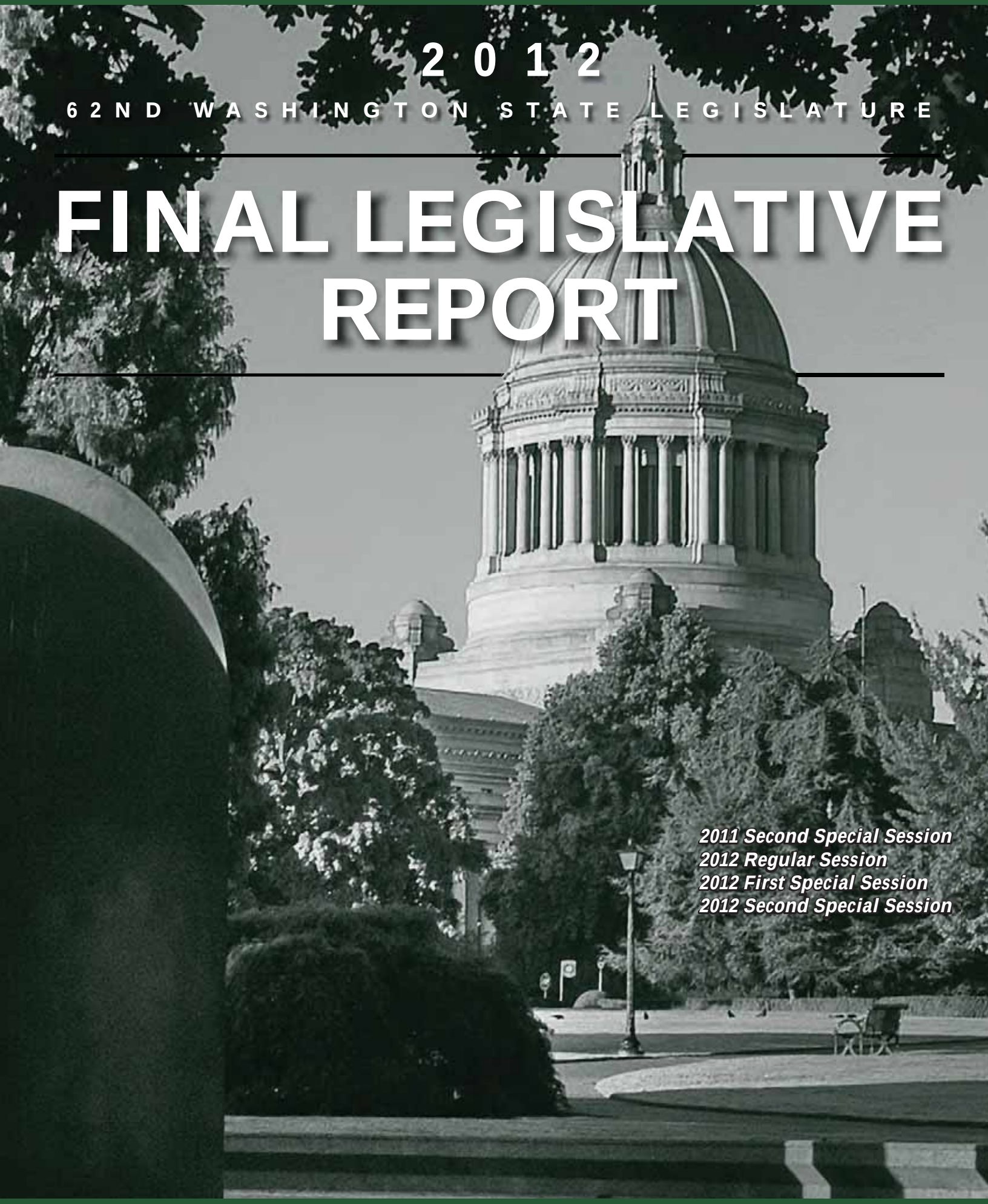

2012

62ND WASHINGTON STATE LEGISLATURE

FINAL LEGISLATIVE REPORT

2011 Second Special Session
2012 Regular Session
2012 First Special Session
2012 Second Special Session

This edition of the 2012 Final Legislative Report is available from the:

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447 John A. Cherburg Building
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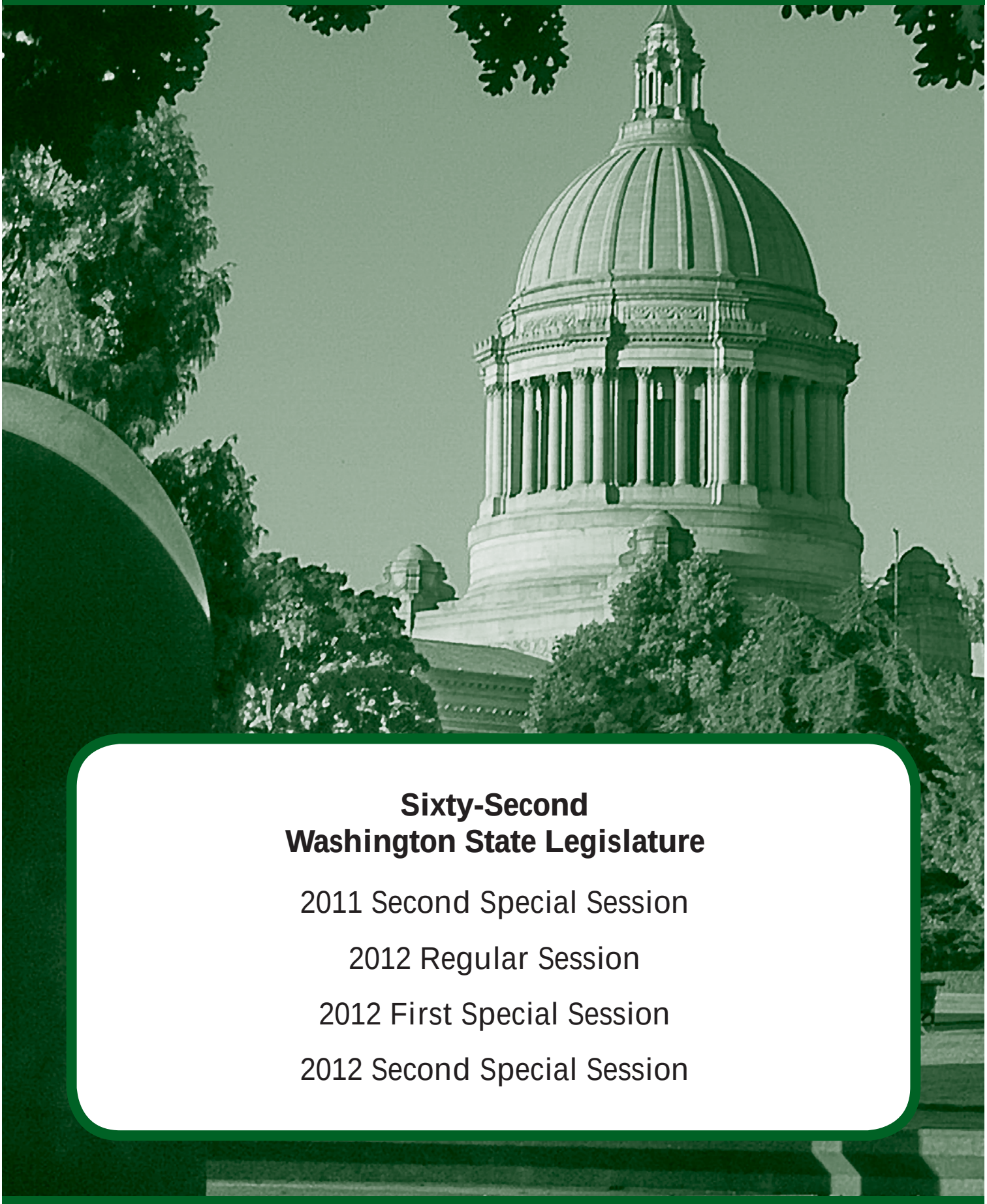
62ND WASHINGTON STATE LEGISLATURE



