effective date. The Liquor Control Board must review the postings to ensure that buyers are adhering to the rule that no beer or wine prices can be posted that are below the cost to acquire the beer or wine plus 10 percent.

Votes on Final Passage:

Senate	47	0	
House	96	0	(House amended)
Senate	45	0	(Senate concurred)

Effective: March 31, 2004

ESJM 8039

Requesting relief for military installations in Washington State from the latest round of closures under the Base Realignment and Closure process.

By Senators Shin, Jacobsen, Kastama, Thibaudeau, Berkey, Fraser, Doumit, Prentice, Horn, Kohl-Welles, Kline, Fairley, Oke, Stevens, Hale, Zarelli, T. Sheldon, B. Sheldon, Schmidt, McAuliffe, Murray, Spanel, Rasmussen, Winsley, Benton, Regala, Sheahan, Eide, Deccio and McCaslin.

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

Background: In 2002, Congress passed the National Defense Authorization Act for Fiscal Year 2002, which called for an additional round of base realignment and closure (BRAC) to occur in 2005. The previous rounds occurred in 1988, 1991, 1993, and 1995. The act requires Defense Secretary Donald Rumsfeld to compile a list of bases to be closed or realigned and submit the list to a BRAC commission by May 2005. The commission must assess the recommendations and submit to the President a report containing the commission's findings and conclusions including a list of proposed base closures and realignments. The President has 15 days to either accept or reject the commission's entire list. If approved, the list is transmitted to Congress, which has 45 days to approve or reject the entire list.

Summary: The Memorial acknowledges the strategic and economic importance of military installations in Washington State and prays that the President, Congress, and the Department of Defense recognize the strategic importance of the bases and not make them victims of the 2005 BRAC round.

Votes on Final Passage:

Senate	49	0
House	95	0

SJM 8040

Requesting funding for veterans' health care needs.

By Senators Shin, Jacobsen, Kastama, Thibaudeau, Berkey, Fraser, Doumit, Prentice, Horn, Kohl-Welles, Kline, Fairley, Oke, Stevens, Hale, Zarelli, T. Sheldon, B. Sheldon, Schmidt, McAuliffe, Keiser, Murray, Spanel, Brown, Eide, Rasmussen, Winsley and Benton.

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

Background: The veteran population in Washington numbers about 670,000. The number of veterans receiving health care through the United States Department of

Veterans Affairs ranks second to last among the states. The network for veterans' service provision that includes Washington has the largest number of veterans waiting for non-emergent clinic visits. Increasingly numbers of Washington State veterans who had previously had other arrangements for their health care must for the first time now turn to the United States Department of Veterans Affairs for their primary health care. The United States Department of Veterans Affairs Capital Asset Realignment for Enhanced Services (CARES) has not fully considered the current and future need for veterans' health care.

Summary: The Senate and House of Representatives of the State of Washington petition President Bush, the Congress of the United States, and the Secretary of the United States Department of Veterans Affairs to serve adequately the current and future demands of our state's veterans and to affirm the debt owed these veterans.

Votes on Final Passage:

Senate	49	0
House	95	0

ESJM 8050

Informing Congress of Washington's expertise in animal disease.

By Senators Sheahan and Rasmussen.

Senate Committee on Agriculture
House Committee on Agriculture & Natural Resources

Background: At a work session on January 16 updating state legislative committees on the recent positive test of a cow in Washington State with bovine spongiform encephalopathy (BSE), Washington State University (WSU) provided information on the ongoing research and the accomplishments relating to the family of diseases known as transmissible spongiform encephalopathies (TSEs).

The Washington Animal Disease Diagnostic Laboratory (WADDL) in the College of Veterinary Medicine developed the first and only currently practical live animal test for any TSE, that being for scrapie, and also defined the distribution of abnormal prions in sheep and goat scrapie. It also conducted the preliminary research for the development of what is now a commercially available diagnostic test for chronic wasting disease, which is a TSE that affects certain wildlife species including deer.

Also, WADDL collaborated with the USDA ARS Animal Disease Research Unit at WSU to develop the assay for BSE testing that has been used in Canada and the United States.

The laboratory at the College of Veterinary Medicine is a fully accredited laboratory and is one of 12 in the

national animal health laboratory network developed through homeland security.

Votes on Final Passage:

Senate	48	0
House	95	0

SSCR 8418

Creating a joint select legislative task force to evaluate permitting processes.

By Senate Committee on Natural Resources, Energy & Water (originally sponsored by Senators Berkey, Swecker, Doumit, Schmidt, Mulliken, Parlette, Keiser, Rasmussen, Haugen and Murray).

Senate Committee on Natural Resources, Energy & Water

House Committee on Local Government

Background: A legislative work group on permit processes has recommended the convening of a joint effort by the four legislative caucuses and the Governor, a "five corners task force," to improve state and local permitting processes.

Summary: A joint select legislative task force is established to make recommendations regarding permitting processes and report to the Legislature by January 1, 2006. It will address local development regulations of selected jurisdictions among the "buildable lands" counties and their cities over 50,000.

The task force is composed of the chairs and the ranking minority members of the Senate Committee on Land Use and Planning and the House Local Government Committee. It will invite the Governor to join it and form a "Five Corners Task Force."

An advisory committee is established to respond to requests of the task force and is composed of representatives of the Department of Community, Trade, and Economic Development (CTED), the Department of Ecology (Ecology), the Office of Regulatory Assistance (ORA), a county, a city, the business community, the environmental community, agriculture, labor, the property rights community, the construction industry, ports, and federally recognized Indian tribes.

Staff support is provided by Senate Committee Services and the Office of Program Research. CTED, Ecology, and ORA are invited to provide staff support.

Votes on Final Passage:

Senate	47	0
House	Adopted	(House amended)
Senate	49	0
		(Senate concurred)

SCR 8419

Creating a joint select committee on health disparities.

By Senators Franklin, Deccio, Thibaudeau, Keiser, T. Sheldon, McAuliffe and Kohl-Welles.

Senate Committee on Health & Long-Term Care

House Committee on Health Care

Background: In its final report on health disparities in 2001, the State Board of Health identified a disproportionate amount of disease and premature death in communities of color in the state. For several years, the board has made health disparities in communities of color one of its top public health priorities. Research has shown that increasing the number of people of color in the health care workforce, improving childhood intervention programs, and expanding the cultural competence of everyone who works in health care are three areas that could reduce health disparities in this state. There is interest in consolidating what is known about health disparities and providing the Legislature with recommendations.

Summary: A joint select committee on health disparities is created to identify opportunities for improving health care status and to address health disparities in communities of color. The committee includes four members of each chamber of the Legislature from committees with jurisdiction over health care and education issues. The committee must consider at least the following areas before it makes recommendations to the Legislature by November 2005: the impact of early childhood development programs, barriers to culturally and linguistically appropriate health care; ways to increase people of color in the health care workforce; the racial and ethnic composition of the health work force; and the impact of reductions in health care expenditures on communities of color, ways to increase choice of health care providers. The committee's tasks must also include how health care disparities affect women, including the impact of early childhood development programs on women's health, gender appropriate health care and health education materials; and ways to enumerate the composition of the health care workforce by gender.

Votes on Final Passage:

Senate	49	0
House	Adopted	(House amended)
Senate	47	0
		(Senate concurred)

SUNSET LEGISLATION

SUNSET LEGISLATION

There was no sunset legislation in 2004.



Bedding in transition zone between Shedroof conglomerate and Leola volcanics, Pend Oreille County.

Section II

Budget Information

Operating Budget

Capital Budget

Transportation Budget

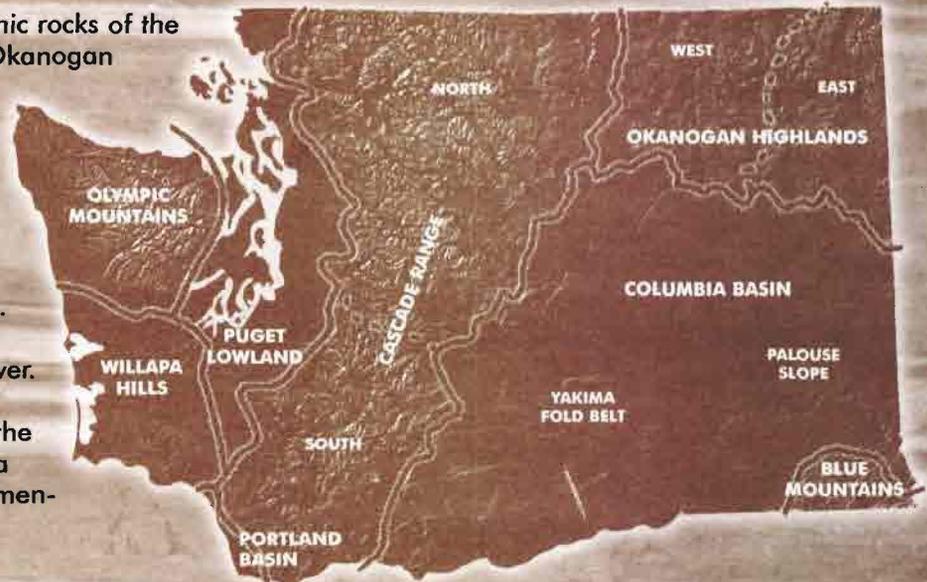
Okanogan Highlands - West, East

The Okanogan Highlands province is located east of the Cascade Range and north of the Columbia Basin and extends into Idaho and Canada. These rounded mountains reach 8,000 ft. above sea level and are scored by deep, compressed valleys.

The oldest sedimentary and metamorphic rocks of the state are found in the eastern part of the Okanogan Highlands. Some of these rocks are important sources of mineral wealth; the nation's second largest magnesium operation is located here. Dolomite and magnesite are also mined in this region.

Fossil lake beds containing Eocene era plants, insects and fish are located in the western section of the Okanogan Highlands. This is also an important mineral producing area which includes deposits of gold and silver.

At one time the Okanogan Highlands were covered by massive sheets of ice. As the ice retreated, lakes formed in the Columbia and Pend Oreille river valleys and left sedimentary deposits of sand, silt and clay.



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2004 Supplemental Budget Overview

Washington State biennial budgets authorized by the Legislature in the 2004 Session total \$55.0 billion. The omnibus operating budget accounts for \$45.5 billion. The transportation budget and the omnibus capital budget account for \$4.9 billion and \$4.6 billion, respectively.

2004 Supplemental Budget Overview – Operating Only

The Original 2003-05 Operating Budget

In 2003, the Legislature adopted the 2003-05 biennial budget, appropriating \$23.081 billion from the state general fund and addressing a total budget shortfall of \$2.7 billion. At that time, the ending fund balance was projected to be \$256 million.

At the same time, the federal government was working to enact federal fiscal relief to the states (Public Law 108-27), which promised to provide one-time relief by making cash grants to states and by increasing the portion of Medicaid costs paid by federal funds. After the budget was adopted, the one-time cash grants increased the ending fund balance by \$190 million, and it was expected that the Medicaid changes would also allow budget savings.

When the original 2003-05 budget was adopted, there was a concern that over the next year the revenue forecast could be revised significantly downward. While the June 2003 revenue forecast was down nearly \$160 million and the September 2003 forecast was down slightly, increases in the November 2003 and February 2004 revenue forecasts offset those declines.

The 2004 Supplemental Budget

The 2004 supplemental budget, as adopted by the Legislature, increased state general fund spending by \$145.5 million.¹ The net impact of lapsed appropriations and gubernatorial vetoes increased state general fund spending by an additional \$19.2 million to \$164.7 million. Including the 2004 supplemental, the total state general fund appropriation is \$23.246 billion.²

The 2004 supplemental budget assumed \$361 million in spending and revenue changes that were essentially financed from the one-time federal fiscal relief (which both reduced spending and increased resources) and fund transfers leaving an ending fund balance of \$278 million.

Two issues which were the subject of debate in the 2003 session – the extension of expiring tax credits and approval of a collective bargaining agreement for home care workers – were resolved in 2004. Certain expiring tax credits and exemptions were extended and a collective bargaining agreement for home care workers was approved.

Maintenance Level Changes

The cost of continuing state programs – the maintenance level budget – increased a net \$13 million.

The maintenance level budget recognized one-time general fund savings in fiscal year 2004 of \$110 million resulting from the federal fiscal relief legislation. The federal legislation allowed states, for a portion of fiscal year 2003 and all of fiscal year 2004, to reduce the state share of Medicaid costs.

¹ This figure includes appropriations made to implement the home care worker contract. These appropriations were contained in Chapter 278, Laws of 2004 (EHB 1777).

² The appropriation is \$11.452 billion for fiscal year 2004 and \$11.794 billion for fiscal year 2005.

2004 Supplemental Budget (ESHB 2459)

All other maintenance level changes totaled \$124 million and included increases of \$78 million for the Department of Corrections to house and supervise an increased number of offenders and \$40 million for K-12 enrollment and cost changes. Lower interest rates allowed the state to recognize debt service savings of \$14 million.

Policy Level Changes

New budget investments were made in most functional areas of the budget.

In K-12 education, the health benefit funding rate for all K-12 employees was increased (\$9 million). This sets the funding rate for K-12 employees equal to state employees. K-12 classified employees were granted a 1 percent salary increase (\$5 million) effective September 2004. Funding was also increased for a variety of other programs.

In long-term care and developmental disabilities, funding was provided to implement the negotiated home care worker contract (\$24 million) and to increase rates provided to agency providers (\$2 million), other residential care providers including nursing homes (\$13 million), and contracted case managers (\$2 million). Funding was also provided to serve an increased number of developmentally disabled clients (\$2.8 million).

Funding was also provided for several programs serving vulnerable adults and children, including homeless families (\$2 million), domestic violence shelters (\$2 million), civil legal services (\$2 million), and to improve services to foster children (\$1.7 million).

Last session, the Legislature assumed premiums would be imposed for lower-income families providing health care for children through Medicaid. The budget provided increased funding to eliminate the premium for the lowest-income children and to reduce the premium for other income levels (\$20 million, Health Services Account).

In addition, funding was increased for hospital grants (\$17 million, Health Services Account), community clinic grants (\$2.5 million, Health Services Account), the Family Practice Residency Program (\$1.9 million), and for community mental health programs (\$3 million).

Funding in higher education was increased for general enrollments (\$10 million), high-demand enrollments (\$7 million), and financial aid (\$7 million), as well as for various research programs including proteomics.

Funding was also increased for state employee health benefits (\$7 million), for financial assistance to counties (\$4 million), and for extraordinary criminal justice costs incurred by local governments (\$1 million).

Other funding increases were for items that were less discretionary in nature. The cost of fighting the 2003 forest fires was \$23.5 million more than assumed in the original budget. The budget also funds the settlement of several lawsuits filed against the state. Topics of the lawsuits included part-time community college faculty benefits (\$11 million), pollution cleanup liability (\$2 million), and contract-related litigation in Medicaid (\$1 million), as well as emission testing (\$2.5 million).

Savings were also generated in a number of areas. Additional federal funds available under the Disproportionate Share Program (\$12 million) and lower-than-expected bids for employee health benefit procurement (\$12 million) generated savings. Federal changes allowed the state to refinance health care coverage provided to children from low-income families saving \$25 million, mostly in the Health Services Account.

Finally, the Legislature assumed savings from the presidential primary (\$6 million) and a reduction in agency travel and equipment purchases (\$11 million) although the Governor vetoed these changes.

Revenue Changes

Separate legislation, listed below, reduced forecasted revenue by approximately \$87 million. The majority of the change is attributable to the extension of expiring tax incentives.

Reserves and Money Transfers

The sum of \$62 million is transferred from a variety of dedicated accounts, listed on page 14 of this document, to the state general fund. The largest single transfer is \$45 million from the Health Services Account. That transfer was possible, in part, because the Health Services Account also benefitted from the federal fiscal relief legislation.

The budget leaves a reserve of \$278 million, all in the ending fund balance.

2004 Supplemental Budget (ESHB 2459)

2003-05 Estimated Revenues and Expenditures

2004 Supplemental Budget

General Fund-State

(Dollars in Millions)

RESOURCES	
Beginning Fund Balance	404.6
February 2004 Revenue Forecast	22,897.3
Tax Policy Legislation	(86.4)
Current Revenue Totals	22,810.8
Fund Transfers and Other Adjustments	157.0
Federal Fiscal Relief - Grant	90.2
2004 Supplemental Revenue Changes	
Money Transfers from Other Funds	62.2
Total Resources (Includes Fund Balance)	23,524.8
APPROPRIATIONS	
Biennial Appropriation	23,081.4
2004 Supplemental (Incl. HB 1777)	145.5
Governor's Vetoes/Lapsed Appropriations	19.2
Spending Level	23,246.1
Adjusted I-601 Expenditure Limit	23,847.0
Difference Between I-601 Limit and Expenditures	600.9
UNRESTRICTED GENERAL FUND BALANCE	
Projected Ending Fund Balance	278.7
EMERGENCY RESERVE FUND	
Beginning Fund Balance	57.6
Actual/Estimated Interest Earnings, Transfers, and Approps	(57.6)
Projected Ending Fund Balance	0.0
TOTAL RESERVES	
Combined General and ERF Projected Ending Fund Balance	278.7

2004 Supplemental Revenue Changes
General Fund-State
(Dollars in Thousands)

	Legislation	FY 04	FY 05	2003-2005
1328	Taxation of Boarding Homes	0	(3,945)	(3,945)
2453	New Motor Vehicle Taxation	0	(3)	(3)
2518	Public Utility Tax Exempt Electrolytic	0	(325)	(325)
2546	Hi-Tech Tax Incentives	0	(52,384)	(52,384)
2621	Razor Clam Licenses	0	(19)	(19)
2675	Electric Utility Tax Credit Rural Develop	0	(50)	(50)
2693	Taxation of Timber	0	(144)	(144)
2794	Paying for Liquor	0	62	62
2929	American Beef Ban	(307)	(1,881)	(2,188)
2968	Excise Tax Deductions/Salmon	(46)	(324)	(370)
3116	Blood Banks & Cancer Centers	0	(239)	(239)
3158	Sales & Use Tax Exemp/Newsrooms	0	(1,370)	(1,370)
6115	Amusement/Recreation Tax Exempt	(32)	(199)	(231)
6240	Rural County Tax Incentives	(126)	(15,708)	(15,834)
6304	Aluminum Smelters Tax Relief	0	(1,714)	(1,714)
6341	Cosmetologists	111	262	373
6490	Fuel Cells/Use Tax Correction	0	(121)	(121)
6515	Streamlined Sales Tax Correct	0	(7,942)	(7,942)
6655	Beer/Wine Manufacturers	0	(4)	(4)
	Total GFS Revenue Changes	(400)	(86,048)	(86,448)

2004 Supplemental Budget (ESHB 2459)

2003-05 Washington State Operating Budget Appropriations Contained Within Other Legislation (Dollars in Thousands)

Bill Number and Subject	Session Law	Agency	GF-S	Total
2003 Legislative Session				
SSB 5248 - Transportation	C 363 L 03	Department of Labor & Industries		100
ESSB 6072 - Pollution Response	C 264 L 03 PV	Department of Ecology		13,076
SB 6099 - Unemployment Insurance	C 3 L 03 E2	Employment Security Department		11,500
Total				24,676
2004 Legislative Session				
EHB 1777 - Home Care Worker Contract	C 278 L 04	Office of Financial Management	65	65
EHB 1777 - Home Care Worker Contract	C 278 L 04	DSHS - Children & Family Services	145	290
EHB 1777 - Home Care Worker Contract	C 278 L 04	DSHS - Developmental Disabilities	8,096	15,627
EHB 1777 - Home Care Worker Contract	C 278 L 04	DSHS - Long-Term Care	14,279	28,450
EHB 1777 - Home Care Worker Contract	C 278 L 04	Home Care Quality Authority	1,370	1,370
Total			23,955	45,802

Note: Operating appropriations contained in Chapter 276, Laws of 2004, Partial Veto (ESHB 2459 - 2003-05 Omnibus Operating Budget) Chapter 229, Laws of 2004, Partial Veto (ESHB 2474 - 2003-05 Transportation Budget), are displayed in the appropriate sections of this document.

2004 Session Revenue Legislation

In the 2004 session, the Legislature enacted revenue measures representing priorities in four issue areas: providing tax relief to senior citizens and disabled persons, expanding the current property tax exemption and deferral programs for these persons; promoting investment in high technology research and investment by continuing current business tax incentive programs; supporting economic development in rural areas through reenacting existing tax incentives; and addressing temporary economic difficulty in the aluminum smelting and the beef processing sectors with targeted tax relief. An additional priority concerning business tax incentive or relief measures, in general, was including accountability provisions to ensure that the measures achieve the intended public purpose.

The two current programs for senior citizens and disabled persons property tax relief are modified to expand the existing eligibility requirements. In the exemption program the income cap requirements are raised, with the highest threshold increased to \$35,000, to allow more persons to qualify. In addition, persons in the exemption program may now deduct from income any payments for Medicare health insurance premiums or for boarding or adult family home services for the purposes of determining program eligibility. In the deferral program, the income threshold for eligibility purposes is raised to \$40,000.

The existing tax incentive program to promote high technology research and development is extended and modified. The program, first created in 1994, allows a sales and use tax exemption on the construction of facilities and purchase of equipment used for research and development in the areas of advanced computing, advanced materials, biotechnology, electronic device technology, or environmental technology. Another aspect of the program allows a credit against business and occupation (B&O) tax liability for certain research and development operating expenditures. In the 2004 act, the program is extended through the year 2015. Those eligible sales and use tax exemption programs now include research universities and federal contractors conducting research. The B&O credit is modified to limit the amount of credit that can be taken, and an exemption from the B&O tax is allowed for federal grants received for small business research and development programs. Businesses that receive the sales and use tax exemption or B&O credit must submit annual surveys with detailed wage, employment, and other economic information. The Department of Revenue may publicly disclose the amount of credit taken at the firm level.

Economic development tax incentive programs that were previously created to support business activity in rural and distressed areas are reenacted and extended. Two B&O tax incentive programs that expired at the end of 2003, concerning information technology help desk services and computer software programming, are reenacted, and extended through 2010. The current sales and use tax deferral for manufacturing, computer programming, and research and development businesses in rural or distressed areas is extended to July 2010. The deferral program is also modified to include accountability provisions similar to those in the high technology research and development program. The eligibility requirements for the rural programs are modified to allow businesses in Island County to be eligible.

An additional legislative priority in the 2004 session is to provide temporary assistance to businesses disrupted by recent adverse economic conditions. For the aluminum smelting industry, where firms have been hurt by recent disruptions in the wholesale electricity market, a package of temporary tax incentives is provided to help businesses through 2006. Included in the package are a B&O tax rate reduction, a B&O tax credit for property taxes paid, an exemption from the brokered natural gas use tax, a credit for state sales and use taxes paid, and a permanent exemption for utilities from the state public utility tax on sales of electricity to smelters, if the cost savings are passed along to the smelter. The package includes taxpayer reporting requirements and provisions that make wage, employment, and benefits information available to the public upon request. In a separate act, to address the disruption in the beef and beef products market caused by the domestic discovery of a cow with Bovine Spongiform Encephalopathy, firms may deduct income received from the slaughter or wholesale of perishable beef products when calculating B&O tax liability. The deduction is available until nations with bans on the importation of American beef products lift the bans.

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Exempting from Taxation Certain Property Belonging to Any Federally-Recognized Indian Tribe Located in the State – No General Fund-State Revenue Impact

Chapter 236, Laws of 2004 (SHB 1322), exempts from taxation property owned by a federally-recognized Indian tribe and used for essential government services. This legislation does not impact state funds but reduces local revenues by \$62,000 in fiscal year 2005.

Modifying the Tax Treatment of Boarding Homes – \$3.9 Million General Fund-State Revenue Decrease

Chapter 174, Laws of 2004 (SHB 1328), lowers the business and occupation (B&O) tax rate from 1.5 percent to 0.275 percent for licensed boarding homes. For the purposes of calculating taxable income under the B&O tax, licensed boarding homes may deduct amounts received from the Department of Social and Health Services for services provided to Medicaid recipients. This legislation decreases state general fund revenues by \$3.9 million in fiscal year 2005.

Taxation of Bundled Telecommunications Services – No General Fund-State Impact

Chapter 76, Laws of 2004 (SHB 2055), provides that bundled telephone services that include both sales taxable and nontaxable services may be taxed only on the taxable services (rather than the entire bundle) if the telephone company can identify the charges for each service using its regular business records. This legislation does not impact state or local funds.

Modifying the Taxation of Wholesale Sales of New Motor Vehicles – \$3,000 General Fund-State Revenue Decrease

Chapter 81, Laws of 2004 (HB 2453), exempts new car dealers from B&O tax on wholesales of new motor vehicles to other new car dealers. This legislation decreases state general fund revenues by \$3,000 in fiscal year 2005.

State Public Utility Tax Exemption for the Sales of Electricity to an Electrolytic Processing Business – \$325,000 General Fund-State Revenue Decrease

Chapter 240, Laws of 2004 (E2SHB 2518), creates an exemption from the public utility tax for income received by a utility from the sale of electricity to a chlor-alkali or a sodium chlorate electrolytic processing business if the tax savings are passed along to the business purchasing the electricity. The legislative fiscal committees must evaluate the program in 2007 and 2010. This legislation decreases state general fund revenues by \$325,000 in fiscal year 2005.

Authorizing Voter Approved Property Tax Levies for Criminal Justice Purposes – No General Fund-State Revenue Impact

Chapter 80, Laws of 2004 (HB 2519), authorizes counties to impose a new multi-year regular property tax of 50 cents per thousand dollars of assessed property value, subject to approval by a super majority of voters, for criminal justice purposes. The new taxing authority is not subject to the same aggregate rate limitation imposed on other junior and senior taxing districts, but must be reduced if the 1 percent constitutional limitation on regular levies is exceeded. This legislation does not impact state funds but may increase local revenues.

Modifying High Technology and Research and Development Tax Incentive Provisions – \$52.4 Million General Fund-State Revenue Decrease

Chapter 2, Laws of 2004 (ESHB 2546), extends the B&O tax credit for research and development (R&D) spending from December 31, 2004, to January 1, 2015. The sales and use tax exemption for new, expanded, or diversified operations in R&D or pilot scale manufacturing is extended from July 1, 2004, to July 1, 2015. The R&D credit calculation for the purposes of the B&O credit is modified to limit the basis for the credit to the amount of R&D expenditures in excess of 0.92 percent of taxable income and to compute the credit for firms other than nonprofits using the average tax rate rather than 1.5 percent. The University of Washington and Washington State University are eligible to use the sales and use tax exemption for R&D facilities and equipment. Federal contractors building federal R&D facilities may also utilize the sales and use tax exemption. Credit and exemption

users are required to report annually the amount of B&O tax credit or sales tax exemption taken; the number of new products, trademarks, patents, and copyrights; the number of jobs and the percent of full- and part-time jobs; wages by salary band; the number of jobs with employer-provided health and retirements; and other company related information. The amount of the sales tax exemption taken, and the amount of credit taken for firms taking more than \$10,000 in annual credits, may be publicly disclosed. The Department of Revenue is required to summarize the survey information annually. The Department must also study the credit and exemption and report to the Legislature by December 1, 2009, and December 1, 2013. This legislation decreases state general fund revenues by \$52.4 million and local revenues by \$14.3 million in fiscal year 2005.

Concerning Personal Use Shellfish Licenses – \$19,000 General Fund-State Revenue Decrease

Chapter 248, Laws of 2004 (SHB 2621), establishes an annual and a 3-day razor clam license to be administered by the Department of Fish and Wildlife. A surcharge is assessed on razor clam licenses for biotoxin testing and monitoring. The 2-day personal use shellfish and seaweed license is eliminated. Because license fees are lowered in aggregate, this legislation decreases state general fund revenues by \$19,000 in fiscal year 2005.

Electric Utility Tax Credit Provisions – \$50,000 General Fund-State Revenue Decrease

Chapter 238, Laws of 2004 (ESHB 2675), extends the expiration date of the electric utility rural economic development revolving fund tax credit from December 31, 2005, to June 30, 2011. The period over which contributions are measured for purposes of determining the amount of tax credit allowed is changed from a calendar year to a fiscal year. The Electric Utility Rural Economic Development Revolving Fund may be governed by the board of directors of an existing associate development organization serving the qualifying rural area if that board has been designated by the sponsoring electrical utility. This legislation decreases state general fund revenues by \$50,000 in fiscal year 2005.

Modifying the Taxation of Timber on Publicly-Owned Land – \$144,000 General Fund-State Revenue Decrease

Chapter 177, Laws of 2004 (ESHB 2693), allows counties to impose a 4 percent excise tax, to be phased in over ten years, on timber harvested from public lands, credited against the state timber excise tax. This legislation decreases state general fund revenues by \$144,000 and local revenues by \$184,000 in fiscal year 2005.

Allowing Licensees to Pay for Liquor Using Debit and Credit Cards – \$62,000 General Fund-State Revenue Increase

Chapter 63, Laws of 2004 (HB 2794), permits businesses licensed by the Liquor Control Board, such as restaurants and bars, to purchase liquor from state liquor stores or vendors using debit and credit cards. To offset an increase in costs, liquor prices will be increased, generating an additional \$62,000 in state general fund revenues in fiscal year 2005.

Providing Temporary Tax Relief for Washington Beef Processors – \$2.2 Million General Fund-State Revenue Decrease

Chapter 235, Laws of 2004 (SHB 2929), exempts from the B&O tax income received from slaughtering, breaking, processing, and wholesaling of perishable beef products for firms that slaughter cattle. This legislation decreases state general fund revenues by \$2.2 million in fiscal years 2004 and 2005.

Providing Excise Tax Deductions for Governmental Payments to Nonprofit Organizations for Salmon Restoration – \$370,000 General Fund-State Revenue Decrease

Chapter 241, Laws of 2004 (EHB 2968), provides a B&O tax deduction for nonprofit organizations that receive government grants for salmon restoration purposes. This legislation decreases state general fund revenues by \$370,000 in fiscal years 2004 and 2005.

Modifying Unclaimed Property Laws for Gift Certificates – No General Fund-State Revenue Impact

Chapter 168, Laws of 2004 (EHB 3036), prohibits issuers of gift certificates and stored value cards, with a few exceptions, from including inactivity charges or expiration dates on the certificates. Gift certificates and stored

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value cards are exempted from the Uniform Unclaimed Property Act, freeing holders from the requirement to turn over abandoned gift certificates to the state after three years. This legislation does not impact the state general fund in fiscal year 2005 but reduces revenues attributable to abandoned property receipts by \$2.7 million in future years.

Modifying Tax Exemptions for Qualifying Blood Banks, Tissue Banks, and Blood and Tissue Banks – \$239,000 General Fund-State Revenue Decrease

Chapter 82, Laws of 2004 (ESHB 3116), reenacts tax exemptions for nonprofit blood, bone, and tissue banks that were invalidated in court. This legislation decreases state general fund revenues by \$239,000 in fiscal year 2005.

Exempting Computer Equipment Used Primarily in Printing or Publishing from Sales and Use Tax – \$1.4 Million General Fund-State Revenue Decrease

Chapter 8, Laws of 2004 (SHB 3158), exempts from sales and use tax computer equipment purchased by a printer or publisher used primarily in the printing or publishing of printed material. This legislation decreases state general fund revenues by \$1.4 million and local revenues by \$400,000 in fiscal year 2005.

Providing Property Tax Relief for Senior Citizens and Persons Retired Because of Physical Disability – No General Fund-State Revenue Impact

Chapter 270, Laws of 2004 (SB 5034), increases the income threshold and exemptible portion of property value for the various tiers and provisions of the senior and disabled retirees property tax exemption and deferral programs. The definition of disability is tied to the definition used in the federal Social Security law. For the purposes of determining eligibility, a deduction from income is allowed for payments for boarding home or adult family home costs and Medicare insurance premiums. This legislation does not impact state funds but reduces local revenues by \$1.1 million in fiscal year 2005.

Creating Regional Fire Protection Service Authorities – No General Fund-State Revenue Impact

Chapter 129, Laws of 2004 (SSB 5326), establishes local authority to create a regional fire protection service authority, including any necessary financing, by a vote of the people. Financing options include regular property taxing authority of up to \$1.50 per \$1,000 assessed value. In lieu of levying the last 50-cent property tax option, a regional authority may impose benefit charges similar to that provided for fire protection districts. The property tax authority of participating jurisdictions is reduced by the rate levied by the regional authority. This legislation does not impact state funds but may increase local revenues.

Modifying the Rural County Sales and Use Tax – No General Fund-State Revenue Impact

Chapter 130, Laws of 2004 (SSB 6113), strengthens the requirement that the 0.08 percent rural county sales and use tax for public facilities be used to finance only those facilities that serve economic development purposes and facilitate the creation and retention of businesses and jobs. This legislation does not impact state funds.

Providing a Use Tax Exemption for Amusement and Recreation Services Donated to or by Nonprofit Organizations or State or Local Governmental Entities – \$231,000 General Fund-State Revenue Decrease

Chapter 155, Laws of 2004 (SSB 6115), exempts the use of amusement and recreation facilities from the use tax when such use is donated to a nonprofit organization or school. This legislation decreases state general fund revenues by \$231,000 and local revenues by \$59,000 in fiscal years 2004 and 2005.

Clarifying the Property Taxation of Vehicles Carrying Exempt Licenses – No General Fund-State Revenue Impact

Chapter 156, Laws of 2004 (SB 6141), provides an explicit property tax exemption for the vehicles of disabled veterans, honored veterans, and former prisoners of war and their spouses. The exemption obviates the prospective requirement to pay \$31,000 in property taxes on the vehicles in fiscal year 2005.

Modifying Tax Incentive Provisions for Rural Counties – \$15.8 million General Fund-State Revenue Decrease

Chapter 25, Laws of 2004 (SSB 6240), extends the sales and use tax deferral program for persons engaged in manufacturing, research and development, or computer service businesses in rural counties from July 1, 2004, to July 1, 2010. Accountability provisions are added that require deferral recipients to submit annual reports and that make taxpayer tax credit information available to the public upon request. A B&O tax credit for computer software job creation of \$1,000 per new job is authorized for businesses engaged in computer software manufacturing or programming in rural counties. A B&O tax credit of 100 percent of the B&O tax on the services is authorized for businesses that provide information technology help desk services to third parties when the business is located in a rural county. Both credits expire January 1, 2011. Island County is added as an eligible rural area under the sales tax deferral and B&O credit programs, as well as under the job creation B&O tax credit and the job training B&O tax credit. This legislation decreases state general fund revenues by \$15.8 million and local revenues by \$4.4 million in fiscal year 2005.

Extending the Restriction on Local Government Taxation of Internet Services – No General Fund-State Revenue Impact

Chapter 154, Laws of 2004 (SB 6259), extends the prohibition on a city or town imposing new taxes or fees on Internet service providers to July 1, 2006. This legislation does not impact state funds but reduces local taxing capacity.

Providing Tax Relief for Aluminum Smelters – \$1.7 Million General Fund-State Revenue Decrease

Chapter 24, Laws of 2004 (2SSB 6304), provides tax incentives to the aluminum industry. The B&O tax rate for manufacturing and wholesaling is reduced for aluminum smelters from 0.484 percent to 0.2904 percent through 2006. Aluminum smelters may take a credit against the B&O tax for property taxes paid through 2006. Through 2006, aluminum smelters may take a credit for state sales and use taxes paid on personal property used at the smelter or incorporated into buildings, and on associated labor and services. Through 2006, aluminum smelters are exempt from the use tax on brokered natural gas. Businesses that sell electricity, natural, or manufactured gas to aluminum smelters receive a credit against their tax liability if the price of the electricity or gas is reduced by the tax savings. The legislation provides for accountability reporting and a review of the incentives. This legislation decreases state general fund revenues by \$1.7 million in fiscal year 2005.

Concerning the Licensing of Cosmetologists and Others under Chapter 18.16 RCW – \$373,000 General Fund-State Revenue Increase

Chapter 51, Laws of 2004 (SSB 6341), extends to June 30, 2005, the grace period provided to former licensees in good standing for the purpose of renewing an expired license in certain cosmetology-related professions or of obtaining an additional license in barbering, manicuring, or esthetics without taking the applicable examination. Persons who hold a license in good standing in one of these professions may now elect to receive an inactive license status. This legislation increases state general fund revenues by \$373,000 in fiscal years 2004 and 2005 as a result of the acquisition of new and renewed licenses.

Transferring Collection of Certain Telephone Excise Taxes from the Department of Social and Health Services to the Department of Revenue – No General Fund-State Revenue Impact

Chapter 254, Laws of 2004 (SB 6448), transfers responsibility of setting rates for and collecting the telecommunications relay service excise tax and the telephone assistance excise tax from the Department of Social and Health Services to the Department of Revenue (DOR). Because DOR has a more complete database of taxpayers, this legislation will increase revenues to the Telephone Assistance Account and the Telecommunications Devices for the Hearing and Speech Impaired Account by \$278,000 in fiscal year 2005.