Sixty-Second Washington State Legislature

2011 Second Special Session

2012 Regular Session

2012 First Special Session

2012 Second Special Session

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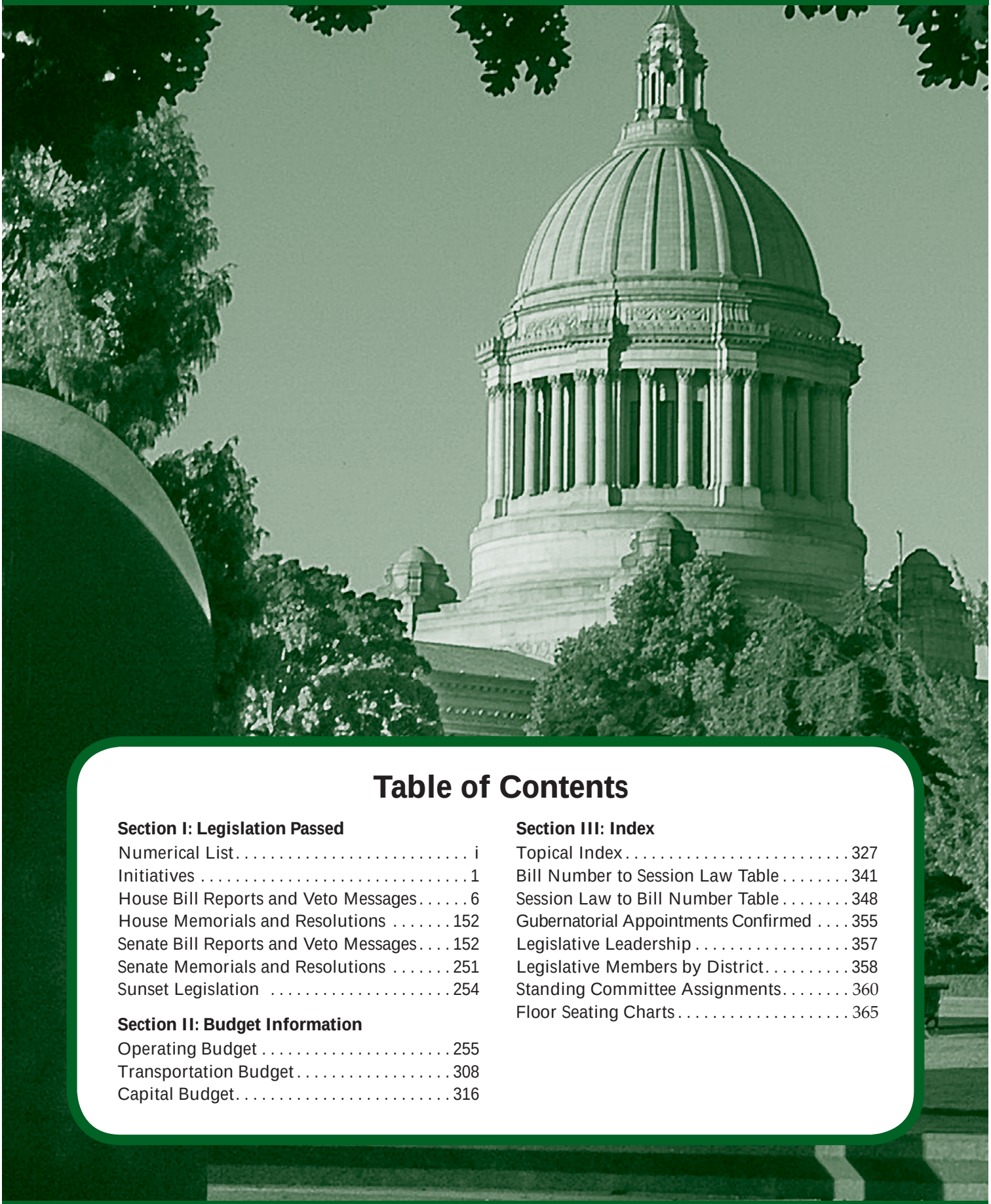


Table of Contents

Statistical Summary

2011 Second Special Session of the 62nd Legislature
2012 Regular Session of the 62nd Legislature
2012 First Special Session of the 62nd Legislature
2012 Second Special Session of the 62nd Legislature

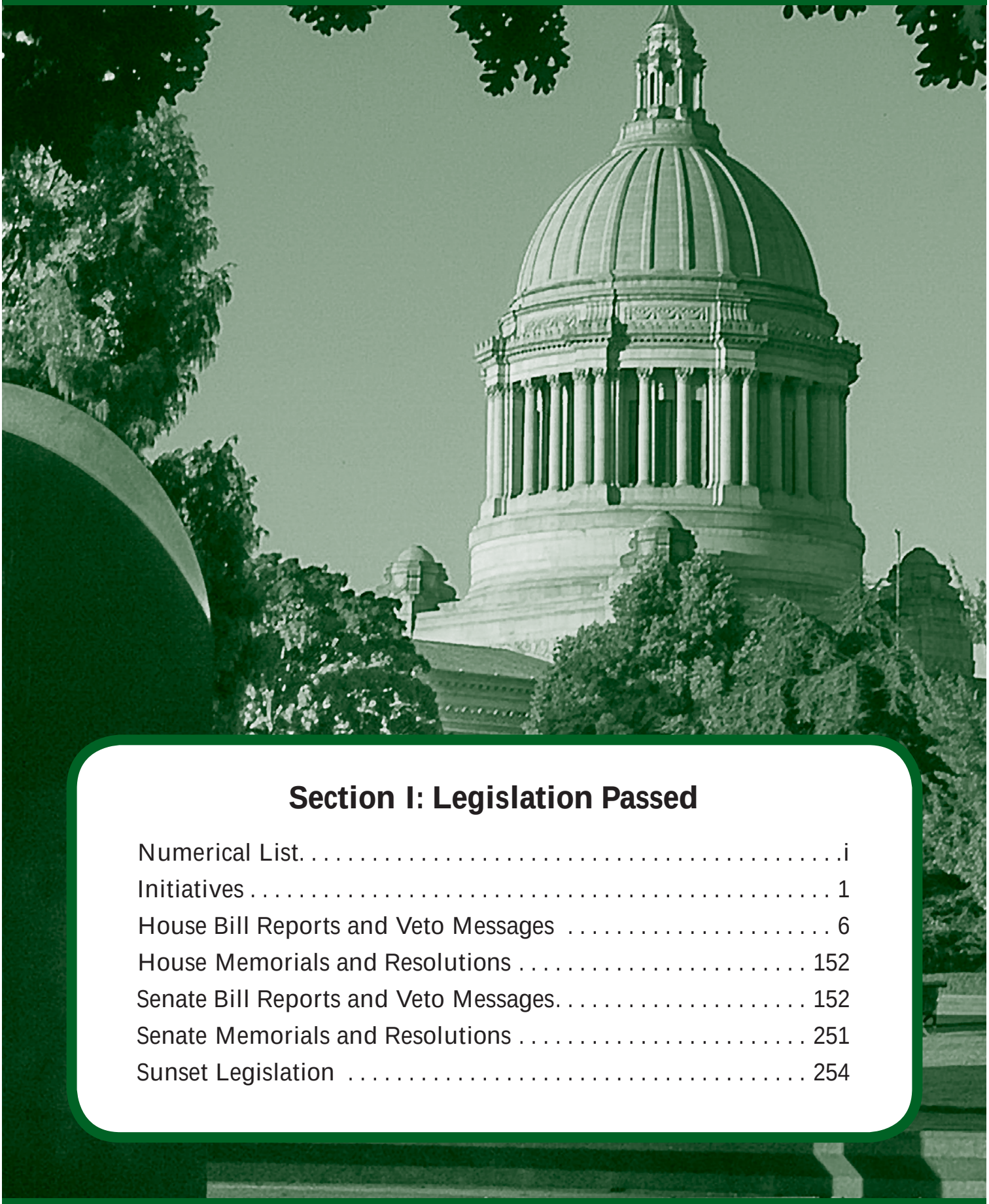
Bills Before Legislature	Introduced	Passed Legislature	Vetoed	Partially Vetoed	Enacted
2011 Second Special Session (November 28 - December 14)					
House	52	6	0	1	6
Senate	34	3	0	0	3
TOTALS	**86**	**9**	**0**	**1**	**9**
2012 Regular Session (January 9 - March 8)					
House	640	137	2	7	135
Senate	631	125	0	5	125
TOTALS	**1271**	**262**	**2**	**12**	**260**
2012 First Special Session (March 12-April 10)					
House	18	6	0	1	6
Senate	11	4	0	1	4
TOTALS	**29**	**10**	**0**	**2**	**10**
2012 Second Special Session (April 11-April 11)					
House	0	3	0	1	3
Senate	0	4	0	1	4
TOTALS	**0**	**7**	**0**	**2**	**7**

Joint Memorials, Joint Resolutions and Concurrent Resolutions Before Legislature	Introduced	Filed with the Secretary of State
2011 Second Special Session (November 28 - December 14)		
House	3	1
Senate	3	3
TOTALS	**6**	**4**
2012 Regular Session (January 9 - March 8)		
House	15	4
Senate	22	6
TOTALS	**37**	**10**
2012 First Special Session (March 12 - April 10)		
House	1	1
Senate	4	2
TOTALS	**5**	**3**
2012 Second Special Session (April 11 - April 11)		
House	3	3
Senate	0	1
TOTALS	**3**	**4**
Initiatives/Referendums		
2011 Second Special Session (November 28 - December 14)	**0**	**0**
2012 Regular Session (January 9 - March 8)	**3**	**2**
2012 First Special Session (March 12- April 10)	**0**	**0**
2012 Second Special Session (April 11 - April 11)	**0**	**0**
Gubernatorial Appointments	**Referred**	**Confirmed**
2011 Second Special Session (November 28 - December 14))	**77**	**0**
2012 Regular Session (January 9 - March 8)	**36**	**60**
2012 First Special Session (March 12 - April 10)	**14**	**4**
2012 Second Special Session (April 11 - April 11)	**0**	**0**

Historical - Bills Passed Legislature

Ten-Year Average				Actual				
	Odd Years	Even Years	Biennial	2011 2nd Special	2012	2012 1st Special	2012 2nd Special	2012 Total
House Bills	286	166	452	6	137	6	3	146
Senate Bills	218	155	373	3	125	4	4	133
TOTALS	**504**	**321**	**825**	**9**	**262**	**10**	**7**	**279**

62ND WASHINGTON STATE LEGISLATURE



Section I: Legislation Passed

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Numerical List

I 1163

C 1 L 12

Restoring long-term care services for eligible elderly persons and persons with disabilities.

By People of the State of Washington.

Background: Long-term Care Workers Overview. Long-term care workers provide care to elderly and disabled clients, many of whom are eligible for publicly funded services through the Department of Social and Health Services' (DSHS) Aging and Disabilities Services Administration. These workers provide their clients personal care assistance with various tasks such as bathing, eating, toileting, dressing, ambulating, meal preparation, and household chores.

The services may be provided: (1) in various regulated residential settings by long-term care workers employed in those settings; or (2) in the client's home by individual providers who contract directly with the DSHS or by agency providers who are employees of a licensed home care agency. A paid individual provider may be a relative or a household member, although the parent of a client who is a minor or the client's spouse may not be a paid individual provider under most programs.

The term "long-term care worker" does not include persons employed in nursing homes, hospitals, hospice agencies, or adult day care or day health care centers.

Training and Certification Requirements for Long-term Care Workers. Legislation enacted in 2000 broadened existing training requirements to cover direct care workers in boarding homes and adult family homes, in-home care providers, and other direct care workers. These training requirements, implemented through rules adopted by the DSHS, determined the hours of training, continuing education, and other requirements.