Governing Class 1 Racing Associations' Authority to Participate in Pari-Mutuel Wagering – No General Fund-State Revenue Impact

Chapter 274, Laws of 2004 (ESSB 6481), allows the Washington Horse Racing Commission (HRC) to authorize a class 1 racing association to conduct pari-mutuel wagering on imported simulcast races at satellite locations. In

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addition, until October 1, 2007, HRC may authorize a class 1 racing association or its contractor to conduct advance deposit wagering, in which an individual deposits funds to pay for wagers made in person, by telephone, or through communication by other electronic means. Through an expected increase in horse racing wagering, this legislation will increase revenues to the Horse Racing Commission Account by \$260,000 in fiscal year 2005.

Exempting Fuel Cells from Sales and Use Taxes – \$121,000 General Fund-State Revenue Decrease

Chapter 152, Laws of 2004 (SB 6490), extends the use tax exemption for the acquisition of machinery or equipment that is used to generate at least 200 watts of electricity to include fuel cells as a principal power source. This legislation decreases state general fund revenues by \$121,000 and local revenues by \$35,000 in fiscal year 2005.

Correcting Errors in and Omissions from Chapter 168, Laws of 2003, Which Implemented Portions of the Streamlined Sales and Use Tax Agreement – \$7.9 Million General Fund-State Revenue Decrease

Chapter 153, Laws of 2004 (SB 6515), restores sales tax exemptions inadvertently removed in 2003 legislation and makes further technical corrections. This legislation decreases state general fund revenues by \$7.9 million and local revenues by \$2.3 million in fiscal year 2005.

Regulating Authorized Representatives of Beer and Wine Manufacturers and Distributors – \$4,000 General Fund-State Revenue Decrease

Chapter 160, Laws of 2004 (SSB 6655), requires authorized representatives for breweries and wineries outside of Washington to obtain a certificate of approval from the Liquor Control Board to sell beer or wine in Washington. The Board is directed to set the fee for a certificate of approval to cover the cost of regulating certificate holders. Because the start-up costs exceed the increased fee revenues in the first year, this legislation decreases state general fund revenues by \$4,000 in fiscal year 2005 but increases state general fund revenues in subsequent years.

Modifying Promoter Requirements for Vendor Tax Registration – No General Fund-State Revenue Impact

Chapter 253, Laws of 2004 (SB 6663), provides that a good faith effort is sufficient for promoters of special events such as trade fairs when collecting vendor information for DOR. This legislation does not impact state funds.

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(Dollars in Thousands)

	Original 2003-05 Approps		2004 Supplemental		Revised 2003-05 Approps	
	GF-S	Total	GF-S	Total	GF-S	Total
Legislative	129,628	136,394	350	350	129,978	136,744
Judicial	78,492	162,179	1,044	5,477	79,536	167,656
Governmental Operations	411,360	2,726,495	8,601	263,401	419,961	2,989,896
Other Human Services	1,328,153	3,629,216	78,474	132,913	1,406,627	3,762,129
DSHS	6,605,069	15,840,269	-51,659	150,603	6,553,410	15,990,872
Natural Resources	297,097	1,104,638	35,917	45,024	333,014	1,149,662
Transportation	48,834	123,957	392	1,543	49,226	125,500
Public Schools	10,104,649	11,906,608	60,238	61,713	10,164,887	11,968,321
Higher Education	2,667,195	7,400,500	32,227	35,741	2,699,422	7,436,241
Other Education	39,932	99,594	0	0	39,932	99,594
Special Appropriations	1,370,972	1,665,908	-877	1,480	1,370,095	1,667,388
Statewide Total	23,081,381	44,795,758	164,707	698,245	23,246,088	45,494,003

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(Dollars in Thousands)

	Original 2003-05 Approps		2004 Supplemental		Revised 2003-05 Approps	
	GF-S	Total	GF-S	Total	GF-S	Total
Legislative						
House of Representatives	56,342	56,387	75	75	56,417	56,462
Senate	45,174	45,219	75	75	45,249	45,294
Jt Leg Audit & Review Committee	3,344	3,344	250	250	3,594	3,594
LEAP Committee	3,455	3,455	-50	-50	3,405	3,405
Office of the State Actuary	0	2,616	0	0	0	2,616
Joint Legislative Systems Comm	13,507	15,320	0	0	13,507	15,320
Statute Law Committee	7,806	10,053	0	0	7,806	10,053
Total Legislative	129,628	136,394	350	350	129,978	136,744
Judicial						
Supreme Court	11,127	11,127	68	68	11,195	11,195
State Law Library	4,095	4,095	4	4	4,099	4,099
Court of Appeals	25,257	25,257	197	197	25,454	25,454
Commission on Judicial Conduct	1,828	1,828	0	0	1,828	1,828
Office of Administrator for Courts	34,635	105,927	775	4,820	35,410	110,747
Office of Public Defense	1,550	13,945	0	388	1,550	14,333
Total Judicial	78,492	162,179	1,044	5,477	79,536	167,656
Total Legislative/Judicial	208,120	298,573	1,394	5,827	209,514	304,400

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2003-05 Revised Omnibus Operating Budget (2004 Supp)

(Dollars in Thousands)

	Original 2003-05 Approps		2004 Supplemental		Revised 2003-05 Approps	
	GF-S	Total	GF-S	Total	GF-S	Total
Governmental Operations						
Office of the Governor	7,549	12,543	235	235	7,784	12,778
Office of the Lieutenant Governor	1,098	1,098	0	0	1,098	1,098
Public Disclosure Commission	3,561	3,561	0	0	3,561	3,561
Office of the Secretary of State	41,428	81,907	0	25,944	41,428	107,851
Governor's Office of Indian Affairs	467	467	0	0	467	467
Asian-Pacific-American Affrs	388	388	0	0	388	388
Office of the State Treasurer	0	13,149	0	314	0	13,463
Office of the State Auditor	1,403	45,133	100	100	1,503	45,233
Comm Salaries for Elected Officials	240	240	64	64	304	304
Office of the Attorney General	8,166	182,263	345	1,881	8,511	184,144
Caseload Forecast Council	1,277	1,277	63	63	1,340	1,340
Dept of Financial Institutions	0	28,442	0	0	0	28,442
Dept Community, Trade, Econ Dev	122,260	396,606	6,111	39,006	128,371	435,612
Economic & Revenue Forecast Council	1,037	1,037	0	0	1,037	1,037
Office of Financial Management	25,045	75,318	447	17,871	25,492	93,189
Office of Administrative Hearings	0	24,669	0	2,364	0	27,033
Department of Personnel	0	42,575	0	0	0	42,575
State Lottery Commission	0	705,818	0	0	0	705,818
Washington State Gambling Comm	0	27,284	0	0	0	27,284
WA State Comm on Hispanic Affairs	408	408	0	0	408	408
African-American Affairs Comm	397	397	0	0	397	397
Personnel Appeals Board	0	1,725	0	0	0	1,725
Department of Retirement Systems	0	48,572	0	731	0	49,303
State Investment Board	100	13,362	0	0	100	13,362
Public Printer	0	0	0	66,000	0	66,000
Department of Revenue	164,560	175,679	120	256	164,680	175,935
Board of Tax Appeals	2,129	2,129	90	90	2,219	2,219
Municipal Research Council	0	4,621	0	0	0	4,621
Minority & Women's Business Enterp	0	1,990	0	0	0	1,990
Dept of General Administration	468	129,245	0	2,646	468	131,891
Department of Information Services	2,000	207,447	650	1,100	2,650	208,547
Office of Insurance Commissioner	0	32,938	0	902	0	33,840
State Board of Accountancy	0	1,985	0	0	0	1,985
Forensic Investigations Council	0	274	0	0	0	274
Washington Horse Racing Commission	0	4,609	0	0	0	4,609
WA State Liquor Control Board	2,909	159,608	0	1,461	2,909	161,069
Utilities and Transportation Comm	0	29,481	0	786	0	30,267
Board for Volunteer Firefighters	0	733	0	0	0	733
Military Department	16,709	185,462	335	100,657	17,044	286,119
Public Employment Relations Comm	4,758	7,300	41	41	4,799	7,341
LEOFF 2 Retirement Board	0	0	0	889	0	889
Growth Management Hearings Board	3,003	3,003	0	0	3,003	3,003
State Convention and Trade Center	0	71,752	0	0	0	71,752
Total Governmental Operations	411,360	2,726,495	8,601	263,401	419,961	2,989,896

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2003-05 Revised Omnibus Operating Budget (2004 Supp)

(Dollars in Thousands)

	Original 2003-05 Approps		2004 Supplemental		Revised 2003-05 Approps	
	GF-S	Total	GF-S	Total	GF-S	Total
Other Human Services						
WA State Health Care Authority	0	538,159	0	4,361	0	542,520
Human Rights Commission	4,775	6,384	0	0	4,775	6,384
Bd of Industrial Insurance Appeals	0	30,149	0	0	0	30,149
Criminal Justice Training Comm	0	18,686	0	75	0	18,761
Department of Labor and Industries	11,723	472,499	285	1,143	12,008	473,642
Indeterminate Sentence Review Board	1,960	1,960	0	0	1,960	1,960
Home Care Quality Authority	671	671	1,530	1,530	2,201	2,201
Department of Health	118,367	729,616	-168	49,487	118,199	779,103
Department of Veterans' Affairs	21,576	78,593	75	233	21,651	78,826
Department of Corrections	1,164,069	1,199,364	76,752	72,096	1,240,821	1,271,460
Dept of Services for the Blind	3,534	19,685	0	0	3,534	19,685
Sentencing Guidelines Commission	1,478	1,478	0	0	1,478	1,478
Department of Employment Security	0	531,972	0	3,988	0	535,960
Total Other Human Services	1,328,153	3,629,216	78,474	132,913	1,406,627	3,762,129

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2003-05 Revised Omnibus Operating Budget (2004 Supp)

(Dollars in Thousands)

	Original 2003-05 Approps		2004 Supplemental		Revised 2003-05 Approps	
	GF-S	Total	GF-S	Total	GF-S	Total
DSHS						
Children and Family Services	464,034	910,037	-14,674	-14,286	449,360	895,751
Juvenile Rehabilitation	146,792	204,951	-1,733	-7,535	145,059	197,416
Mental Health	674,685	1,229,646	-16,299	20,267	658,386	1,249,913
Developmental Disabilities	678,562	1,291,739	-1,235	26,454	677,327	1,318,193
Long-Term Care	1,128,314	2,314,357	-11,869	27,041	1,116,445	2,341,398
Economic Services Administration	815,547	2,059,185	68,141	67,140	883,688	2,126,325
Alcohol & Substance Abuse	80,640	232,354	540	3,713	81,180	236,067
Medical Assistance Payments	2,450,197	7,256,903	-82,544	4,152	2,367,653	7,261,055
Vocational Rehabilitation	20,382	106,625	-19	873	20,363	107,498
Administration/Support Svcs	61,894	108,456	5,108	18,532	67,002	126,988
Payments to Other Agencies	84,022	126,016	2,925	4,252	86,947	130,268
Total DSHS	6,605,069	15,840,269	-51,659	150,603	6,553,410	15,990,872
Total Human Services	7,933,222	19,469,485	26,815	283,516	7,960,037	19,753,001

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2003-05 Revised Omnibus Operating Budget (2004 Supp)

(Dollars in Thousands)

	Original 2003-05 Approps		2004 Supplemental		Revised 2003-05 Approps	
	GF-S	Total	GF-S	Total	GF-S	Total
Natural Resources						
Columbia River Gorge Commission	684	1,347	0	0	684	1,347
Department of Ecology	66,727	316,611	5,012	6,705	71,739	323,316
WA Pollution Liab Insurance Program	0	1,894	0	0	0	1,894
State Parks and Recreation Comm	59,962	103,146	87	1,049	60,049	104,195
Interagency Comm for Outdoor Rec	2,502	24,260	125	250	2,627	24,510
Environmental Hearings Office	1,883	1,883	49	49	1,932	1,932
State Conservation Commission	4,479	6,641	0	250	4,479	6,891
Dept of Fish and Wildlife	81,632	277,840	552	2,157	82,184	279,997
Department of Natural Resources	64,540	280,145	26,203	30,358	90,743	310,503
Department of Agriculture	14,688	90,871	3,889	4,206	18,577	95,077
Total Natural Resources	297,097	1,104,638	35,917	45,024	333,014	1,149,662

2004 Supplemental Budget (ESHB 2459)

2003-05 Revised Omnibus Operating Budget (2004 Supp)

(Dollars in Thousands)

	Original 2003-05 Approps		2004 Supplemental		Revised 2003-05 Approps	
	GF-S	Total	GF-S	Total	GF-S	Total
Transportation						
Washington State Patrol	38,860	88,373	0	1,581	38,860	89,954
Department of Licensing	9,974	35,584	392	-38	10,366	35,546
Total Transportation	48,834	123,957	392	1,543	49,226	125,500

2004 Supplemental Budget (ESHB 2459)

2003-05 Revised Omnibus Operating Budget (2004 Supp)

(Dollars in Thousands)

	Original 2003-05 Approps		2004 Supplemental		Revised 2003-05 Approps	
	GF-S	Total	GF-S	Total	GF-S	Total
Public Schools						
OSPI & Statewide Programs	41,538	129,190	484	6,782	42,022	135,972
General Apportionment	7,945,276	7,945,276	19,880	19,880	7,965,156	7,965,156
Pupil Transportation	411,917	411,917	23,436	23,436	435,353	435,353
School Food Services	6,200	383,061	0	-19,941	6,200	363,120
Special Education	861,198	1,270,835	665	17,478	861,863	1,288,313
Educational Service Districts	7,075	7,075	1	1	7,076	7,076
Levy Equalization	329,309	329,309	-682	-682	328,627	328,627
Elementary/Secondary School Improv	0	46,198	0	-3,381	0	42,817
Institutional Education	37,688	37,688	-1,305	-1,305	36,383	36,383
Ed of Highly Capable Students	13,211	13,211	41	41	13,252	13,252
Student Achievement Program	0	398,203	0	11,439	0	409,642
Education Reform	74,767	204,129	1,359	-877	76,126	203,252
Transitional Bilingual Instruction	101,853	148,162	2,875	1,110	104,728	149,272
Learning Assistance Program (LAP)	129,436	436,614	-2,141	-7,997	127,295	428,617
Compensation Adjustments	145,181	145,740	15,625	15,729	160,806	161,469
Total Public Schools	10,104,649	11,906,608	60,238	61,713	10,164,887	11,968,321

2004 Supplemental Budget (ESHB 2459)

2003-05 Revised Omnibus Operating Budget (2004 Supp)

(Dollars in Thousands)

	Original 2003-05 Approps		2004 Supplemental		Revised 2003-05 Approps	
	GF-S	Total	GF-S	Total	GF-S	Total
Higher Education						
Higher Education Coordinating Board	312,297	329,640	12,848	12,862	325,145	342,502
University of Washington	631,212	3,624,733	6,084	6,084	637,296	3,630,817
Washington State University	375,219	864,579	1,093	1,093	376,312	865,672
Eastern Washington University	83,044	160,199	437	437	83,481	160,636
Central Washington University	81,156	181,036	900	900	82,056	181,936
The Evergreen State College	46,449	90,620	442	442	46,891	91,062
Spokane Intercol Rsch & Tech Inst	2,822	2,922	0	0	2,822	2,922
Western Washington University	109,182	254,158	590	590	109,772	254,748
Community/Technical College System	1,025,814	1,892,613	9,833	13,333	1,035,647	1,905,946
Total Higher Education	2,667,195	7,400,500	32,227	35,741	2,699,422	7,436,241
Other Education						
State School for the Blind	9,255	10,590	0	0	9,255	10,590
State School for the Deaf	15,137	15,369	0	0	15,137	15,369
Work Force Trng & Educ Coord Board	3,282	57,571	0	0	3,282	57,571
Washington State Arts Commission	4,500	5,526	0	0	4,500	5,526
Washington State Historical Society	4,867	7,647	0	0	4,867	7,647
East Wash State Historical Society	2,891	2,891	0	0	2,891	2,891
Total Other Education	39,932	99,594	0	0	39,932	99,594
Total Education	12,811,776	19,406,702	92,465	97,454	12,904,241	19,504,156

2004 Supplemental Budget (ESHB 2459)

2003-05 Revised Omnibus Operating Budget (2004 Supp)

(Dollars in Thousands)

	Original 2003-05 Approps		2004 Supplemental		Revised 2003-05 Approps	
	GF-S	Total	GF-S	Total	GF-S	Total
Special Appropriations						
Bond Retirement and Interest	1,249,251	1,439,607	-12,348	-645	1,236,903	1,438,962
Special Approps to the Governor	18,249	81,015	16,737	12,195	34,986	93,210
Sundry Claims	18	383	64	94	82	477
State Employee Compensation Adjust	48,284	89,733	-4,820	-9,654	43,464	80,079
Contributions to Retirement Systems	55,170	55,170	-510	-510	54,660	54,660
Total Special Appropriations	1,370,972	1,665,908	-877	1,480	1,370,095	1,667,388

2004 Session Budget Highlights

Legislative

Supplemental appropriations for legislative agencies did not authorize any ongoing program enhancements.

Judicial

Judicial Salary Increases

The operating budget provides a total of \$497,000 General Fund-State for increased salaries for the judges of the Superior Court and Court of Appeals, and the Supreme Court justices. These salary increases were recommended by the Washington Citizens' Commission on Salaries for Elected Officials and are effective September 1, 2004. Pursuant to Amendment 78 of the Washington State Constitution, once approved by the Commission, the salary increases go into effect unless repealed by the voters.

New Superior Court Judges

The supplemental operating budget provides \$364,000 General Fund-State for half the salaries and 100 percent of the benefits for new Superior Court judge positions authorized by Chapter 96, Laws of 2003 (HB 1292). The bill authorized one new Superior Court judge position in Kitsap, Benton-Franklin, and Kittitas counties, and two new Superior Court judge positions in Clark County. Clark County will not hire its first judge until January 1, 2005, and will only fill one judicial position during the 2003-05 biennium.

Workload Increases

The supplemental operating budget provides a total of \$559,000 from the state general fund and Public Safety and Education Account to address workload issues at the Supreme Court, Court of Appeals, and the Office of Public Defense. For the Supreme Court, funding is provided for additional staff support to meet increased workload and responsibilities in the Office of Reporter of Decisions, and additional meeting costs for the expanded Capital Counsel Panel. For the Court of Appeals, funding is provided to meet additional workload requirements of Division II, which includes Thurston County. This funding will assist in addressing a workload increase of 9 percent since 2001 without a resulting staffing increase. The additional staff will keep workload to staffing ratios for Division II in line with previous biennia, and prevent further delays in resolution of cases. Funding is provided for the Office of Public Defense to cover additional workload and to provide expenditure authority for belated claims.