Initiative 1029 (I-1029), approved by the voters in November 2008, increased the hours of mandatory training for long-term care workers. For example, training for certain categories of long-term care workers increased from 35 hours to 75 hours. It also required home care aide certification for certain long-term care workers beginning with those hired in 2010. Some long-term care workers were exempted from the new requirements, including certain workers hired prior to January 1, 2010. This law was amended twice, in 2009 and 2011, delaying the start of this enhanced training and certification program until 2014 and exempting certain workers hired before January 1, 2014.

Background Checks for Long-term Care Workers. Under various laws, the DSHS is responsible for investigating the suitability of applicants or service providers who provide in-home services under DSHS programs. These investigations include an examination of state criminal history record information, and under some statutes applicants must be fingerprinted through both the Washington State Patrol and the Federal Bureau of Investigation (FBI). Initiative 1029 as passed in 2008, and as amended in 2009 and 2011, requires all long-term care workers hired after January 1, 2014, to be screened through both state and federal background checks, including checking against the FBI fingerprint identification records system and the National Sex Offenders Registry.

Collective Bargaining for Individual Providers. In 2001 the voters approved Initiative 775, which established the right of individual providers who contract with the state to bargain collectively with the state over wages, hours, and working conditions. The state is represented by the Governor. If negotiations reach an impasse and cannot be resolved through mediation, interest arbitration is required.

When a request for funds is necessary to implement the compensation and fringe benefits provisions of an individual provider collective bargaining agreement, the Governor must submit the request to the Legislature as part of the proposed budget if certain conditions are met. These conditions include whether the Director of the Office of Financial Management (OFM) has determined that the agreement is financially feasible or whether the agreement reflects an arbitration panel's decision. The Legislature must approve or reject the submission as a whole, and if rejected or not acted on the agreement is reopened solely to renegotiate those funds. The arbitration panel's decision is not binding on the Legislature and, if the Legislature does not approve the submission, is not binding on the state.

In 2008, an individual provider collective bargaining agreement was reached through arbitration. The agreement included pay increases. The Director of OFM found that the agreement was not financially feasible, and the Governor did not include the pay increases in the budget that she submitted to the Legislature. In litigation over the issue, the Washington Supreme Court held that the Governor's decision was a discretionary budget decision and refused to compel the Governor to revise the budget to include the pay increases.

As of July 1, 2009, state contributions to a training partnership are made pursuant to the individual provider collective bargaining agreement. As of January 1, 2010, for individual providers in the individual provider bargaining unit, all required training and peer mentoring is provided by the training partnership.

Summary: Long-term Care Worker Background Checks, Training, and Certification. Initiative 1163 modifies the law governing background checks, training, and home care aide certification for long-term care workers by making those provisions apply sooner. This has the effect of reinstating dates enacted in 2009. Generally, this means that program implementation begins in 2011 or 2012 instead of 2014. This results in the following date changes:

- *Background checks*. The enhanced federal and state background checks generally begin with long-term

care workers hired after January 1, 2012, instead of those hired after January 1, 2014.

- *Training*. Effective January 1, 2011, instead of January 1, 2014, all non-exempt long-term care workers must complete enhanced training within 120 days of employment. Peer mentorship and on-the-job training must be offered to long-term care workers beginning July 1, 2011, instead of January 1, 2014. Advanced training must be offered beginning January 1, 2012, instead of January 1, 2014. Beginning July 1, 2011, instead of July 1, 2014, long-term care workers must complete additional hours of continuing education.
- *Certification*. Effective January 1, 2011, instead of January 1, 2014, home care aide certification is required within 150 days of a long-term care worker's hire date. Those already employed as long-term care workers prior to January 1, 2011, instead of January 1, 2014, who completed all required training are exempt from certification.

These changes apply to all long-term care workers as defined by law on April 1, 2011, except that long-term care workers employed as community residential service providers are covered beginning January 1, 2016.

Generally, agency rules to implement the enhanced background checks, training, and certification requirements must be adopted by August 1, 2010, instead of August 1, 2013.

Collective Bargaining. If Initiative 1163 triggers changes to an individual provider collective bargaining agreement, the changes are to go into effect immediately without the need for legislative approval.

The requirements contained in the individual provider collective bargaining law and Initiative 1163 are stated to be ministerial, mandatory, and nondiscretionary duties. Failure to perform the duties is a violation of the initiative, and any person may bring an action to require the Governor or other responsible person to perform the duties. The action may be brought in certain superior courts or filed directly with the Washington Supreme Court, which is given original jurisdiction over the action.

Performance Audits. The State Auditor is required to conduct biannual performance audits of the long-term in-home care program, beginning within 12 months after Initiative 1163's effective date. The state must hire five additional fraud investigators to ensure that clients receiving tax-funded services are medically and financially qualified.

Administrative Expenses in the Long-term In-home Care Program. Within 180 days of Initiative 1163's effective date, the state must prepare a plan to cap long-term in-home care program administrative expenses so that at least 90 percent of taxpayer spending is devoted to direct care. This limit must be achieved within two years from the initiative's effective date.

Effective: January 7, 2012

I 1183

C 2 L 12

Privatizing and modernizing wholesale distribution and retail sales of liquor in Washington State.

By People of the State of Washington.

Background: Washington is one of 18 liquor "control" states, in which the state has a monopoly over some aspects of the distribution and sale of alcoholic beverages. In Washington, spirits in the original package (including spirits purchased by restaurants and other licensees) may in general be purchased only from state liquor stores operated by the Liquor Control Board (Board) or private liquor stores operated by managers under contract with the Board. In contrast, beer and wine are sold by businesses licensed by the Board.

"Spirits" is any beverage containing alcohol obtained by distillation, except flavored malt beverages, but including wines exceeding 24 percent of alcohol by volume. "Liquor" includes spirits, beer, and wine.

The Board handles the purchase, distribution, and sale of liquor sold in state and contract liquor stores in its business enterprise division. Advertising by the Board is prohibited. In its licensing and regulation division, the Board handles the regulation and enforcement of liquor laws. The Board has rule-making authority over the purchase of liquor by the state, the conditions for obtaining licenses to sell beer and wine, ingredient standards, and other matters.

Distribution and Sale of Spirits. There are approximately 166 state liquor stores and 163 contract liquor stores in the state. The Board operates a distribution center in Seattle, and distribution of spirits to state and contract liquor stores is performed by trucking companies under contract with the Board. State and contract liquor stores also may sell beer and wine. The Board has agreements with tribes and the military for spirits sales.

A law enacted in the 2011 special session (Engrossed Substitute Senate Bill 5942) allows the Board to enter into a long-term contract for the lease of the state's assets related to the warehousing and distribution of spirits and the exclusive right to distribute spirits. As a condition of entering into a contract, the Office of Financial Management must first find that a proposal is in the best interest of the state.

The selling price for spirits in the original package is comprised of the distillery price plus a markup set by the Board. Licensees that sell spirits, such as restaurants, receive a 15 percent discount on the selling price. Purchasers of spirits also pay federal and state taxes.

Distribution and Sale of Beer and Wine. The distribution and sale of beer and wine to licensees generally takes

place under what is known as the "three-tier" system, in which suppliers sell their products to distributors who then sell to retailers. In contrast to spirits, beer and wine are distributed by private distributors licensed by the Board. Sales between retail licensees (e.g., by a grocery store to a restaurant) are not allowed. A number of exceptions to the three-tier system have been enacted. For example, a winery may distribute and sell at retail wine it produces. A licensee (including a retailer) may transfer up to 20 cases of wine per calendar year to another licensee under common ownership. Licensees generally must follow the laws of the tier in which they are acting.

Laws also govern pricing and delivery by beer and wine suppliers and distributors. Suppliers and distributors must maintain specified price lists. Uniform pricing is required, and quantity discounts and sales below cost (except for sales of close-out items by distributors) are prohibited. Central warehousing is generally not allowed; distributors must deliver beer and wine to a retailer's licensed premises or a retailer may accept delivery at the distributor's premises.

Beer suppliers meeting a production threshold and their distributors are regulated under the state Wholesale Distributor/Supplier Equity Agreement Act (Act), in addition to state liquor laws. Under the Act, suppliers and distributors are entitled to certain protections which must be incorporated into distributorship agreements. For example, if an agreement is terminated because a supplier acquires the right to distribute a particular brand and elects to have that brand handled by a different distributor, the successor distributor must compensate the terminated distributor. The Act also lists certain prohibited acts by suppliers, such as requiring a distributor to accept product that was not ordered. Remedies are available under the Act.

Liquor Licenses, Approvals, and Permits. The Board issues various licenses which allow the exercise of specific privileges. Non-retail licenses include domestic (in-state) winery, domestic (in-state) brewery, distiller, beer distributor, wine distributor, wine importer, beer importer, and liquor importer licenses. Out-of-state wineries and breweries obtain a certificate of approval to ship their products into the state. Off-premise retail licenses include grocery store licenses. On-premise retail licenses include restaurant and nightclub licenses. The Board also issues special permits, such as permits for licensees to serve liquor at various events.

Before the Board issues or renews a license, the Board must notify and provide local governments, schools, churches, and public institutions an opportunity to object.

Licensees are subject to penalty for violations. For example, for first-time public safety violations (e.g., sale to a minor), the penalty is a five-day license suspension or, if mitigating circumstances are shown, a $500 fine.

Grocery store and beer and/or wine specialty shop licensees may allow employees between 18 and 21 years of age to handle beer or wine if an adult 21 years or older is on duty.

Liquor Revenue. State liquor revenue includes the markup on spirits sales, spirits sales and liter taxes, and license fees.

The markup is deposited into the Liquor Revolving Fund. Moneys in this fund are used for Board expenses and "excess funds" are distributed to the State General Fund, and to cities, towns, and counties.

Both a sales tax and liter tax are paid by purchasers of spirits. Sales taxes are distributed to the State General Fund and to cities and counties, and liter taxes are deposited into the State General Fund.

License fees vary depending on the license type. A grocery store annual license fee, for example, is $150. License fees are distributed for various purposes depending on the license type.

Summary: Findings and Intent. Findings are made that the state government monopoly on liquor distribution and liquor stores, and regulations that arbitrarily restrict the wholesale distribution and pricing of wine, are outdated, inefficient, and costly. Intent is stated to privatize and modernize wholesale distribution and retail sales of liquor and remove outdated restrictions on the wholesale distribution of wine.

Privatization of Distribution and Sale of Spirits. The Liquor Control Board (Board) must complete an orderly transition from a state-controlled system to a private licensee system for spirits distribution and retail sales by June 1, 2012. All state liquor stores must be closed by June 1, 2012. The Board must have a goal of depleting all liquor inventory by May 31, 2012, and closing all other asset sales by June 1, 2013. In selling assets, the maximum reasonable value must be obtained. The Board may sell liquor inventory to spirits licensees. The Department of Revenue must dispose of any assets remaining after June 1, 2013.

Sales proceeds less transition costs are deposited into the Liquor Revolving Fund. The transition to a private licensee system must include a provision for applying revenues to just and reasonable measures to avert harm to tribes, military buyers, and contract liquor store operators.

The Board must auction the right to operate a retail liquor store at the location of each state liquor store. Acquisition of the operating right does not confer eligibility for a license.

The 2011 law providing for a competitive process for the long-term lease of the state's spirits warehousing and distribution assets and contract for the exclusive right to distribute spirits is repealed.

Spirits Licenses/Approval. Three new spirits liquor licenses/approvals are created.

Spirits Retail License. *Privileges of the License*. The spirits retail license allows the:

- sale of spirits to consumers for off-premises consumption and to permit holders;

- sale of spirits for resale to retailers licensed to sell spirits for on-premises consumption (defined as "on-sale" retailers) subject to limitation; and
- export of spirits.

The sale of spirits for resale is limited to 24 liters in a single sale unless the sale is by a former contract liquor store manager at the contract store location. An on-sale retailer must maintain specified information regarding spirits purchased from retail spirits licensees and must provide a report of the quantity of items purchased to the distributor of the spirits for the licensee's geographic area or the distiller acting as distributor.

Central warehousing is permitted. Licensees may accept delivery at the licensed premises or at warehouse facilities registered with the Board. From a warehouse, a licensee may deliver to its premises, on-sale retailers to which it has sold spirits, other registered warehouses, and lawful purchasers outside the state. Facilities may be used by cooperatives and other groups of retailers.

Eligibility/Requirements. Spirits retailer premises must be at least 10,000 square feet of fully enclosed retail space within a single structure, and licensees must maintain systems for inventory management, employee training and supervision, and product security substantially as effective as state liquor store systems. However, the Board may not deny a license to a former contract liquor store at its contract location or the holder of the operating rights of a former state liquor store because of the location, nature, or size of the premises. In addition, the premise size requirement does not apply if there is no retail spirits license holder in the trade area, the applicant meets operational requirements established by the Board, and the applicant has not committed more than one public safety violation within the preceding three years.

Licensees must provide training regarding spirits laws and rules for employees selling spirits or managing others who sell spirits. Individuals must be trained before selling spirits and at least every five years. If a grocery store or beer and/or wine specialty shop sells spirits and allows employees under age 21 to sell spirits, at least two adults age 21 or over must supervise the sale of spirits.