Judicial Information System

The supplemental operating budget provides funding of \$3.9 million from the Judicial Information System Account to the Office of the Administrator for the Courts (OAC) for continued work on the Judicial Information System (JIS). Of the total, \$1.1 million is provided for disaster recovery planning, equipment, backup systems, and testing for JIS. The goal of disaster planning is to ensure that criminal records and JIS applications can be recovered in less than 48 hours after a major service interruption, such as a natural or man-made disaster. The remainder of the funding is provided for migration phases II and III. Revenue uncertainties during the 2001-03 biennium caused the OAC to delay the implementation of JIS Migration Phase II. Phase III will migrate the current district court information system from an outdated legacy platform to a web-based platform.

2004 Supplemental Budget (ESHB 2459)

Governmental Operations

Litigation

The supplemental operating budget provides funding for legal costs associated with defending the state in lawsuits:

- \$818,000 of state Legal Services Revolving Account funds to defend a lawsuit claiming prior owners and lessors of the former site of a wood-treating company are liable for cleanup of hazardous substances on the property under the State Model Toxics Control Act. Although a tentative settlement has been reached in the case, in the event that the settlement is not agreed upon by all parties, funding is provided for legal preparation prior to a trial date.
- \$114,000 of state general funds to defend a lawsuit brought by Spokane County claiming it was owed reimbursement for various statutory requirements.
- \$231,000 of state Legal Services Revolving Account funds to defend the violent video game statute, Chapter 365, Laws of 2003 (ESHB 1009), which prohibits the sale or rental of video or computer games to minors where the player causes physical harm to a human form depicted as a law enforcement officer.

Studies

The supplemental operating budget provides funding for several studies at the Office of Financial Management:

- \$252,000 to study land use and local government finance;
- \$15,000 to review the Department of Social and Health Services' Medical Assistance Administration budget development practices;
- \$75,000 for a Task Force on Non-Economic Damages to study non-economic damages in actions for injuries resulting from health care; and
- \$40,000 to evaluate the costs and benefits of additional efforts aimed at encouraging K-12 employee collective bargaining units to elect coverage under Public Employees Benefits Board administered health care plans.

Legislative Building Security

The supplemental operating budget provides one-time appropriation authority of \$770,000 to the Department of General Administration for security staff for the Legislative Building, per recommendations of the Legislative Building Security Committee. The new security measures are expected to include security screening of persons and packages entering the building.

Office of the Secretary of State

Elections

The supplemental operating budget provides the authority to spend the state Help America Vote Act (HAVA) match (provided in Special Appropriations to the Governor) of \$3.14 million as well as the authority to spend an estimated \$20 million that the state expects to receive in federal HAVA funding. These state and federal funds are provided to: (1) develop a statewide voter registration database; (2) obtain direct recording electronic equipment or other disability access devices to allow people with disabilities to vote unassisted; (3) replace punch card voting equipment; and (4) implement a Local Government Grant Program to pass through funds to counties.

The supplemental operating budget reduces the General Fund-State appropriation by \$6.038 million as a result of Chapter 1, Laws of 2003, 3rd Special Session (HB 2297), which cancelled the presidential primary that was to be held in 2004. *The Governor vetoed this item.*

Security Microfilm

The supplemental operating budget provides a total of \$423,000 in spending authority from the Archives and Records Management Account-State and the Local Government Archives Account-State for several activities related to security microfilm, which holds backup copies of essential state and local government records. Due to the growing volume of records, spending authority is provided for additional staff to inspect the microfilm upon receipt;

to construct a new vault within the State Archives' building; and to conduct reparation work on a sample of poor quality security microfilm to assess a range of problems and determine appropriate treatment for all impaired film in the Archives' holdings. In funding these activities, it is assumed that revolving fund charges will not be increased and the existing fund balance will be used.

Department of Community, Trade, and Economic Development

Increases

The supplemental operating budget provides increased funding for a variety of programs:

- \$2.0 million for increased civil legal services for low-income people who cannot afford to obtain legal counsel;
- \$2.0 million for housing-based supportive services for homeless families;
- \$163,000 for community voice mail contractors to provide free, personalized voice mail services to people in crisis and transition; and
- \$99,000 to restore funding to the fiscal year 2002 level for the Retired Senior Volunteer Program, which puts thousands of retirees to work in a variety of voluntary settings.

Youth Assessment Center

The budget also provides \$300,000 for start-up and initial operation of a youth assessment center in Pierce County. This funding will leverage an equal amount of funding from private sources and will support activities related to reducing the rate of incarceration of juvenile offenders.

Military Department

The federal fiscal year 2004 budget includes \$60.4 million in grants to the Washington State Military Department, with at least 80 percent required to be passed through to local governments. Funding includes: \$33.4 million for equipment, exercises, training, and planning; \$16.4 million for the Urban Area Security Initiative for the city of Seattle; \$9.9 million in terrorism prevention and deterrence funding; and \$694,000 for the Citizen Corps and Community Emergency Response Team Programs.

Funding from the Federal Emergency Management Agency and required state matching funds are provided to the Washington State Military Department to cover response and recovery expenses for the October 2003 floods.

Department of Social and Health Services

Home Care Worker Collective Bargaining Agreement

Chapter 278, Laws of 2004 (EHB 1777), provides a total of \$44.4 million to the Department of Social and Health Services' (DSHS) Children and Family Services, Developmental Disabilities, and Aging and Adult Services Programs to implement the compensation-related provisions of the collective bargaining agreement between the Home Care Quality Authority and the exclusive bargaining representative of individual home care providers.

The agreement increases the wages of individual providers from \$8.43 per hour to \$8.93 per hour on October 1, 2004; provides worker's compensation benefits effective October 1, 2004; and provides contributions of \$400 per month for health care benefits through a Taft-Hartley trust for eligible individual home care providers, effective January 1, 2005.

In addition to the funding provided to DSHS, \$1.4 million is provided to the Home Care Quality Authority and to the Office of Financial Management for the administrative and employer relations costs associated with implementing the terms of the collective bargaining agreement and for the purposes of implementing Chapter 3, Laws of 2004 (ESHB 2933).

2004 Supplemental Budget (ESHB 2459)

Children and Family Services

The budget provides an additional \$2 million in state funds per year for domestic violence (DV) programs. DV shelters are experiencing increased workloads due to greater awareness of DV issues. In 2003, nearly 35,000 requests for DV services could not be met.

Funding is provided to implement the first phase of the Department's Program Improvement Plan in response to the recent federal Child and Family Services Review. Additional resources are also provided to implement family case conferences (Chapter 147, Laws of 2004 [ESSB 6642]) and to expedite enhancements to the Case Management Information System (CAMIS), which supports case worker activities.

Juvenile Rehabilitation Administration

The 2004 supplemental budget passed by the Legislature reduced total state and federal funding by \$9.7 million, which was primarily due to the transfer of \$7.7 million and the Office of Juvenile Justice from the Juvenile Rehabilitation Administration (JRA) Program to the Administration and Support Services Program. The budget also reduced funding by \$2.2 million in total funds to reflect caseload-related changes in the juvenile offender population. Based upon the February 2004 caseload forecast adopted by the Caseload Forecast Council, the residential population is forecasted to be 44 beds lower than was assumed in the initial 2003-05 budget, a reduction of 5 percent. Funding was also provided to reflect the transfer of Department of Corrections (DOC) inmates under the age of 18 to JRA facilities. The transfer will allow DOC to utilize a 99-bed unit for adult offenders, reducing the need to rent such beds from out of state and saving the state \$2.3 million.

The final enacted version of the 2004 supplemental budget reflects the Governor's partial veto of Section 203 of Chapter 276, Laws of 2004, Partial Veto (ESHB 2459), which includes all supplemental budget adjustments to JRA's fiscal year 2005 state general fund appropriation. While the veto restores \$2.1 million to JRA for fiscal year 2005, the Governor directed DSHS to place \$1.1 million of these funds into unallotted status.

Mental Health

The operating budget provides \$5.7 million to return Medicaid payment rates for community mental health services to the level originally budgeted for the biennium. Rates would otherwise be reduced by 1.7 percent in the second year of the biennium.

In addition, funding is provided in the Special Appropriations to the Governor section of the operating budget for the Joint Legislative and Executive Task Force on Mental Health.

Funding is provided to the city of Seattle for mitigation costs associated with siting a Secure Community Transition Facility for sexually violent predators transitioning from the DSHS Special Commitment Center on McNeil Island. The funding will be used for improved street lighting, law enforcement training, victim counseling, and an additional detective at the Seattle Police Department.

Developmental Disabilities

Total funding for services to individuals with developmental disabilities increased by \$23.2 million (2.4 percent) over the level originally budgeted for the 2003-05 biennium. State spending was relatively unchanged from the original 2003-05 budget appropriations due to one-time Medicaid assistance from the federal government. Through the end of the first year of the biennium, the federal government will pay approximately 53 percent of total Medicaid costs, rather than the 50 percent initially budgeted. The change is expected to reduce state and increase federal expenditures by about \$11.0 million.

A total of \$3.8 million is provided for at least 49 new community residential placements. Twenty of those placements are designated for community protection clients, including those who are: being diverted or discharged from the state psychiatric hospitals; participating in the dangerous mentally ill offender or community protection program; or utilizing mental health crisis diversion outplacement beds. The remaining 29 community residential

placements are prioritized for children aging out of other services, clients in crisis or at risk of institutionalization; or current home and community-based waiver program clients.

Other expenditure enhancements include the following:

- \$1.3 million in total funding for young adults with developmental disabilities who need employment opportunities and assistance after high school graduation;
- \$6.2 million in total funding (\$3.0 million state general fund) for a vendor rate increase of 2.4 percent to residential service providers; and
- \$2.5 million in total funding to improve the consistency of client assessments used to determine service needs for individuals with developmental disabilities. The Department will modify and automate the Comprehensive Assessment Reporting Evaluation tool currently used by the Aging and Adult Services Administration.

Long-Term Care Services

A total of \$2.34 billion is appropriated for DSHS to provide long-term care services to an average of 48,000 elderly and disabled adults per month. This is \$256 million (12 percent) more than was expended on such services last biennium and roughly \$27 million (1.2 percent) more than was originally budgeted for the 2003-05 biennium.

The supplemental budget includes adjustments to long-term care provider payment rates and funding for Area Agency on Aging (AAA) programs, including:

- \$19.3 million to provide nursing homes, boarding homes, adult family homes, and adult residential centers with an inflationary vendor rate increase of 2.4 percent on July 1, 2004;
- \$3.9 million to increase compensation for agency home care workers by 50 cents per hour, plus associated administrative costs, effective October 2004;
- \$4.6 million for AAAs to enhance case management and nurse oversight for persons who receive in-home long-term care services; and
- An additional \$500,000 to assist grandparents and other persons who are caring for a child with access to counseling, support groups, respite care, and other support services.

Additionally, funding is provided for two lawsuit settlements negotiated by DSHS. A total of \$1.4 million is provided for a settlement that grants 200 medically needy clients, whose incomes exceed eligibility standards for community-based care but not for nursing home care, with Medicaid-funded in-home care services. Another \$834,000 is provided for a settlement that will require the Department to provide an opportunity for administrative fair hearings for individual home care workers against whom Adult Protective Services has made a substantiated finding of abuse, abandonment, neglect, and/or financial exploitation of a vulnerable adult.

Economic Services Administration

The operating budget provides \$1.3 million for the Limited English Proficiency Program, which provides specialized employment services to refugees and other limited English proficient families and individuals.

The amount of \$500,000 is provided for a Working Connections Child Care subsidy rate increase for child care providers in urban areas of Region 1.

Alcohol and Substance Abuse

State funding of \$250,000 is provided for the Washington State Mentoring Partnership, a prevention network targeting children and youth. The goal of the partnership is to obtain 1,000 new mentors per year and to increase the societal awareness regarding the benefits of mentoring. To achieve the goal, state funding will be supplemented by private sector donations.

2004 Supplemental Budget (ESHB 2459)

Medical Assistance

Total state and federal spending for the Medical Assistance Program is now budgeted to exceed the 2001-03 biennium level by \$959 million, or 15.8 percent. While total funding is essentially unchanged from the 15.7 percent spending increase originally budgeted for the 2003-05 biennium, the 2004 supplemental includes several service enhancements and reduces state-fund appropriations by almost \$120 million from the level originally budgeted. The reduction in state-fund spending is due in large part to two temporary increases in federal funding:

- On a one-time basis, through the end of the first year of the biennium and in order to help states cope with the economic recession, the federal government will pay approximately 53 percent of total Medicaid costs, rather than the 50 percent initially budgeted. The change is expected to reduce state and increase federal expenditures on the Medical Assistance Program by about \$73 million.
- For most of the 2003-05 biennium, the federal government will cover 65 percent, rather than 50 percent of the cost of providing Medicaid coverage for children with family incomes between 150 and 200 percent of the poverty level. The change is expected to reduce state and increase federal expenditures on the Medical Assistance Program by about \$22 million.

In addition, both the number of persons enrolled in state medical assistance programs, and the cost per person covered, are now projected to grow less rapidly than initially budgeted. As a result, state-fund expenditures are budgeted to grow by about \$57 million less than originally budgeted. The 2004 supplemental applies part of these savings to the following program enhancements:

- \$23.7 million in state funding is provided to lower families' monthly premium responsibilities. As shown in the following table, families with incomes greater than 150 percent of the poverty level will pay substantially less than originally budgeted to cover a child under state medical programs and premium requirements are eliminated for those families with incomes between 100 and 150 percent of the poverty level.

Monthly Premium per Child		
Monthly Family Income	2003-05 Budget	2004 Supplemental
100 to 150% of Poverty Level	\$15	\$0
151 to 200% of Poverty Level	\$20	\$10
201 to 250% of Poverty Level	\$25	\$15
Start Date	April 2004	July 2004

- State funds for grants and transfer payments to assist hospitals with the cost of uncompensated care are increased by \$15.7 million.

Other Human Services

Department of Labor and Industries

Based on recommendations in a finding from the State Auditor's Office, state general and other funds are provided for the Department of Labor and Industries to revise the manner in which it charges certain funding sources for the costs of indirect or administrative services. This revised cost allocation methodology will reduce expenditures from the Medical Aid and Accident Accounts.

The budget appropriates an additional \$653,000 in state Accident Account funds for cholinesterase medical monitoring of certain farm workers. Of that amount, \$453,000 is provided to reimburse agricultural employers for the costs of training, recordkeeping, and travel related to testing. The remaining funding is provided to pay providers for the cost of medical testing.

2004 Supplemental Budget (ESHB 2459)

Funding is provided to conduct a feasibility study on using an electronic data interchange to collect and report on claims data for self-insured employers in Washington. The \$214,000 will be funded through a self-insured employer assessment.

The operating budget provides an additional \$498,000 for fraud investigators and auditors. These staff will pursue cases of worker and employer fraud to identify and collect unpaid premiums.

Home Care Quality Authority

The supplemental budget provides \$160,000 to complete the development of a computerized referral registry of individual home care providers, as required by Initiative 775. The Home Care Quality Authority (HCQA) and the Department of Social and Health Services (DSHS) will submit to the Legislature options for operating the regional and local components of the registry through cooperative agreements with Area Agencies on Aging and/or the DSHS Home and Community Services offices.

Chapter 278, Laws of 2004 (EHB 1777), provides a total of \$1.4 million for administrative and employer relations costs associated with implementing the terms of the collective bargaining agreement between HCQA and the exclusive bargaining representative of individual home care providers.

Department of Health

An additional \$2.7 million of state funding is provided to purchase federally-recommended vaccines for all the state's children, at no cost to their families. The state funding increase is needed to offset a reduction in direct federal assistance for the program

The budget provides \$2.1 million from a variety of sources to increase efforts to assure the safety of the state's drinking water. The funding will support a 50 percent increase in technical assistance and training for operators of small water systems, and approximately 20 percent increases in quality assurance activities with larger systems, while reducing some of the amount by which state general fund support exceeds federal matching requirements.

A total of \$424,000 in state funds are provided to ensure rapid identification, response, and prevention of emerging diseases transmitted from insects and animals to humans such as West Nile virus, St. Louis encephalitis, and Monkeypox.

The budget includes \$300,000 in state funds to increase the number of retired providers served through the Volunteer Retired Provider Program. The Program pays some of all of professional licensing and malpractice insurance costs for retired providers who volunteer their services in nonprofit clinics.

A total of \$250,000 is provided for a family outreach pilot program in eastern Washington. The project will target family planning services to low-income women and men who are not likely to qualify for Medicaid services through DSHS.

Department of Corrections

The supplemental budget appropriates a total of \$1.3 billion to the Department of Corrections (DOC). This is \$123 million (11 percent) more than expended on corrections last biennium and \$72 million (6 percent) more than was originally budgeted for the 2003-05 biennium. The primary causes of this growth include an increase in the projected inmate population of 741 offenders and an increase of 5,677 offenders on community supervision.

The DOC budget includes \$3.1 million to continue to supervise about 1,400 offenders sentenced under the special Drug Offender Sentencing Alternative (DOSA) at fiscal year 2003 levels. The Department initiated a number of changes to its supervision policies that would have reduced the level of supervision provided to these offenders. These changes could have reduced DOSA utilization by the courts, resulting in longer prison sentences and increased incarceration costs.

2004 Supplemental Budget (ESHB 2459)

Growth in corrections spending is mitigated through the implementation of two savings strategies:

- First, savings in the amount of \$2.6 million are achieved by transferring offenders under the age of 18 to DSHS Juvenile Rehabilitation Administration (JRA) facilities. The net savings to the state, when combined with costs to JRA, are \$2.3 million. The transfer will allow DOC to utilize a 99-bed unit for adult offenders, reducing the need to rent such beds from out of state. Offenders transferred to JRA are to be returned to DOC after their 18th birthday.
- Second, the budget assumed savings of \$1.5 million by applying the same supervision criteria to offenders convicted of misdemeanors as are applied to offenders convicted of felonies. However, the legislation necessary to accomplish this change was not enacted. Therefore, DOC will continue to supervise low- to moderate-risk misdemeanants sentenced in Superior Court.

Natural Resources

Department of Ecology

Funding of \$2.5 million from the state general fund is provided for the mediated settlement with Envirotest, the former contractor of the state's vehicle emission testing program. Envirotest filed suit against the state, alleging lost profits due to changes in the vehicle emission testing program that resulted in fewer vehicles being tested.

The operating budget provides \$1.0 million from the state general fund to establish instream flows by rule for main stem rivers and their key tributaries, to work with counties that have existing geographic information systems to map existing water rights and document current ownership, and to assign one water master to a basin that has been adjudicated.