Responsible vendor program. The Board must adopt rules regarding a responsible vendor program (program) to reduce underage drinking, encourage use of best practices to prevent sales to minors, and give licensees an incentive to provide on-going training to employees. Minimum requirements for participating in the program are that the licensee:

- provides on-going training;
- accepts only certain forms of identification;
- adopts policies on alcohol sales and checking identification;
- posts specific signs; and
- keeps records verifying compliance with the program's requirements.

Licensees apply to the Board to participate in the program and receive a certificate if the qualifications are met. The program must be free, voluntary, and self-monitoring. A training program that incorporates a responsible vendor program is presumptively sufficient for purposes of meeting the retail spirits licensee training requirement.

Penalties. Penalties are doubled for violations relating to the sale of spirits by retail spirits licensees. The doubling does not apply to a single violation in any 12 calendar months by a licensee who joins the responsible vendor program and maintains all of the program's requirements.

Spirits Distributor License. Privileges of the License. The spirits distributor license allows the:

- sale of spirits purchased from suppliers to other distributors and to retailers who sell spirits, including spirits retail licensees and on-sale licensees; and
- export of spirits.

Eligibility/Requirements. It is explicitly stated that there is no minimum facility size or capacity and no limit on the number of licenses. Licensees must provide product security substantially as effective as the state distribution center.

Certain applicants (those who on the effective date have the right to purchase spirits for resale, or their agents) are entitled to a license unless the Board determines that issuance of a license to the applicant is not in the public interest.

Spirits Certificate of Approval. The Board must provide by rule for the issuance of certificates of approval for out-of-state spirits suppliers.

Other License/Approval Privileges and Requirements. Central warehousing of spirits is permitted for certain on-sale licensees.

Distillers and spirits certificate of approval holders (out-of-state) may distribute spirits of their own production or foreign-produced spirits they import directly to retailers. A distiller or certificate of approval holder distributing its products must comply with distributor provisions. A distiller may maintain a warehouse for distribution of its products if the warehouse is approved by the Board.

Hotel and motel authority to provide beer and wine without charge to guests is modified to include spirits. Hotels may cater events on distillery and brewery premises, in addition to winery premises. The authority for special occasion licensees to sell beer and wine for off-premises consumption with Board approval is changed to include spirits.

The prohibition on price discrimination by wine and beer manufacturers is made applicable to spirits manufacturers. However, price differentials based on certain specified factors (e.g., costs of servicing a purchaser's account) or other bona fide business factors, to the extent the differentials are not unlawful under trade regulation laws, are permitted. Distributors and licensees acting as distributors

may not sell spirits below cost except for close-out items. If an allegation is made that spirits are unlawfully sold at a discounted price, defenses under applicable trade laws, including absence of harm to competition and good faith meeting of a competitor's lawful price, are available.

The requirement to notify and give local governments, schools, churches, and public institutions an opportunity to object to a license generally applies to the issuance of spirits retailer and spirits distributor licenses. However, a prohibition on license issuance if a school objects does not apply to the issuance of a spirits retail licensee to an existing grocery store licensee or to the issuance of a spirits distributor license to an existing distributor licensed to sell beer and/or wine.

Distribution and Sale of Wine. A wine retailer reseller endorsement to a grocery store license is created. The endorsement allows a grocery store licensee to sell wine for resale to on-sale retailers, limited to 24 liters in a single sale unless the sale is by a former contract liquor store manager of a contract liquor store at the location of the grocery store. The annual fee for the endorsement is $166 for each store. Grocery store wine resellers must comply with laws that apply to wine distributors.

Certain provisions governing pricing and delivery by beer and wine suppliers and distributors are eliminated for wine. (These provisions are retained for beer.) The requirement to maintain price lists and the ban on quantity discounts is eliminated. The prohibition against price discrimination by a manufacturer is retained; however, price differentials are permitted under the same conditions as allowed for spirits. Defenses to an allegation of the unlawful sale of spirits at a discounted price are also available for the alleged unlawful sale of wine.

Warehousing of wine is permitted. Wine sold to retailers may be delivered to the retailer's licensed premises, a location specified by the retailer and approved by the Board, or to a carrier engaged by either party. Certain warehousing is also permitted by wine retailer resellers.

Liquor Revenue. Spirits distributor licensees pay a license issuance fee of 10 percent of total revenue in each of the first two years of licensure, and 5 percent of total revenue in subsequent years. The first spirits distributor to receive the spirits from the distiller pays the fee. The Board must calculate collective distributor license fee payments as of March 31, 2013. If the total payments are less than $150 million, the Board must adopt rules to collect the difference between $150 million and actual receipts from spirits distributor licensees, ratably based on 2012 spirits sales. If total payments are more than $150 million, the difference must be credited to future spirits distributor license fees. Licensees also pay a $1,320 annual license renewal fee.

Spirits retail licensees pay a license issuance fee equivalent to 17 percent of all spirits sales revenue. The Board must adopt rules regarding the timing of payments with the first payment due October 1, 2012. Licensees also pay an annual license renewal fee of $166, subject to adjustment by the Board. Licensees selling for resale pay the distributor license fee if a distributor license fee has not been paid.

Spirits retailer and spirits distributor license fees are deposited into the Liquor Revolving Fund. The distributions to counties, cities, and towns must be made in a manner such that each category receives not less than it received from the Liquor Revolving Fund during prior comparable periods. An additional $10 million must be provided each year from spirits license fees to counties, cities, and towns for enhancing public safety programs.

Sales and liter tax rates are unchanged. The taxes apply to sales by spirits distributor licensees and licensees acting as spirits distributors, and to sales by spirits retail licensees. Taxes apply to sales by the Board so long as the Board makes such sales. Purchases by the federal government for resale at military installations are expressly exempt from tax.

Other. The Wholesale Distributor/Supplier Equity Agreement Act (Act) is made applicable to suppliers and distributors of spirits. Distillers producing less than 60,000 proof gallons of spirits annually are excluded.

The Board's powers related to state and contract liquor stores, including distribution and setting of prices, are repealed. Other references to state and contract stores are deleted. The Board's power is for the conduct of its regulatory rather than business functions. The Board's rule-making authority with respect to license conditions is extended to spirits licenses. The Board has no authority to restrict advertising of lawful prices.

The Department of Revenue must develop rules and procedures to address claims that the initiative unconstitutionally impairs any contract and provide a means for reasonable compensation of valid claims, funded first from revenues based on spirits licensing and sales.

Intent language regarding the value of Washington's three-tier system for the distribution of beer and wine is deleted as are references to the orderly marketing of alcohol and encouragement of moderation in consumption.

Spirits purchased for various special permits must be purchased from a spirits retailer or distributor rather than the Board or a restaurant.

Accredited representatives of spirits distillers, manufacturers, importers, and distributors are no longer limited to contacting retail licensees only in goodwill activities.