A total of \$325,000 is provided to reduce two persistent bioaccumulative toxins in the environment. Funding of \$166,000 from the state general fund is provided for rule making and the development of a chemical action plan for the chemical compound known as polybrominated diphenyl ethers; this compound is commonly used as a fire retardant. Efforts to reduce mercury are enhanced with an increase of \$159,000 from the State Toxics Control Account.

Department of Fish and Wildlife

The operating budget provides \$150,000 from the state general fund to conduct supplemental monitoring and sampling to open the Lake Washington sockeye fishery and one additional eastern Washington recreational fishery during the 2004 season.

Department of Natural Resources

Funding of \$23.5 million from the state general fund is provided for fire suppression costs that were incurred during the 2003 fire season. The Department responded to approximately 920 fires with 12,186 acres burned during the 2003 fire season.

The operating budget provides \$2.0 million from the state general fund, \$2.0 million from the Aquatic Lands Enhancement Account, and \$750,000 from the State Toxics Control Account to settle a toxic cleanup lawsuit filed in King County Superior Court by Pacific Sound Resources and the Port of Seattle against the state of Washington and other defendants.

The operating budget provides an additional \$200,000 from the state general fund to ensure that campsites and trails that are managed by the Department will remain open for public use.

Department of Agriculture

Funding of \$1.8 million from the state general fund is provided to purchase agricultural products packing equipment and to contract with the Washington State University for research and development activities related to asparagus harvesting and automation technology.

Funding of \$479,000 from the state general fund is provided to the Department's animal identification, food safety, and commercial feed inspection programs in response to the discovery of a Washington dairy cow infected with Bovine Spongiform Encephalopathy, also known as "mad cow" disease.

Transportation

The majority of funding for transportation services is included in the transportation budget, not in the omnibus appropriations act. The omnibus appropriations act includes only a portion of the funding for the Department of Licensing and the Washington State Patrol. Therefore, the notes contained in this section are limited. For additional information on transportation funding, please see the Transportation Budget Section of this document.

Washington State Patrol

Funding of \$276,000 from the Fingerprint Identification Account is provided for the implementation of Chapter 187, Laws of 2004 (SHB 2532), which establishes new requirements for commercial driver's license applicants and school bus drivers.

Ongoing funding of \$376,000 from the Public Safety and Education Account is provided for DNA kits and related supplies to keep up with the demand for DNA casework services. Since the Crime Laboratory Division has implemented the use of the Short Tandem Repeats method of DNA analysis, which allows testing of very small quantities of evidence, demand has exceeded available supplies.

Public Schools

Health Benefit Rate Parity/Increase – \$9.5 Million General Fund-State, \$44,000 General Fund-Federal

In the original 2003-05 budget, the K-12 health benefit funding rate was \$481.31 per employee per month for the 2003-04 school year and \$570.74 per employee per month for the 2004-05 school year. The supplemental budget provides funding to increase the 2004-05 school year rate to \$582.47 per employee per month. The new rate provides parity with state employees. The only difference between the K-12 and state employee funding rates is that the K-12 rate does not include the \$2.11 that is in the state employee rate for the settlement of a lawsuit. The state employee funding rate is expected to result in no increase in the average employee co-premium from 2004 to 2005. K-12 health benefits, including employee premiums and co-pays, are bargained locally.

Classified Staff Salary Increase – \$5.5 Million General Fund-State, \$23,000 General Fund-Federal

The budget provides funding for a 1 percent salary increase for classified school employees for the 2004-05 school year.

Levy Base Calculations – \$3.6 Million General Fund-State

Chapter 21, Laws of 2004 (SSB 6211), increases the maximum amount districts can collect in excess levies and the state's levy equalization allocations to districts for calendar years 2005 through 2007. Levy equalization allocations are projected to increase by \$6.6 million in calendar year 2005 and by \$3.6 million in FY 2005.

Washington Assessment of Student Learning Changes – \$869,000 General Fund-State

The Office of the Superintendent of Public Instruction (OSPI) will offer high school students the opportunity to retake the Washington Assessment of Student Learning in the spring and fall of each year, develop options for alternate assessments and/or an appeals procedure, and review the alignment between the assessments and our learning standards, as provided by Chapter 19, Laws of 2004 (3ESHB 2195).

2004 Supplemental Budget (ESHB 2459)

Digital Learning Commons – \$650,000 General Fund-State

The Digital Learning Commons is a nonprofit corporation that provides a web-based portal where students, parents, and teachers have access to resources, learning tools, and on-line classes. In its first year of operation, the Digital Learning Commons is providing services to 5,000 students and 500 teachers in 17 schools. Funding is provided through the Department of Information Services to expand the pilot project in the 2004-05 school year to serve additional students and teachers. The expansion also will provide additional resources for parents and increase parent participation in the second year of the project.

Charter Schools – \$637,000 General Fund-State

Funding is provided for the implementation of Chapter 22, Laws of 2004 (E2SHB 2295), which provides for the establishment of a limited number of charter schools. Most of the fiscal impact comes from an anticipated increase in public charter school enrollment from home-schooled students and students currently attending private schools (\$401,000). Funding is also provided for the Washington State Institute for Public Policy (WSIPP) to evaluate the effectiveness of charter schools (\$65,000). Funding is also provided to the Public Employee Relations Commission (\$41,000) and OSPI (\$130,000) for implementation.

Mathematics Initiative – \$575,000 General Fund-State

The budget provides funding for OSPI to disseminate information on essential components of comprehensive, school-based mathematics programs and evaluate mathematics textbooks and other instructional materials to determine the extent to which they are aligned with the state standards. In addition, the OSPI will work with mentor teachers from around the state to develop guidelines for eligibility, training, and professional development for mathematics mentor teachers. Finally, the Washington Professional Educator Standards Board (WPESB) will submit a report regarding specific implementation strategies to strengthen the mathematics initiative by improving teacher knowledge and skill development.

Alternative Routes to Certification – \$340,000 General Fund-State

Funding is provided for WPESB to expand the Alternative Routes to Certification Program to provide more teacher certification opportunities in areas of the state without current access to an alternative route program. The expansion will add 40 additional internships to the Alternative Route to Certification Program building upon a federal grant to establish regional teacher preparation centers.

Reading and Math Software – \$250,000 General Fund-State

Funding is provided for the purchase of reading and math software in the Tukwila and Selah school districts. The software will be used in conjunction with other research-based reading and math intervention programs.

K-12 Studies – \$190,000 General Fund-State, \$50,000 General Fund-Federal

Funding is provided for five K-12 related studies: (1) the Office of Financial Management will evaluate the costs and benefits of encouraging K-12 employee bargaining units to elect coverage under plans administered by the Public Employees Benefits Board; (2) WSIPP will examine issues related to the Transitional Bilingual Education Program; and (3) the Joint Legislative Audit and Review Committee (JLARC) and the State Auditor's Office will conduct a legal and financial review of alternative learning experience programs. The Governor vetoed funding and language directing JLARC to study methods of bidding and purchasing school buses and state and school district expenditures of federal Title II (professional development) monies.

Higher Education

Enrollment Increases

The amount of \$17.5 million from the state general fund is provided to increase the budgeted general enrollment capacity of the state's public colleges and universities and to address increasing enrollment demand primarily in high-demand fields.

College access is specifically expanded to support an additional 2,425 full-time equivalent (FTE) student enrollments: 1,223 general enrollments at the community and technical colleges and 828 general enrollments in the baccalaureate institutions; 324 enrollments in a high-demand pool to be allocated by the Higher Education Coordinating Board to the baccalaureate institutions; and 50 enrollments restored to Central Washington University's budgeted enrollment base. In addition, the State Board for Community and Technical Colleges will allocate high-demand and worker retraining pool funding to its colleges. The Board will provide information on the number of student enrollments added at the conclusion of the 2004-05 academic year.

The Governor vetoed a provision that allows independent four-year institutions to compete for high-demand enrollment funding.

Financial Aid

A total of \$8.9 million from the state general fund is provided for student financial aid through the State Need Grant, Promise Scholarship, Health Professional, and Washington Center Scholarship Programs. State Need Grant funding covers the impact of new state-budgeted, high-demand student enrollments and serves 35 percent of eligible, but unserved students in fiscal year 2005. Additional funding restores the average grant award amount for the Promise Scholarship to approximately 51 percent of community college tuition and fees. The Health Professional Loan Repayment and Scholarship Program is expanded to assist with the recruitment and retention of health professionals in underserved areas of the state. And finally, 15 Washington college students will receive scholarships to participate in a full-time semester-long internship in Washington, D.C.

The Governor vetoed a provision that limits Promise Scholarship eligibility for the graduating high school class of 2004 to 120 percent of median family income adjusted for family size.

Applied Research

In enacting a supplemental budget, the Legislature approved \$53.9 million in undesignated, across-the-board reductions to operations supported by the general fund. The cuts amount to 5 percent of original fiscal year 2003 appropriations to each four-year university and 3 percent of original fiscal year 2003 appropriations to the State Board on behalf of community and technical colleges. Additional reductions for internal agency services, travel, and equipment are described in the Special Appropriations Section of this document.

Autism Center

One-time funding of \$675,000 from the state general fund is provided for the establishment of a satellite facility to the Autism Center at the University of Washington (UW) Medical Center in Seattle at the UW Tacoma campus. The facility will provide clinical services to local families and professional training to school staff, health professionals, and other community agency services providers in the greater Tacoma area.

Remedial Courses

The Legislature provided \$300,000 for a project to reduce the need for remedial math courses at institutions of higher education. This project will bring together representatives from the K-12 system, the two-year college system, and public four-year institutions to align standards and expectations for mathematics, improve math instruction and assessment, and communicate math expectations to students through improved educational advising.

Family Practice Residency

The amount of \$1.8 million from the state general fund is provided to the UW for training and support of primary care physicians and primary care providers. The funding is a doubling of the amount passed on to family practice residency to assist with cost increases experienced by the programs, including the rising cost of medical malpractice premiums.

2004 Supplemental Budget (ESHB 2459)

Other Education

Supplemental appropriations for other education agencies did not authorize any ongoing program enhancements.

Special Appropriations

Efficiency Reductions and Savings

The supplemental operating budget makes efficiency reductions and savings in several areas:

- As a result of adjustments to the acquisition strategy for the K-20 Educational Network Program, which provides telecommunication services to network participants, the operating budget realizes one-time equipment replacement savings of \$1.2 million.
- Savings of \$1.2 million to the state general fund are projected as a result of governmental liability reform.
- Savings of almost \$4.6 million are projected for self-insurance premiums in dedicated funds. In addition, state general fund savings for fiscal year 2004 are shifted to fiscal year 2005.
- The Legislature directs the Office of Financial Management to reduce allotments for all agencies for equipment, travel, and personal service contracts by 10 percent, or \$11.4 million, in fiscal year 2005. *The Governor vetoed this item.*

Extraordinary Criminal Justice Costs

The supplemental operating budget appropriates \$954,000 to King and Pacific counties as a result of extraordinary criminal justice costs incurred. As in 2002, more than half of King County's petition for reimbursement of extraordinary criminal justice costs was for costs related to *State v. Ridgeway*.

Assistance to Counties

The supplemental operating budget appropriates \$4 million of state general funds in fiscal year 2005 to those counties most acutely affected by the loss of Motor Vehicle Excise Tax revenue. This backfill builds up the \$5 million in federal funds provided for these counties in the 2003-05 biennial budget.

Mader et al v. Health Care Authority and the state of Washington Settlement

The supplemental operating budget provides \$11 million to settle all claims in *Mader et al v. Health Care Authority and the state of Washington*. Community and technical colleges are required to provide health benefits during the summer months for part-time faculty who have worked half time or more during the academic year. This settlement requires the reimbursement of health care premiums paid by employers prior to 2003. The appropriation is contingent upon the settlement being executed by June 30, 2004.

2004 Supplemental Capital Budget Highlights

Overview

The 2004 Supplemental Capital Budget, ESHB 2573, which became Chapter 277, Laws of 2004, enacted \$218 million in new appropriations for capital projects and programs. The Legislature faced three primary questions in considering the supplemental capital budget: (1) whether to appropriate funds for a prison expansion at Coyote Ridge and a related question regarding whether to enact a bond bill in 2004; (2) whether to appropriate funds for additional water-related projects; and (3) whether to authorize new higher education projects in 2004 or wait and consider the prioritized project lists in 2005.

The Legislature decided to wait until 2005 to consider the prison expansion when more information will be available such as the Department of Corrections strategic or master plan update. Once this decision was made, the Legislature decided to forego a new bond bill in 2004, adding a limited number of new projects using existing bond capacity from 2003 and a few fund switches. This enabled a smaller water package to be approved in consultation with the Governor's Office. The Legislature decided to appropriate about \$115 million in pre-authorized Gardner-Evans bonds in 2004 based on indications from higher education institutions that these projects were ready to go and would be at the top of the 2005 project prioritization lists.

Of the \$218 million in new appropriations, approximately \$149 million is financed with state bonds. Gardner-Evans bonds funds \$115 million of this and previously authorized Referendum 38 bonds funded another \$4 million, leaving \$30 million in "regular" state bonds. A new bond bill was not necessary to finance this remaining \$30 million in new appropriations given \$13 million in bond authority remaining from the 2003 bond bill for a variety of reasons, a \$6 million fund switch in higher education, and an \$11 million fund switch in K-12.

The 2003-05 capital budget including the 2004 supplemental budget totals \$2.78 billion, with \$1.49 billion financed by state bonds. Gardner-Evans bonds appropriated by the Legislature now total \$290,000 (of the \$750,000 authorized).

Prison Expansion

The Department of Corrections (DOC) initially requested \$7 million for design of a 768-bed medium security facility at Coyote Ridge Correctional Center in Connell. DOC later revised the amount requested to \$46 million to include site and foundation work, citing capacity issues and the need for more medium security beds.

The Coyote Ridge request is one of several major prison expansion decisions the Legislature will be asked to make in the next couple years, many of which are related. The need for additional medium security beds is tied to DOC's future plans to close the 432-bed medium security Blue Mountain Unit at the Washington State Penitentiary and build a 576-bed close security facility in its place. Regardless of any decision in 2004, no significant new beds will come on line until 2007, at which point the 768 beds authorized in 2003 will be available. The Legislature delayed any decision on prison expansion until the 2005 session, which will enable it to consider the results of the Department's current master planning efforts and provide an opportunity to address numerous issues facing DOC in addition to overcapacity (such as accuracy of forecasts and community custody and sentencing policy issues).

Water Projects/Programs

The Legislature continued efforts to address water-related issues by adding approximately \$46.7 million in the 2004 supplemental capital budget. \$2.7 million is provided for water rights mitigation for Quad City and Sunnyside Valley Irrigation District. \$5.8 million is provided for water conveyance infrastructure projects. \$1.5 million is added to water irrigation efficiency projects. \$14.4 million is added to the Water Pollution Control Program. \$22.3 million is provided for drinking water assistance programs.

2004 Supplemental Capital Budget (ESHB 2573)

Habitat Protection and Conservation

\$16.8 million is added for habitat protection and conservation: \$4 million for the Conservation Reserve Enhancement Program; \$2 million for forest riparian easements; and \$10.8 million for critical habitat acquisition.

Higher Education

The Legislature appropriated \$115 million in net new projects for higher education. These included: Guthrie Hall and the Infectious Disease Laboratory Facilities at the University of Washington that will receive federal matching funds; WSU's Spokane Riverpoint Academic Center Building; completion of Senior Hall at Eastern Washington University; Central Washington University's Des Moines and Wenatchee higher education centers; restoring minor works funds at The Evergreen State College; Bond Hall at Western Washington University; and 13 projects for community and technical colleges (including three COP projects).

Other Projects

The 2004 supplemental capital budget also included appropriations for the Lewis and Clark Confluence Project (\$2 million); Port of Walla Walla land acquisition for asparagus-related facilities (\$2 million); the Cherberg Building remodel (\$5 million); equipment for an Employment Resource Center related to Boeing's 7E7 project (\$6 million); and Cama Beach State Park (\$2 million financed by bonds and \$4.8 using a certificate of participation).

Policy Regarding Appropriating the Full Amount of the Construction Phase of a Project

General capital budgeting principles divide a major capital project into pre-design, design, and construction. Capital budgeting principles also generally provide that if the Legislature decides to fund the construction of a project, the Legislature appropriate the full amount necessary to complete construction (or at least a usable, stand-alone phase). The Legislature embraced this fiscal budgeting principle by fully funding construction of WSU's Spokane Riverpoint Academic Center, agreeing with testimony by the Governor's Office that it is inappropriate to fund a shell as was proposed by the university.

2004 Transportation Supplemental Budget

Background

The 2003 Legislature passed several bills that improved the accountability, efficiency, and oversight of our state transportation system. The enacted 2003-05 Transportation Budget built upon that foundation with targeted funding of specific projects linked to the additional revenue generated by a 5-cent per gallon gas tax increase, a 15 percent increase in gross weight fees on heavy trucks, and a 0.3 percent increase in the sales tax on motor vehicles.

Generally, a supplemental budget focuses on refining the biennial budget by making small corrections and addressing emerging needs. The announcement that the 2010 Winter Olympic Games would be held in Vancouver, British Columbia, challenged the Legislature to advance construction of funded projects so they would be completed before the games commenced. Members were also seeking a means to address local freight projects not funded in the 2003 budget.

The 2004 supplemental session arrived with those issues, as well as some unexpected challenges. The Supreme Court ruling on the validity of Initiative 776 (I-776) presented a reduction to pre-existing revenues. New U.S. Coast Guard requirements associated with Homeland Security for ferries placed additional burdens on both the ferry system and the Washington State Patrol. Additionally, a number of minor emerging issues required funding.

I-776 Reductions of \$43.1 Million

The court decision on Initiative-776 eliminated some local transportation option taxes and reduced the gross weight fees on trucks under 10,000 pounds to \$30. The 10-year loss is \$205 million. The 2003-05 biennial loss is as follows:

- \$9.4 million from the State Patrol Highway Account;
- \$30.2 million from the Motor Vehicle Account;
- \$925,000 from the Puget Sound Ferry Operations Account; and
- \$2.6 million from the Transportation 2003 (Nickel) Account.

I-776 Response and Funding of Other Emerging Issues

Revenue losses are partially mitigated through available fund balances, federal funding provided for ferries, a risk management reduction, and reductions in state expenditures.

- \$18.6 million state ferry capital funding is replaced with federal funding;
- \$8 million fund transfer from the Transportation Equipment Fund (\$5 million) and the Advanced Right of Way Account (\$3 million);
- \$7.6 million reduction in self insurance premiums;
- \$6.2 million in program reductions;
- \$1.9 million in vacancy/salary savings; and;
- \$7.6 million one-time debt service reduction.

Nickel Project Management and Schedule Adjustments

The Legislature reviewed and adopted a majority of the Transportation Commission's recommended schedule changes to the New Law and Current Law project lists. Funding and scope changes are based on new and emerging project information.

2004 Transportation Supplemental Budget (ESHB 2474)

- No projects have been added or adopted from the 2003 Transportation (Nickel) Program;
- All projects originally listed are slated for completion within the financial package adopted in 2003; and
- The budget accelerates the schedule for projects associated with the 2010 Olympics, including Interstate 5 (I-5) high occupancy vehicle lanes at Everett and State Route (SR) 539 (10 miles to the border) in Whatcom County. The budget also provides an accelerated schedule for the SR 16 Burley Olalla Interchange project by one year.

Budget Additions

High priority projects added within current law revenues:

- \$11.0 million from the Puyallup Tribal Settlement Account to mitigate effects on traffic currently being served by the Murray Morgan Bridge in Tacoma;
- \$1.2 million for the design of a SR 507 to SR 510 bypass in Yelm;
- \$650,000 for phase two of the SR 164 Corridor Study;
- \$500,000 for a sensitive lands database for use in GIS systems;
- \$1.7 million for additional noise walls on I-5 by Salmon Creek;
- \$400,000 for a traffic and economic study of the Mount. Saint Helens tourist and recreational area , (*see veto section below*);
- \$550,000 for a route development plan of SR 169;
- \$2.5 million for either the SR 28 – east end of the George Sellar Bridge Phase I or the US 2/97 Peshastin East Interchange project; and,
- \$500,000 for sensitive lands database.

Freight and Rail Projects

- \$13.9 million for local freight mobility projects, which includes projects at the Port of Pasco, Port of Kalama, Benton County, cities of Fife, Colville, Kent, Seattle, Spokane County, and Granite Falls; and,
- \$800,000 for a new freight rail spur in Lewis County.

Public Transportation

- Greater flexibility is provided for special needs transportation providers. Funds may be used by transit agencies for operating and capital as long as the agencies maintain or increase special needs transportation compared to the previous year;
- The use of vanpool funds provided in 2003 is expanded to include incentives to employers to increase employee van pool use;
- \$100,000 for Benton County Commute Trip Reduction Program; and
- \$500,000 for King County for a car-sharing program. Funds serve as a state match to obtain federal funding.

Washington State Ferries

- \$1 million for a study on the viability of the existing Keystone harbor;
- Funding for the fourth new ferry vessel has been accelerated from the 2011-13 biennium to the 2007-11 timeframe. This adjustment provides for more efficient contracting and millions of dollars in savings associated with building all four ferry vessels consecutively;
- \$15.4 million has been received in one-time funding, including \$9.4 million for ferry security equipment purchases;
- \$3 million in toll credits are assigned to Kitsap transit to assist them in obtaining federal funds for passenger-only ferry capital projects; and,

2004 Transportation Supplemental Budget (ESHB 2474)

- Washington State Ferries is to develop a ten-year strategy plan.

Mandatory Increases

- \$3.3 million in local and state funding for the production and mailing of refund checks to truck owners affected by I-776;
- \$1.7 million for Department of Labor and Industries payments for worker's coverage;
- \$3.8 million to implement ferry system security to meet U.S. Coast Guard requirements;
- \$873,000 in federal and state funds to implement the new federal commercial vehicle entrants program and the new northern border program;
- \$427,000 for state laws to bring Washington into compliance with federal commercial driver license laws and to fund a bill passed in 2003 for new ignition interlock requirements;
- \$1.4 million for Department of Licensing (DOL) workload and cost increases;
- \$647,000 for ferries fuel cost increases;
- \$906,000 for ferries insurance premium cost increase; and,
- \$265,000 increase in revolving fund charges.

Recently-Identified Needs

- \$1 million for the Safe Routes for Schools Program;
- \$721,000 for new laser printers in vehicle licensing services offices;
- \$948,000 in federal and DUI cost recovery funds for the purchase of additional video cameras and new breath test equipment to be used by the Washington State Patrol;
- \$1.5 million for the implementation of bills passed by the Legislature. The bills include the implementation of alternate driver license renewals, four new specialized license plates, and the implementation of voluntary biometrics;
- \$475,000 for the implementation of a transportation data recovery site at Union Gap; and,
- \$283,000 for pilot projects regarding employee safety at selected DOL high-risk offices and for a DOL policy and data analyst.

Governor Vetoes and Bill Lapses

- The failure of ESB 6710 to pass the Legislature resulted in the lapse of \$192,000 provided to DOL to implement the bill. (Motor Vehicle Account-State)
- The Governor vetoed Section 216 of Chapter 229, Laws of 2004, Partial Veto (ESHB 2474), providing \$400,000 for a traffic and economic study of the Mount St. Helen's tourist and recreational area. (Motor Vehicle Account-State)
- The Governor vetoed Section 302(4) (b) of Chapter 229, Laws of 2004, Partial Veto (ESHB 2474), providing \$100,000 for the Washington State Department of Transportation to compare the costs and benefits of having high occupancy vehicle lanes in the right lane versus the left. (Motor Vehicle Account-State)
- The Governor vetoed Section 224(5) of Chapter 229, Laws of 2004 that directed the Washington State Department of Transportation to perform an origin and destination study by July 1, 2004 on passenger rail.
- The Governor vetoed Section 225(3) of Chapter 299, Laws of 2004, Partial Veto (ESHB 2474), which would have required the appointment of the State Historic Preservation Office to any committee making final selection of the projects funded with Federal Surface Transportation Program enhancement funds.
- The Governor vetoed Section 305(7) of Chapter 299, Laws of 2004, Partial Veto (ESHB 2474), which would have directed WSDOT to provide the Legislature and the Office of Financial Management with a business plan before purchasing the Palouse River and Coulee City Railroad.

2004 Transportation Supplemental Budget (ESHB 2474)

2003-05 Revised Washington State Transportation Budget

TOTAL OPERATING AND CAPITAL BUDGET

Total Appropriated Funds

(Dollars in Thousands)

	Original 2003-05 Appropriations	2004 Supplemental Budget	Revised 2003-05 Appropriations
Department of Transportation	3,603,586	113,905	3,717,491
Pgm C - Information Technology	70,770	-1,970	68,800
Pgm D - Hwy Mgmt & Facilities-Op	31,048	-67	30,981
Pgm D - Plant Construction & Supv	17,296	-110	17,186
Pgm F - Aviation	6,039	1,978	8,017
Pgm H - Pgm Delivery Mgmt & Suppt	49,410	46	49,456
Pgm I1 - Improvements - Mobility	717,257	5,489	722,746
Pgm I2 - Improvements - Safety	140,280	6,671	146,951
Pgm I3 - Improvements - Econ Init	103,827	5,353	109,180
Pgm I4 - Improvements - Env Retro	22,171	-1,533	20,638
Pgm I7 - Tacoma Narrows Br	613,300	-9,308	603,992
Pgm K - Transpo Economic Part-Op	1,011	0	1,011
Pgm M - Highway Maintenance	289,029	641	289,670
Pgm P1 - Preservation - Roadway	255,060	-4,246	250,814
Pgm P2 - Preservation - Structures	325,460	73,457	398,917
Pgm P3 - Preservation - Other Facil	76,459	5,582	82,041
Pgm Q - Traffic Operations	38,994	55	39,049
Pgm Q - Traffic Operations - Cap	29,198	0	29,198
Pgm S - Transportation Management	27,554	-273	27,281
Pgm T - Transpo Plan, Data & Resch	47,899	-70	47,829
Pgm U - Charges from Other Agys	61,082	-6,344	54,738
Pgm V - Public Transportation	49,186	600	49,786
Pgm W - WA State Ferries-Cap	182,596	14,994	197,590
Pgm X - WA State Ferries-Op	314,700	2,910	317,610
Pgm Y - Rail - Op	35,075	-957	34,118
Pgm Y - Rail - Cap	45,299	11,176	56,475
Pgm Z - Local Programs-Operating	9,626	10	9,636
Pgm Z - Local Programs-Capital	43,960	9,821	53,781
Washington State Patrol	251,099	3,765	254,864
Field Operations Bureau	177,611	3,959	181,570
Technical Services Bureau	71,283	-194	71,089
Capital	2,205	0	2,205
Department of Licensing	182,151	7,012	189,163
Management & Support Services	13,185	-132	13,053
Information Systems	17,927	1,501	19,428
Vehicle Services	63,336	3,126	66,462
Driver Services	87,703	2,517	90,220
Legislative Transportation Comm	2,374	0	2,374
Special Approps to the Governor	0	3,300	3,300
Board of Pilotage Commissioners	272	72	344
Utilities and Transportation Comm	293	0	293
WA Traffic Safety Commission	20,820	0	20,820
County Road Administration Board	94,184	7	94,191
Transportation Improvement Board	200,647	4	200,651
Marine Employees' Commission	352	13	365
Transportation Commission	807	6	813
Freight Mobility Strategic Invest	616	9	625
State Parks and Recreation Comm	972	0	972
Department of Agriculture	315	0	315
State Employee Compensation Adjust	-4,855	0	-4,855
Total Appropriation	4,353,633	128,093	4,481,726
Bond Retirement and Interest	352,296	-7,553	344,743
Total	4,705,929	120,540	4,826,469

2004 Transportation Supplemental Budget (ESHB 2474)

2003-05 Washington State Transportation Budget Chapter 229, Laws of 2004, Partial Veto (ESHB 2472)

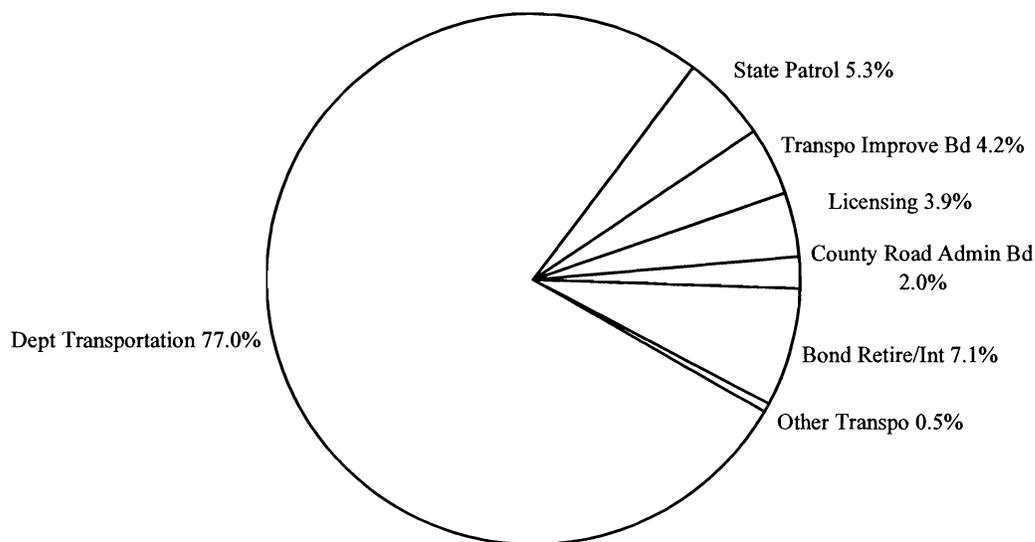
Total Appropriated Funds

(Dollars in Thousands)

MAJOR COMPONENTS BY AGENCY

Revised 2003-05 Budget

Total Operating and Capital Budget



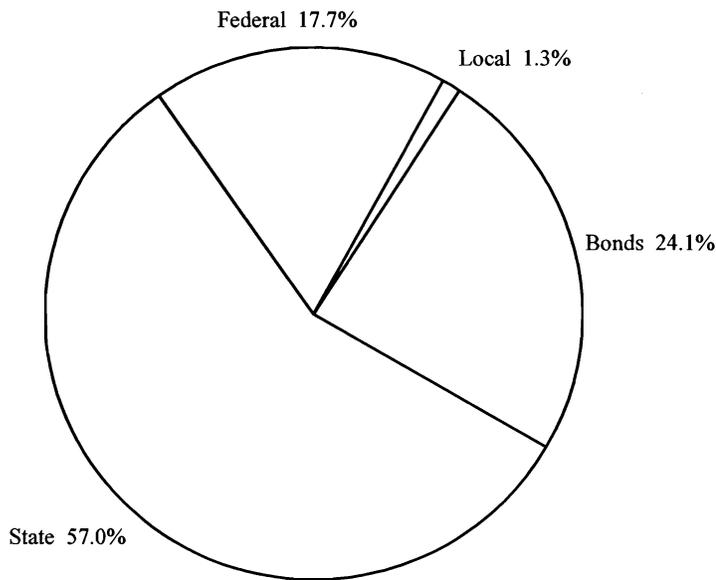
Major Transportation Agencies	2003-05 Original	2004 Supp	2003-05 Revised
Department of Transportation	3,603,586	113,905	3,717,491
Washington State Patrol	251,099	3,765	254,864
Transportation Improvement Board	200,647	4	200,651
Department of Licensing	182,151	7,012	189,163
County Road Administration Board	94,184	7	94,191
Bond Retirement and Interest	352,296	-7,553	344,743
Other Transportation	21,966	3,400	25,366
Total	4,705,929	120,540	4,826,469

2004 Transportation Supplemental Budget (ESHB 2474)

**2003-05 Washington State Transportation Budget
Chapter 229, Laws of 2004, Partial Veto (ESHB 2472)
Total Appropriated Funds**

(Dollars in Thousands)

**COMPONENTS BY FUND TYPE
Revised 2003-05 Budget
Total Operating and Capital Budget**



Fund Type	2003-05 Original	2004 Supp	2003-05 Revised
State	2,734,278	15,404	2,749,682
Federal	768,652	84,401	853,053
Local	36,722	25,735	62,457
Bonds	1,166,277	-5,000	1,161,277
Total	4,705,929	120,540	4,826,469

2004 Transportation Supplemental Budget (ESHB 2474)

2003-05 Washington State Transportation Budget Chapter 229, Laws of 2004, Partial Veto (ESHB 2472)

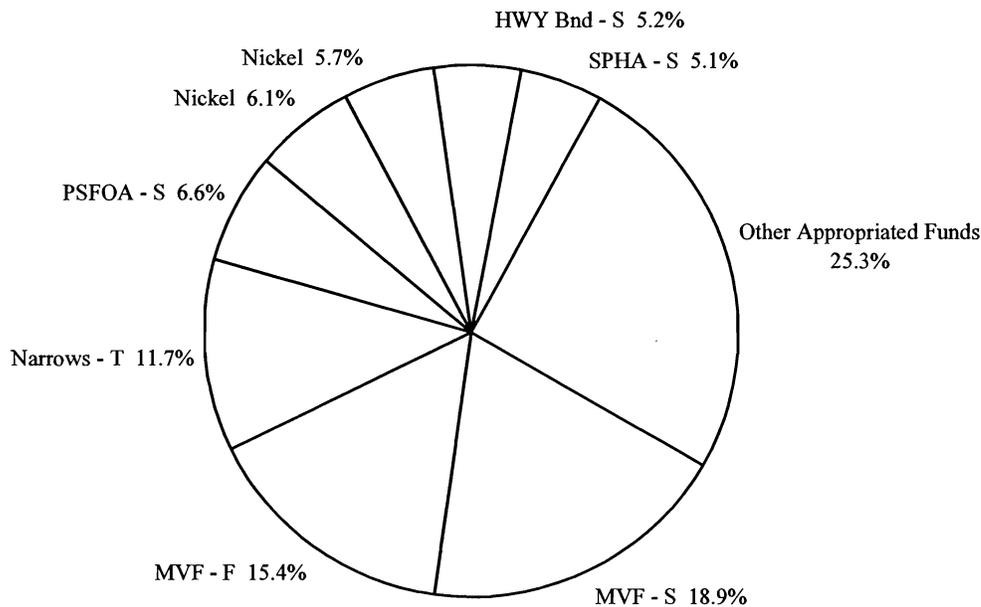
Total Appropriated Funds

(Dollars in Thousands)

MAJOR COMPONENTS BY FUND SOURCE AND TYPE

Revised 2003-05 Budget

Total Operating and Capital Budget



Major Fund Source	2003-05 Original	2004 Supp	2003-05 Revised
Motor Vehicle Account - State (MVF - S)	902,083	12,109	914,192
Motor Vehicle Account - Federal (MVF - F)	690,525	51,238	741,763
Tacoma Narrows Toll Bridge Account - Bonds (Narrows - T)	567,000	0	567,000
Puget Sound Ferry Operations Acct - State (PSFOA - S)	316,194	3,378	319,572
Transportation 2003 Acct (Nickel) - State (Nickel - S)	295,849	-1,818	294,031
Transportation 2003 Acct (Nickel) - Bonds (Nickel - T)	280,000	-5,000	275,000
Highway Bond Retirement Account - State (HWY Bnd - S)	258,971	-8,971	250,000
State Patrol Highway Account - State (SPHA - S)	243,024	2,975	245,999
Other Appropriated Funds	1,152,283	66,629	1,218,912
Total	4,705,929	120,540	4,826,469

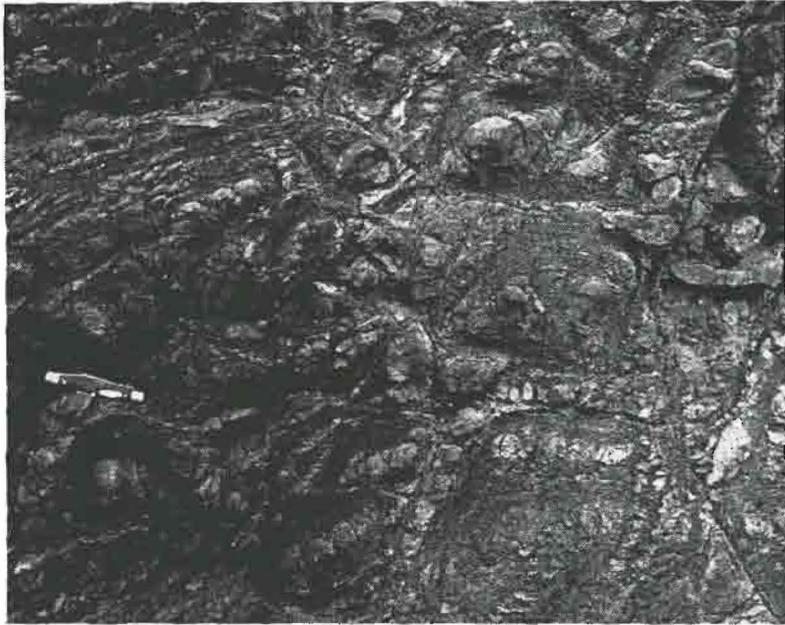
2004 Transportation Supplemental Budget (ESHB 2474)