The Board may require seals on liquor packages in certain circumstances.

The list of acceptable cards of identification for liquor purchases is repealed.

Timeline Summary.

January 1, 2012	• Certain spirits distributor licenses issued.
February 8, 2012	• Spirits distributor and retailer license applications received by this date must be processed for beginning of sales.
March 1, 2012	• Sales by spirits distributors begin.
May 31, 2012	• State liquor store inventory depleted (goal).
June 1, 2012	• Sales by spirits retailers begin. • State liquor stores closed.
October 1, 2012	• First retail spirits licensee payments due.
March 31, 2013	• $150 million in collective spirits distributor fees due.
June 1, 2013	• Assets sales by Board end. (Remaining assets managed by Department of Revenue after this date.)

Effective: December 8, 2011

SHB 1057
C 158 L 12

Creating the farm labor contractor account.

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

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

Background: The state Farm Labor Contractor Act (Act) provides for licensing and regulation of farm labor contractors. A "farm labor contractor" is a person who, for a fee, performs any farm labor contracting activity. "Farm labor contracting activity" means recruiting, soliciting, employing, supplying, transporting, or hiring agricultural workers.

The Director of the Department of Labor and Industries (Director) issues licenses to farm labor contractors. The fees are $35 per year for farm labor contractors not engaged in forestation or reforestation, and $100 per year for those who are engaged in forestation or reforestation. There are also surety bond and insurance requirements.

The Director also enforces various requirements and prohibitions applicable to farm labor contractors. The Director may bring suit upon a surety bond on behalf of a worker whose rights have been violated, or seek to enjoin a person acting as a farm labor contractor in violation of the Act. There are civil penalties of up to $1,000, as well as criminal penalties, for certain violations of the Act.

Summary: A dedicated account, the Farm Labor Contractor Account (Account), is created. The Account is subject to appropriation.

Receipts from farm labor contractor licenses, security deposits, penalties, and donations must be deposited into the Account. Interest earnings are credited to the State General Fund, and are not retained in the Account.

Expenditures may be used only for administering the farm labor contractor licensing program, and are subject to authorization from the Director.

Votes on Final Passage:

House	98	0	
House	96	0	
Senate	47	0	(Senate amended)
House	94	0	(House concurred)

Effective: June 7, 2012

SHB 1073
C 5 L 12

Authorizing persons designated by the decedent to direct disposition, if the decedent died while serving on active duty in any branch of the United States armed forces, United States reserve forces, or national guard.

By House Committee on Judiciary (originally sponsored by Representatives Kelley, McCoy, Green and Van De Wege).

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

Background: A person has the right to control the disposition of his or her own remains. This can be accomplished by making a pre-arrangement with a licensed funeral establishment or cemetery authority or by executing a written document signed by the decedent in the presence of a witness that expresses the decedent's wishes regarding the place or method of disposition of his or her remains.

If the decedent has not made a pre-arrangement or given directions for the disposition of his or her remains, then the right to control the disposition of the remains vests in the following people in the order named:

- the designated agent of the decedent indicated in a written document signed and dated by the decedent in the presence of a witness;

- the surviving spouse or state-registered domestic partner;
- the majority of the surviving adult children;
- the surviving parents;
- the majority of the surviving siblings; and
- a court-appointed guardian for the person at the time of the person's death.

Service members are required to complete a United States Department of Defense record of emergency data (DD Form 93). This form is used to show the names and addresses of the service member's family and other persons who are to be notified if the service member becomes a casualty and to designate beneficiaries in case the service member dies while in service. The form is also used for the service member to designate a person who has the right to control the disposition of the service member's remains.

Summary: A person who is designated by a service member with the right to control the disposition of the service member's remains has the first right to control the disposition of the remains if the person is designated on the service member's United States Department of Defense record of emergency data (DD form 93), or its successor form, and if the service member died while serving in military service in any branch of the United States armed forces, United States reserve forces, or National Guard.

Votes on Final Passage:

House	96	0
Senate	47	0

Effective: June 7, 2012

SHB 1194

C 6 L 12

Concerning bail for the release of a person arrested and detained for a class A or B felony offense.

By House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Kelley and Ladenburg).

House Committee on Public Safety & Emergency Preparedness
Senate Committee on Judiciary

Background: Bail may be granted by a judge at the defendant's preliminary appearance, or it may be granted according to a bail schedule. A bail determination must be made as soon as practicable after detention begins, but in no case later than the close of business the next judicial day. When probable cause and bail are determined at the same time, the determination must be made within 48 hours of arrest.

The Washington Supreme Court has held that whether to promulgate a bail schedule is a question best left to the counties. In counties that have a bail schedule, a defendant may post bail without a judicial officer's determination. The availability and amount of bail for the particular offense are specified in the bail schedule. Most counties have a bail schedule for misdemeanors, and prior to January 1, 2011, seven counties had a bail schedule for felonies.

House Bill 2625, which was enacted during the 2010 legislative session, required that a judicial officer make a bail determination on an individualized basis for a person arrested and detained for a felony. This requirement went into effect January 1, 2011, and expired August 1, 2011.

Summary: When a person is arrested and detained for a class A or B felony, a judicial officer must make a bail determination on an individualized basis.

Votes on Final Passage:

House	96	0
Senate	48	0

Effective: June 7, 2012

EHB 1234

C 88 L 12

Addressing law enforcement crime prevention efforts regarding security alarm systems and crime watch programs for residential and commercial locations.

By Representatives Moscoso, Hope, Klippert, Lytton, Johnson, Rivers, Jinkins, Ladenburg, Ryu, Reykdal, Fitzgibbon and Maxwell.

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

Background: The Public Records Act requires that state and local government agencies make public records available for public inspection and copying unless the records fall within certain statutory exemptions. The provisions requiring public records disclosure must be interpreted liberally and the exemptions narrowly in order to effectuate a general policy favoring disclosure.

Summary: Personally identifying information regarding local security alarm system programs and vacation crime watch programs collected by law enforcement agencies is exempt from public disclosure. However, the exemption does not prohibit the legal owner of a residence or business from accessing information pertinent to his or her residence or business.

Votes on Final Passage:

House	97	0
House	90	0
Senate	49	0

Effective: June 7, 2012

HB 1381
C 7 L 12

Regarding sufficient cause for the nonuse of water.

By Representatives Warnick, Blake, Hinkle, Taylor, Haler, McCune, Armstrong, Condotta, Johnson, Parker and Shea.

House Committee on Agriculture & Natural Resources
Senate Committee on Environment, Water & Energy
Senate Committee on Agriculture, Water & Rural Economic Development

Background: Water rights may be relinquished when a person, for five or more consecutive years, abandons or voluntarily fails without sufficient cause to beneficially use water in accordance with the terms of his or her recorded rights. The water code provides a list of sufficient causes for voluntary nonuse that protects a water right from relinquishment. Examples of sufficient causes include: drought or unavailability of water, certain military service, and the operation of legal proceedings.