2003-05 Washington State Transportation Budget Including 2004 Supplemental Budget

Fund Summary TOTAL OPERATING AND CAPITAL BUDGET (Dollars in Thousands)

	MVF State *	P.S. Ferry Op Acct State	WSP Hwy Acct State	Multimodal Acct State	Nickel Account State *	Other Approp	Total Approp
Department of Transportation	1,006,831	320,621	0	156,029	566,214	1,667,796	3,717,491
Pgm C - Information Technology	56,236	7,038	0	363	0	5,163	68,800
Pgm D - Hwy Mgmt & Facilities	48,167	0	0	0	0	0	48,167
Pgm F - Aviation	0	0	0	0	0	8,017	8,017
Pgm H - Pgm Delivery Mgmt & Suppt	49,056	0	0	0	0	400	49,456
Pgm I1 - Improvements - Mobility	94,012	0	0	0	481,279	147,455	722,746
Pgm I2 - Improvements - Safety	39,534	0	0	0	45,515	61,902	146,951
Pgm I3 - Improvements - Econ Init	15,666	0	0	0	24,841	68,673	109,180
Pgm I4 - Improvements - Env Retro	9,823	0	0	0	6,830	3,985	20,638
Pgm I7 - Tacoma Narrows Br	0	0	0	0	0	603,992	603,992
Pgm K - Transpo Economic Part	1,011	0	0	0	0	0	1,011
Pgm M - Highway Maintenance	283,991	0	0	0	0	5,679	289,670
Pgm P1 - Preservation - Roadway	62,817	0	0	1,690	2,000	184,307	250,814
Pgm P2 - Preservation - Structures	105,857	0	0	0	0	293,060	398,917
Pgm P3 - Preservation - Other Facil	36,675	0	0	0	0	45,366	82,041
Pgm Q - Traffic Operations	53,612	0	0	0	0	14,635	68,247
Pgm S - Transportation Management	24,579	1,093	0	973	0	636	27,281
Pgm T - Transpo Plan, Data & Resch	29,494	0	0	1,521	0	16,814	47,829
Pgm U - Charges from Other Agys	54,738	0	0	0	0	0	54,738
Pgm V - Public Transportation	0	0	0	47,057	0	2,729	49,786
Pgm W - WA State Ferries-Cap	0	0	0	13,381	5,749	178,460	197,590
Pgm X - WA State Ferries-Op	0	312,490	0	5,120	0	0	317,610
Pgm Y - Rail	0	0	0	69,448	0	21,145	90,593
Pgm Z - Local Programs	41,563	0	0	16,476	0	5,378	63,417
Washington State Patrol	0	0	246,442	0	0	8,422	254,864
Field Operations Bureau	0	0	174,438	0	0	7,132	181,570
Technical Services Bureau	0	0	69,799	0	0	1,290	71,089
Capital	0	0	2,205	0	0	0	2,205
Department of Licensing	68,689	0	0	0	0	120,474	189,163
Management & Support Services	4,403	0	0	0	0	8,650	13,053
Information Systems	6,285	0	0	0	0	13,143	19,428
Vehicle Services	58,001	0	0	0	0	8,461	66,462
Driver Services	0	0	0	0	0	90,220	90,220
Legislative Transportation Comm	2,374	0	0	0	0	0	2,374
Special Approps to the Governor	1,200	0	0	0	0	2,100	3,300
Board of Pilotage Commissioners	0	0	0	0	0	344	344
Utilities and Transportation Comm	0	0	0	0	0	293	293
WA Traffic Safety Commission	0	0	0	0	0	20,820	20,820
County Road Administration Board	2,296	0	0	0	0	91,895	94,191
Transportation Improvement Board	0	0	0	0	0	200,651	200,651
Marine Employees' Commission	0	365	0	0	0	0	365
Transportation Commission	813	0	0	0	0	0	813
Freight Mobility Strategic Invest	625	0	0	0	0	0	625
State Parks and Recreation Comm	972	0	0	0	0	0	972
Department of Agriculture	315	0	0	0	0	0	315
State Employee Compensation Adjust	-2,305	-1,414	-443	-154	0	-539	-4,855
Total Appropriation	1,081,810	319,572	245,999	155,875	566,214	2,112,256	4,481,726
Bond Retirement and Interest	6,547	0	0	477	2,817	334,902	344,743
Total	1,088,357	319,572	245,999	156,352	569,031	2,447,158	4,826,469

* Includes Bond amounts.



Weathering basalt, Asotin County.

Section III

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Session Law to Bill Number Table

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Blue Mountains

The Blue Mountains physiographic province is located in the southeast corner of the state of Washington. The larger portion of this province is located to the south in Oregon.

The Blue Mountains feature broad uplift reaching 6,000 ft. above sea level. Uplift of the region is thought to have begun 10 to 12 million years ago and was accompanied by folding and faulting to complete the geological setting.

During the Miocene Era, flowing basalt blocked ancestral valleys, which then filled with thick layers of sediment and peat. Since that time the peat has become lignite, some of it in beds of up to 40 ft. thick.



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C	92	L 04	Workers' compensation	SHB	3057
C	93	L 04	Asset smoothing corridor	SB	6249
C	94	L 04	Cyberstalking	ESHB	2771
C	95	L 04	Alcohol-related offenses	SHB	2660
C	96	L 04	Higher education institutions	ESHB	2381
C	97	L 04	Unemployment compensation	SHB	2510
C	98	L 04 PV	Nonprofit corporations	HB	2577
C	99	L 04	Commodity commissions	HB	2301
C	100	L 04	Applying pesticides	SHB	2300
C	101	L 04	Solid wastes	SHB	2308
C	102	L 04	Small forest landowners	EHB	2318
C	103	L 04	DNR/voluntary contributions	HB	2454
C	104	L 04	Water conservancy boards	SHB	2307
C	105	L 04	Off-road vehicles	SHB	2489
C	106	L 04	ORV fees	SHB	2919
C	107	L 04	Dungeness crab endorsement	SHB	2431
C	108	L 04	Payment agreements	HB	3172
C	109	L 04	Tow truck permit fees	HB	1589
C	110	L 04	Unemployment RCW corrections	HB	2509
C	111	L 04	Denial of parentage	SHB	3092
C	112	L 04	Insurance coverage	HB	2014
C	113	L 04	Public utility districts	ESHB	2891
C	114	L 04	Home buyer/sex offender information	ESSB	6153
C	115	L 04	Social Security numbers	SSB	6494
C	116	L 04	Weapons in airports	SSB	6389
C	117	L 04	Animal cruelty penalties	SSB	6105
C	118	L 04	Unlawful bus conduct	SB	6326
C	119	L 04	Motion pictures	SB	6378
C	120	L 04	Victims of crimes	ESSB	6472
C	121	L 04	Legal financial obligations	SSB	5168
C	122	L 04	Stolen pallets	SB	6338
C	123	L 04	Attorney fees	SSB	6527
C	124	L 04	Impersonation of a veteran	ESSB	5861
C	125	L 04	Veterans' license plates	SB	6143
C	126	L 04	Motorcycle safety training	SB	6439
C	127	L 04	Juror payment	SSB	6261
C	128	L 04	Military dependent/residency	SB	6164
C	129	L 04	Regional fire protection authorities	SSB	5326
C	130	L 04	Rural county sales and use tax	SSB	6113
C	131	L 04	Personal wireless facilities	SB	6091
C	132	L 04	Dairy inspection program	SB	6465
C	133	L 04	Special occasion liquor license	SB	6480
C	134	L 04	Investigation of school employees	SSB	6171
C	135	L 04	Child abuse reporting	2SSB	6220
C	136	L 04	Landlord trust accounts	SSB	6402
C	137	L 04	Mobile/manufactured homes	SSB	6649

Session Law to Bill Number Table

C 138	L 04	Food and beverages at schools	SSB	5436
C 139	L 04	Obesity lawsuits	SSB	6601
C 140	L 04 PV	Boarding/adult family homes	SSB	5733
C 141	L 04	In-home long-term care	SSB	5732
C 142	L 04 PV	Boarding homes	SSB	6225
C 143	L 04	Adult family home inspection	SSB	5797
C 144	L 04	Boarding and nursing homes	SSB	6160
C 145	L 04	Medical information	ESSB	6210
C 146	L 04	Dependent children	SB	6643
C 147	L 04	Family group conferences	ESSB	6642
C 148	L 04	Concealed weapon licenses	ESB	5083
C 149	L 04	Extreme fighting	SSB	6103
C 150	L 04	Women's History Center	SSB	6568
C 151	L 04	Renewable energy	SSB	6146
C 152	L 04	Fuel cells	SB	6490
C 153	L 04	Streamlined sales and use tax	SB	6515
C 154	L 04	Internet taxation	SB	6259
C 155	L 04	Amusement/recreation tax exempt	SSB	6115
C 156	L 04	Vehicle taxation	SB	6141
C 157	L 04 PV	Serious offenses	E2SSB	6274
C 158	L 04	Wholesale telecommunications	ESB	6598
C 159	L 04	Public Accountancy Act	SB	6123
C 160	L 04	Beer/wine manufacturers	SSB	6655
C 161	L 04	Active military service	SSB	6302
C 162	L 04	Transient accommodation licenses	SSB	6377
C 163	L 04	Physician assistants	SB	6356
C 164	L 04	Insurance Guarantee Association Act	ESB	6158
C 165	L 04 PV	Receiverships	SSB	6189
C 166	L 04 PV	Offenders/treatment orders	E2SSB	6358
C 167	L 04	Correctional industries	E2SSB	6489
C 168	L 04	Gift certificates	EHB	3036
C 169	L 04	Homeowners' associations	HB	2934
C 170	L 04	State Patrol death benefits	HB	2534
C 171	L 04	State Patrol death benefits	SB	6254
C 172	L 04	Service credit purchase	HB	2535
C 173	L 04	Health insurance	SHB	2985
C 174	L 04	Taxation of boarding homes	SHB	1328
C 175	L 04	RCW respectful language	HB	2663
C 176	L 04 PV	Sex crimes against minors	ESHB	2400
C 177	L 04	Taxation of timber	ESHB	2693
C 178	L 04	Apple Commission	SHB	2367
C 179	L 04	Commodity commissions	SHB	2618
C 180	L 04	Bird areas	ESHB	2650
C 181	L 04	Foster parents' rights	SHB	2988
C 182	L 04	Family decision meetings	2SHB	3085
C 183	L 04	Child support/developmentally disabled	ESHB	2554
C 184	L 04	Care provider insurance	SHB	2788

Session Law to Bill Number Table

C	185	L 04	Interest on tort judgments	HB	2485
C	186	L 04	Bail bond agents	SHB	2313
C	187	L 04	Commercial drivers' licenses	SHB	2532
C	188	L 04	Salvage vehicles	SHB	2908
C	189	L 04	Joint operating agencies	HB	2703
C	190	L 04	Contracting/notice	HB	2615
C	191	L 04	Growth management timelines	HB	2811
C	192	L 04	Basic health plan	ESHB	2797
C	193	L 04	Estate adjudication	SHB	2904
C	194	L 04	Electronic products	ESHB	2488
C	195	L 04	Water policy and aquifer level	SHB	2504
C	196	L 04	Rural development	ESHB	2905
C	197	L 04	Development regulations	SHB	2781
C	198	L 04	Common schools trust lands	HB	3045
C	199	L 04	Public lands definitions	SHB	2321
C	200	L 04	Title fees	HB	2483
C	201	L 04	Condominiums	2ESSB	5536
C	202	L 04	Water-sewer districts	SSB	6208
C	203	L 04	Heating oil tank liability	SSB	6286
C	204	L 04	Environmental appeals	SSB	5590
C	205	L 04	State Route Number 99	SB	5376
C	206	L 04	National historic reserves	SSB	6367
C	207	L 04	Agricultural land use	SB	6237
C	208	L 04	Industrial land banks	SSB	6534
C	209	L 04	Agricultural lands study	SB	6488
C	210	L 04	Manufactured housing	SB	6476
C	211	L 04	Fruits and vegetables	ESSB	6731
C	212	L 04	Seed-related business	SB	6339
C	213	L 04	Horticultural pests	SSB	6155
C	214	L 04	Irrigation district conveyance	SSB	6575
C	215	L 04	Irrigation districts	ESSB	5665
C	216	L 04	Forest fire protection	SSB	6581
C	217	L 04	Defining timber land	SSB	6216
C	218	L 04	Forest health	2SSB	6144
C	219	L 04	Harbor lines	SB	6269
C	220	L 04	Animal cruelty	SSB	6560
C	221	L 04	Law enforcement license plate	SSB	6148
C	222	L 04	Special license plates	SSB	6325
C	223	L 04	Transfer of license plates	SSB	6676
C	224	L 04	Carbon dioxide emissions	SHB	3141
C	225	L 04	Stormwater discharge permit	ESSB	6415
C	226	L 04	Oil spills	SSB	6641
C	227	L 04	Ballast water discharge	SSB	6329
C	228	L 04	Water quality data	E2SSB	5957
C	229	L 04 PV	Supplemental transportation budget	ESHB	2474
C	230	L 04	Vehicle toll collection	HB	2476
C	231	L 04	Toll violation enforcement	SHB	2475

Session Law to Bill Number Table

C	232	L 04	Highways of statewide significance	EHB	1433
C	233	L 04	Animal identification system	SHB	2299
C	234	L 04	Nonambulatory livestock	SHB	2802
C	235	L 04	American beef ban	SHB	2929
C	236	L 04	Tax on Indian tribe property	SHB	1322
C	237	L 04	Small business incubator program	ESHB	2784
C	238	L 04	Electric utility tax credit	ESHB	2675
C	239	L 04	Electric utility facilities	SHB	2452
C	240	L 04	Public utility tax exemption	E2SHB	2518
C	241	L 04	Excise tax deductions	EHB	2968
C	242	L 04	Public safety employees' retirement	HB	2537
C	243	L 04	Labor and Industries overpayments	ESHB	3188
C	244	L 04 PV	Health insurance/small employers	ESHB	2460
C	245	L 04	Quality award council	HB	2647
C	246	L 04	Horse Racing Commission	SHB	2575
C	247	L 04 PV	Financial literacy	SHB	2455
C	248	L 04	Razor clam license	SHB	2621
C	249	L 04	Driver's license renewal	ESSB	5428
C	250	L 04	Vehicle impounds	SB	6614
C	251	L 04	Animal diseases	SSB	6107
C	252	L 04	Community economic revitalization boards	SB	6314
C	253	L 04	Vendor tax registration	SB	6663
C	254	L 04	Telephone program excise tax	SB	6448
C	255	L 04	Self-insurance risk pools	SB	5869
C	256	L 04	Discrimination in housing	SB	6593
C	257	L 04	Construction liability	SSB	6600
C	258	L 04	Developmentally disabled	SSB	6615
C	259	L 04	Workers' compensation health care	SSB	6428
C	260	L 04	Employer insurance arrangement	ESSB	6112
C	261	L 04	Hospitals	SB	6485
C	262	L 04	Health profession credential	ESSB	6554
C	263	L 04	Land acquisitions	SSB	6242
C	264	L 04 PV	Cougar control	SSB	6118
C	265	L 04	Nonprofit Corporation Act	ESB	6188
C	266	L 04	Title 29A RCW	SB	6417
C	267	L 04	Help America Vote Act	SSB	6419
C	268	L 04 PV	Costs of elections	SB	6493
C	269	L 04	Distribution of liquor	ESB	6737
C	270	L 04	Seniors/disabled property tax	SB	5044
C	271	L 04 PV	Qualifying primary	ESB	6453
C	272	L 04 PV	Cholinesterase	2SSB	6599
C	273	L 04	Identity theft	3SSB	5412
C	274	L 04	Parimutuel wagering	ESSB	6481
C	275	L 04 PV	Higher education	SHB	3103
C	276	L 04 PV	Supplemental operating budget	ESHB	2459
C	277	L 04 PV	Supplemental capital budget	ESHB	2573
C	278	L 04	Home care providers	EHB	1777

Gubernatorial Appointments Confirmed

STATE BOARDS

Liquor Control Board

Roger Hoen

Pollution Control/Shoreline Hearings Board

Bill Clarke

House of Representatives

Senate

Democratic Leadership

Frank Chopp Speaker of the House
John Lovick Speaker Pro Tempore
Lynn Kessler Majority Leader
Bill Grant Majority Caucus Chair
Sharon Tomiko Santos Majority Whip
Brian Hatfield Majority Floor Leader
Laura Ruderman Majority Caucus Vice Chair
Sam Hunt Majority Asst. Floor Leader
Zack Hudgins Majority Assistant Whip
Dave Upthegrove Majority Assistant Whip
Deb Wallace Majority Assistant Whip

Republican Leadership

Richard DeBolt Minority Leader
Bruce Chandler Minority Deputy Leader
Beverly Woods Minority Caucus Chair
Jim Clements Minority Whip
Glenn Anderson Minority Floor Leader
Toby Nixon Minority Caucus Vice Chair
Janea Holmquist Minority Assistant Floor Leader
Dan Roach Minority Assistant Floor Leader
Bill Hinkle Minority Assistant Whip
Lois McMahan Minority Assistant Whip
Daniel Newhouse Minority Assistant Whip

Richard Nafziger Chief Clerk
William H. Wegeleben Deputy Chief Clerk

Officers

Lt. Governor Brad Owen President
Shirley Winsley President Pro Tempore
Alex Deccio Vice President Pro Tempore
Milt Doumit Secretary
Paul Campos Deputy Secretary
Denny Lewis Sergeant At Arms

Caucus Officers

Republican Caucus

Bill Finkbeiner Majority Leader
Patricia S. Hale Majority Caucus Chair
Luke Esser Majority Floor Leader
Mike Hewitt Majority Whip
Linda Evans Parlette Majority Deputy Leader
Dale Brandland Majority Caucus Vice Chair
Cheryl Pflug Majority Deputy Floor Leader
Brian Murray Majority Deputy Whip

Democratic Caucus

Lisa Brown Democratic Leader
Harriet A. Spanel Democratic Caucus Chair
Betti L. Sheldon Democratic Floor Leader
Tracey Eide Democratic Whip
Ken Jacobsen Democratic Caucus Vice Chair
Rosa Franklin Democratic Asst. Floor Leader
Debbie Regala Democratic Asst. Floor Leader
Mark Doumit Democratic Assistant Whip

Legislative Members by District

District 1

Sen. Rosemary McAuliffe (D)
Rep. Al H O'Brien (D-1)
Rep. Jeanne A Edwards (D-2)

District 2

Sen. Marilyn Rasmussen (D)
Rep. Roger R Bush (R-1)
Rep. Tom J Campbell (R-2)

District 3

Sen. Lisa J Brown (D)
Rep. Alex W Wood (D-1)
Rep. Timm Ormsby (D-2)

District 4

Sen. Bob McCaslin (R)
Rep. Larry W Crouse (R-1)
Rep. Lynn Maureen Schindler (R-2)

District 5

Sen. Cheryl A Pflug (R)
Rep. Glenn Anderson (R-1)
Rep. Jay Rodne (R-2)

District 6

Sen. Brian Murray (R)
Rep. Brad D Benson (R-1)
Rep. John E Ahern (R-2)

District 7

Sen. Bob Morton (R)
Rep. Bob F Sump (R-1)
Rep. Cathy A McMorris (R-2)

District 8

Sen. Patricia S Hale (R)
Rep. Shirley W Hankins (R-1)
Rep. Jerome L Delvin (R-2)

District 9

Sen. Larry L Sheahan (R)
Rep. Don L Cox (R-1)
Rep. Mark G Schoesler (R-2)

District 10

Sen. Mary Margaret Haugen (D)
Rep. Barry Sehlin (R-1)
Rep. Barbara Bailey (R-2)

District 11

Sen. Margarita Prentice (D)
Rep. Zack Hudgins (D-1)
Rep. Velma R Veloria (D-2)

District 12

Sen. Linda Evans Parlette (R)
Rep. Cary Condotta (R-1)
Rep. Mike Armstrong (R-2)

District 13

Sen. Joyce C Mulliken (R)
Rep. Janea Holmquist (R-1)
Rep. Bill Hinkle (R-2)

District 14

Sen. Alex A Deccio (R)
Rep. Mary K Skinner (R-1)
Rep. Jim A Clements (R-2)

District 15

Sen. Jim Honeyford (R)
Rep. Bruce Q Chandler (R-1)
Rep. Daniel Newhouse (R-2)

District 16

Sen. Mike Hewitt (R)
Rep. Dave Mastin (R-1)
Rep. Bill A Grant (D-2)

District 17

Sen. Don Benton (R)
Rep. Marc J Boldt (R-1)
Rep. Deb Wallace (D-2)

District 18

Sen. Joseph Zarelli (R)
Rep. Tom M Mielke (R-1)
Rep. Ed Orcutt (R-2)

District 19

Sen. Mark L Doumit (D)
Rep. Brian A Hatfield (D-1)
Rep. Brian Blake (D-2)

District 20

Sen. Dan Swecker (R)
Rep. Richard C DeBolt (R-1)
Rep. Gary C Alexander (R-2)

District 21

Sen. Paull H Shin (D)
Rep. Mike M Cooper (D-1)
Rep. Brian Sullivan (D-2)

District 22

Sen. Karen Fraser (D)
Rep. Sandra Singery Romero (D-1)
Rep. Sam Hunt (D-2)

District 23

Sen. Betti L Sheldon (D)
Rep. Phil Rockefeller (D-1)
Rep. Beverly A Woods (R-2)

District 24

Sen. James E Hargrove (D)
Rep. Jim G Buck (R-1)
Rep. Lynn E Kessler (D-2)

District 25

Sen. Jim Kastama (D)
Rep. Joyce McDonald (R-1)
Rep. Dawn Morell (R-2)

District 26

Sen. Bob Oke (R)
Rep. Patricia T Lantz (D-1)
Rep. Lois McMahan (R-2)

District 27

Sen. Debbie E Regala (D)
Rep. Dennis Flannigan (D-1)
Rep. Jeannie Darneille (D-2)

District 28

Sen. Shirley J Winsley (R)
Rep. Gigi G Talcott (R-1)
Rep. Mike J Carrell (R-2)

District 29

Sen. Rosa Franklin (D)
Rep. Steve E Conway (D-1)
Rep. Steve Kirby (D-2)

District 30

Sen. Tracey J Eide (D)
Rep. Mark A Miloscia (D-1)
Rep. Skip Priest (R-2)

District 31

Sen. Pam Roach (R)
Rep. Dan Roach (R-1)
Rep. Jan Shabro (R-2)

District 32

Sen. Darlene Fairley (D)
Rep. Maralyn Chase (D-1)
Rep. Ruth L Kagi (D-2)

District 33

Sen. Karen K Keiser (D)
Rep. Shay K Schual-Berke (D-1)
Rep. Dave Upthegrove (D-2)

District 34

Sen. Erik E Poulsen (D)
Rep. Eileen L Cody (D-1)
Rep. Joe McDermott (D-2)

District 35

Sen. Tim Sheldon (D)
Rep. Kathy M Haigh (D-1)
Rep. William "Ike" A Eickmeyer (D-2)

District 36

Sen. Jeanne Kohl-Welles (D)
Rep. Helen E Sommers (D-1)
Rep. Mary Lou Dickerson (D-2)

District 37

Sen. Adam Kline (D)
Rep. Sharon Tomiko Santos (D-1)
Rep. Eric Pettigrew (D-2)

District 38

Sen. Jean Berkey (D)
Rep. John R McCoy (D-1)
Rep. David Simpson (D-2)

District 39

Sen. Val Stevens (R)
Rep. Dan Kristiansen (R-1)
Rep. Kirk Pearson (R-2)

District 40

Sen. Harriet A Spanel (D)
Rep. Dave S Quall (D-1)
Rep. Jeff R Morris (D-2)

District 41

Sen. Jim Horn (R)
Rep. Fred Jarrett (R-1)
Rep. Judy Clibborn (D-2)

District 42

Sen. Dale E Brandland (R)
Rep. Doug J Ericksen (R-1)
Rep. Kelli J Linville (D-2)

District 43

Sen. Pat Thibaudeau (D)
Rep. Ed B Murray (D-1)
Rep. Frank V Chopp (D-2)

District 44

Sen. Dave A Schmidt (R)
Rep. Hans Dunshee (D-1)
Rep. John R Lovick (D-2)

District 45

Sen. Bill Finkbeiner (R)
Rep. Toby Nixon (R-1)
Rep. Laura E Ruderman (D-2)

District 46

Sen. Ken Jacobsen (D)
Rep. Jim L McIntire (D-1)
Rep. Phyllis Gutierrez Kenney (D-2)

District 47

Sen. Stephen L Johnson (R)
Rep. Geoff Simpson (D-1)
Rep. Jack D Cairnes (R-2)

District 48

Sen. Luke E Esser (R)
Rep. Ross Hunter (D-1)
Rep. Rodney Tom (R-2)

District 49

Sen. Don Carlson (R)
Rep. Bill Fromhold (D-1)
Rep. Jim Moeller (D-2)

Standing Committee Assignments

House Agriculture

& Natural Resources

Kelli Linville, *Chair*
Phil Rockefeller, *V. Chair*
Bruce Chandler
William "Ike" Eickmeyer
Bill Grant
Janea Holmquist
Sam Hunt
Dan Kristiansen
Joe McDermott
Ed Orcutt
Dave Quall
Mark G. Schoesler
Bob Sump

House Appropriations

Helen Sommers, *Chair*
Bill Fromhold, *V. Chair*
Gary Alexander
Glenn Anderson
Marc Boldt
Jim Buck
Bruce Chandler
James Clements
Eileen Cody
Steve Conway
Don Cox
Hans Dunshee
Bill Grant
Ross Hunter
Ruth Kagi
Phyllis Gutierrez Kenney
Lynn Kessler
Kelli Linville
Joyce McDonald
Jim McIntire
Mark Miloscia
Kirk Pearson
Laura Ruderman
Shay Schual-Berke
Barry Sehlin
Bob Sump
Gig Talcott

Senate Agriculture

Dan Swecker, *Chair*
Dale Brandland, *V. Chair*
Ken Jacobsen
Marilyn Rassmussen
Larry Sheahan

See Senate Ways & Means

House Capital Budget

Hans Dunshee, *Chair*
Sam Hunt, *V. Chair*
Gary Alexander
Mike Armstrong
Brad Benson
Brian Blake
Roger Bush
Maralyn Chase
William "Ike" Eickmeyer
Dennis Flannigan
Shirley Hankins
Bill Hinkle
Steve Kirby
Patricia Lantz
Dave Mastin
Dawn Morrell
Edward Murray
Daniel Newhouse
Al O'Brien
Ed Orcutt
Skip Priest
Mark G. Schoesler
Geoff Simpson
Velma Veloria
Beverly Woods

House Children & Family Services

Ruth Kagi, *Chair*
Jeannie Darneille, *V. Chair*
Barbara Bailey
Marc Boldt
Mary Lou Dickerson
Mark Miloscia
Eric Pettigrew
Dan Roach
Jan Shabro

House Commerce & Labor

Steve Conway, *Chair*
Alex Wood, *V. Chair*
Cary Condotta
Larry Crouse
Janea Holmquist
Zack Hudgins
Phyllis Kenney
John McCoy
Cathy McMorris

see Senate Ways & Means

Senate Children & Family Services & Corrections

Val Stevens, *Chair*
Linda Evans Parlette, *V. Chair*
Don Carlson
Alex Deccio
James Hargrove
Rosemary McAuliffe
Debbie Regala

Senate Commerce & Trade

Jim Honeyford, *Chair*
Mike Hewitt, *V. Chair*
Rosa Franklin
Karen Keiser
Joyce Mulliken

Standing Committee Assignments

<u>House Criminal Justice & Corrections</u> Al O'Brien, <i>Chair</i> Jeannie Darneille, <i>V. Chair</i> <i>Chair</i> John Ahern Ruth Kagi Tom Mielke Kirk Pearson Velma Veloria	<u>see Senate Children & Family Services & Corrections; Judiciary</u>	<u>House Financial Institutions & Insurance</u> Shay Schual-Berke, <i>Chair</i> Geoff Simpson, <i>V. Chair</i> Brad Benson Jack Cairnes Mike Carrell Mike Cooper Brian Hatfield Daniel Newhouse Dan Roach Sharon Tomiko Santos David Simpson	<u>Senate Financial Services, Insurance & Housing</u> Don Benton, <i>Chair</i> Shirley Winsley, <i>V. Chair</i> Jean Berkey Karen Keiser Brian Murray Margarita Prentice Pam Roach
<u>see House Trade & Economic Development</u>	<u>Senate Economic Development</u> Tim Sheldon, <i>Chair</i> Joseph Zarelli, <i>V. Chair</i> Don Benton Patricia Hale Jeanne Kohl-Welles Brian Murray Dave Schmidt Betti Sheldon Paull Shin	<u>House Fisheries, Ecology & Parks</u> Mike Cooper, <i>Chair</i> Dave Upthegrove, <i>V. Chair</i> Jim Buck Brian Hatfield Bill Hinkle Al O'Brien Kirk Pearson David Simpson Bob Sump	<u>see Senate Parks, Fish & Wildlife</u>
<u>House Education</u> Dave Quall, <i>Chair</i> Joe McDermott, <i>V. Chair</i> Glenn Anderson Don Cox Kathy Haigh Ross Hunter Lois McMahan Phil Rockefeller Sharon Tomiko Santos Gigi Talcott Rodney Tom	<u>Senate Education</u> Stephen Johnson, <i>Chair</i> Bill Finkbeiner, <i>V. Chair</i> Don Carlson Tracey Eide Rosemary McAuliffe Cheryl Pflug Marilyn Rasmussen Dave Schmidt	<u>see House Local Government; State Government</u>	<u>Senate Government Operations & Elections</u> Pam Roach, <i>Chair</i> Val Stevens, <i>V. Chair</i> Jean Berkey Darlene Fairley Jim Horn Jim Kastama Bob McCaslin
<u>House Finance</u> Jim McIntire, <i>Chair</i> Ross Hunter, <i>V. Chair</i> John Ahern Jack Cairnes Steve Conway Jeff Morris Ed Orcutt Dan Roach Sharon Tomiko Santos	<u>see Senate Ways & Means</u>		

Standing Committee Assignments

House Health Care

Eileen Cody, *Chair*
Dawn Morrell, *V. Chair*
Gary Alexander
Barbara Bailey
Brad Benson
Tom Campbell
Judy Clibborn
Jeannie Darneille
Jeanne Edwards
Jim Moeller
Jay Rodne
Shay Schual-Berke
Mary Skinner

House Higher Education

Phyllis Gutierrez Kenney,
Chair
Bill Fromhold, *V. Chair*
Marc Boldt
Maralyn Chase
Cary Condotta
Don Cox
Fred Jarrett
John McCoy
Dawn Morrell
Timm Ormsby
Skip Priest

see House Transportation

Senate Health & Long- Term Care

Alex Deccio, *Chair*
Shirley Winsley, *V. Chair*
Dale Brandland
Rosa Franklin
Karen Keiser
Linda Evans Parlette
Pat Thibaudeau

Senate Higher Education

Don Carlson, *Chair*
Dave Schmidt, *V. Chair*
Jim Horn
Jeanne Kohl-Welles
Cheryl Pflug
Betti Sheldon
Paul Shin

Senate Highways & Transportation

Jim Horn, *Chair*
Don Benton, *V. Chair*
Dan Swecker, *V. Chair*
Luke Esser
Mary Margaret Haugen
Ken Jacobsen
Jim Kastama
Joyce Mulliken
Brian Murray
Bob Oke
Erik Poulsen
Harriet Spanel

House Judiciary

Patricia Lantz, *Chair*
Jim Moeller, *V. Chair*
Mike Carrell
Tom Campbell
Dennis Flannigan
Steve Kirby
John Lovick
Lois McMahan
Daniel Newhouse

House Juvenile Justice & Family Law

Mary Lou Dickerson,
Chair
Eric Pettigrew, *V. Chair*
Mike Carrell
Jerome Delvin
Bill Hinkle
John Lovick
Dave Upthegrove

see House Local Government; State Government

House Local Government

Sandra Romero, *Chair*
David Simpson, *V. Chair*
John Ahern
Judy Clibborn
Jeanne Edwards
Doug Ericksen
Fred Jarrett
Tom Mielke
Jim Moeller
Lynn Schindler
Dave Upthegrove

Senate Judiciary

Bob McCaslin, *Chair*
Luke Esser, *V. Chair*
Dale Brandland
James Hargrove
Mary Margaret Haugen
Stephen Johnson
Adam Kline
Pam Roach
Pat Thibaudeau

see Senate Children & Family Services & Corrections

Senate Land Use & Planning

Joyce Mulliken, *Chair*
Adam Kline
Bob Morton
Brian Murray
Tim Sheldon

see Senate Government Operations & Elections

Standing Committee Assignments

see House Agriculture & Natural Resources; Technology, Telecommunications & Energy

Senate Natural Resources, Energy & Water

Bob Morton, *Chair*
Mike Hewitt, *V. Chair*
Mark Doumit
Karen Fraser
Patricia Hale
James Hargrove
Jim Honeyford
Bob Oke
Debbie Regala

see House Fisheries, Ecology & Parks

Senate Parks, Fish & Wildlife

Bob Oke, *Chair*
Larry Sheahan, *V. Chair*
Mark Doumit
Ken Jacobsen
Bob Morton
Harriet Spanel
Dan Swecker

House Rules

Frank Chopp, *Chair*
Roger Bush
Bruce Chandler
Jim Clements
Richard Debolt
William "Ike" Eickmeyer
Bill Grant
Kathy Haigh
Brian Hatfield
Sam Hunt
Fred Jarrett
Lynn Kessler
Steve Kirby
John Lovick
Joyce McDonald
Kirk Pearson
Laura Ruderman
Sharon Tomiko Santos
Beverly Woods

Senate Rules

Lt. Governor Brad Owen, *Chair*
Shirley Winsley, *V. Chair*
Don Benton
Lisa Brown
Tracey Eide
Luke Esser
Bill Finkbeiner
Rosa Franklin
Patricia Hale
Mary Margaret Haugen
Mike Hewitt
Jim Honeyford
Jeanne Kohl-Welles
Linda Evans Parlette
Marilyn Rasmussen
Pam Roach
Dave Schmidt
Harriet Spanel
Joseph Zarelli

House State Government

Kathy Haigh, *Chair*
Mark Miloscia, *V. Chair*
Mike Armstrong
Sam Hunt
Joe McDermott
Toby Nixon
Jan Shabro
Rodney Tom
Deb Wallace

House Technology, Telecommunications & Energy

Jeff Morris, *Chair*
Laura Ruderman, *V. Chair*
Brian Sullivan, *V. Chair*
Glenn Anderson
Brian Blake
Roger Bush
Larry Crouse
Jerome Delvin
Zack Hudgins
Steve Kirby
Lois McMahan
Cathy McMorris
Toby Nixon
Sandra Romero
Rodney Tom
Deb Wallace
Alex Wood

House Trade & Economic Development

Velma Veloria, *Chair*
William "Ike" Eickmeyer, *V. Chair*
Brian Blake
Maralyn Chase
Cary Condotta
Dan Kristiansen
John McCoy
Joyce McDonald
Timm Ormsby
Eric Pettigrew
Skip Priest
Jay Rodne
Mary Skinner

see Senate Government Operations & Elections

Senate Technology & Telecommunications

Dave Schmidt, *Chair*
Luke Esser, *V. Chair*
Jean Berkey
Tracey Eide
Erik Poulsen
Bob McCaslin
Val Stevens

see Senate Commerce & Trade; Economic Development

Standing Committee Assignments

<u>House Transportation</u>	<u>see Senate Highways & Transportation</u>	<u>see House Appropriations, Capital Budget, Finance</u>	<u>Senate Ways & Means</u>
Ed Murray, <i>Chair</i>			Joseph Zarelli, <i>Chair</i>
Phil Rockefeller, <i>V. Chair</i>			Linda Evans Parlette, <i>V. Chair</i>
Geoff Simpson, <i>V. Chair</i>			Mike Hewitt, <i>V. Chair (Capital Budget)</i>
Mike Armstrong			Don Carlson
Barbara Bailey			Mark Doumit
Tom Campbell			Darlene Fairley
Judy Clibborn			Karen Fraser
Mike Cooper			Patricia Hale
Mary Lou Dickerson			Jim Honeyford
Jeanne Edwards			Stephen Johnson
Doug Ericksen			Cheryl Pflug
Dennis Flannigan			Margarita Prentice
Shirley Hankins			Marilyn Rasmussen
Brian Hatfield			Debbie Regala
Zack Hudgins			Pam Roach
Fred Jarrett			Larry Sheahan
Dan Kristiansen			Betti Sheldon
John Lovick			Shirley Winsley
Thomas M. Mielke			
Jeff Morris			
Toby Nixon			
Jay Rodne			
Sandra Romero			
Lynn Schindler			
Jan Shabro			
Brian Sullivan			
Deb Wallace			
Alex Wood			
Beverly Woods			