Water rights or portions of water rights may be changed to other uses or places if the change can be made without detriment or injury to existing rights. The Department of Ecology (DOE) is responsible for processing water right applications, including permits, changes, transfers, or amendments to a water right.

Summary: For the purposes of relinquishment, waiting for a final determination from the DOE on a change application for a temporary permit, change, transfer, or amendment to a water right is sufficient cause for nonuse of a water right.

Votes on Final Passage:

House	97	0
House	89	2
Senate	48	0

Effective: June 7, 2012

EHB 1398
C 200 L 12

Creating an exemption from impact fees for low-income housing.

By Representatives Fitzgibbon, Seaquist, Orwall, Springer, Upthegrove and Kenney.

House Committee on Community & Economic Development & Housing
Senate Committee on Financial Institutions, Housing & Insurance

Background: Growth Management Act. The Growth Management Act (GMA) is the comprehensive land use planning framework for county and city governments in Washington. Enacted in 1990 and 1991, the GMA establishes numerous planning requirements for counties and cities obligated by mandate or choice to fully plan under the GMA (planning jurisdictions) and a reduced number of directives for all other counties and cities. Twenty-nine of Washington's 39 counties, and the cities within those counties, are planning jurisdictions.

Impact Fees. Planning jurisdictions may impose impact fees on development activity as part of the financing of public facilities needed to serve new growth and development. This financing must provide a balance between impact fees and other sources of public funds and cannot rely solely on impact fees.

Impact fees may be collected and spent only for qualifying public facilities that are included within a capital facilities plan element of a comprehensive plan. "Public facilities," within the context of impact fee statutes, are the following capital facilities that are owned or operated by government entities:

- public streets and roads;
- publicly owned parks, open space, and recreation facilities;
- school facilities; and
- fire protection facilities.

County and city ordinances by which impact fees are imposed must conform with specific requirements. Among other obligations, these ordinances must:

- include a schedule of impact fees for each type of development activity for which a fee is imposed; and
- allow the imposing jurisdiction to adjust the standard impact fee for unusual circumstances in specific cases to ensure that fees are imposed fairly.

These ordinances also may provide an exemption for low-income housing and other development activities with broad public purposes. The impact fees for this development activity, however, must be paid from public funds other than impact fee accounts.

Summary: A local government may provide one of the following exemptions from impact fees for low-income housing: (1) a partial exemption of up to 80 percent with no explicit requirement to pay the exempted fees from public funds other than impact fee accounts; or (2) a full waiver with no requirement to pay the exempted fees from public funds other than impact fee accounts.

For a local government to grant an impact fee exemption for low-income housing, a developer must record a covenant with the county auditor that prohibits the use of the property for any purpose other than for low-income housing, and addresses price restrictions and household income limits for the low-income housing. If the property is later converted to another use, the property owner must pay the applicable impact fees at the time of conversion. School districts that receive impact fees must approve any exemption provided for low-income housing.

Local governments also may not collect the revenue lost due to granting impact fee exemptions for low-income housing by increasing fees unrelated to the exemption.

Low-income housing is defined to mean housing with a monthly housing expense of no more than 30 percent of 80 percent of the county's median family income.

Votes on Final Passage:

House	86	8	
House	53	42	
Senate	32	16	(Senate amended)
House			(House refused to concur)
Senate	32	17	(Senate amended)
House	56	42	(House concurred)

Effective: June 7, 2012

HB 1486

C 8 L 12

Authorizing Washington pharmacies to fill prescriptions written by advanced registered nurse practitioners in other states.

By Representatives Green, Jinkins, Cody, Hinkle, Moeller, Bailey, Schmick, Clibborn, Kelley and Condotta.

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

Background: It is unlawful to possess, deliver, or dispense a legend drug or controlled substance except pursuant to a prescription issued by health care professionals who are licensed in Washington; e.g., physicians, dentists, and advanced registered nurse practitioners. Additionally, Washington pharmacies may honor prescriptions written by the following professions from other states:

- physicians;
- osteopathic physicians and surgeons;
- dentists;
- podiatric physicians and surgeons; and
- veterinarians.

In 2010 the Legislature added out-of-state advanced registered nurse practitioners to this list with respect to legend drugs, but not controlled substances.

Summary: Washington pharmacies may honor prescriptions written by out-of-state advanced registered nurse practitioners with respect to controlled substances.

Votes on Final Passage:

House	92	1
House	91	0
Senate	49	0

Effective: June 7, 2012

SHB 1552

C 159 L 12

Concerning garnishment.

By House Committee on Judiciary (originally sponsored by Representative Goodman).

House Committee on Judiciary
Senate Committee on Judiciary

Background: The garnishment process is a remedy that allows a creditor to obtain a debtor's funds or property that are in the possession of a third person (garnishee). Under the process, a writ for continuing lien on earnings may be issued to require a debtor's employer to pay the creditor directly out of the debtor's paycheck. A writ of garnishment may also be used to reach other assets of the debtor, such as funds in a bank account.

Writ of Garnishment. Following a judgment or court order, the creditor files an application with the court clerk, who issues a writ of garnishment to the creditor. In district court, the creditor's attorney, rather than the court clerk, may issue the writ of garnishment. The creditor serves the writ on the garnishee. The form of the writ is provided in statute. Among other requirements, the writ must set forth the amount that the garnishee is required to hold, including the amount of the unsatisfied judgment plus other costs. When the federal government is named as a garnishee, the clerk of the court must submit a special notice form to the garnishee.

Answer to Writ of Garnishment. The writ directs the garnishee to answer whether it holds funds or property owed to the debtor. The proper form for the answer, provided in statute, details the amount owed by the garnishee to the debtor and includes a worksheet for figuring the appropriate amounts exempted from garnishment. The creditor provides copies of this form to the garnishee and multiple envelopes for the garnishee to use for mailing the answer to the creditor and debtor.

If the garnishee fails to answer the writ within 20 days after service, the court may enter judgment by default against the garnishee for the full amount of the judgment against the debtor, along with interest and costs, whether or not the garnishee owes anything to the debtor. The garnishee may make a motion to have this default judgment reduced to the amount owed to the debtor actually in possession of the garnishee.

Garnishment Attorney Fee. Costs that are recoverable in garnishment proceedings include a garnishment attorney fee in the amount of a minimum of $50 or 10 percent of the unsatisfied judgment, and a maximum of $250.

Exemptions. The creditor must provide the debtor with a copy of the writ, a notice of the debtor's rights, and an exemption claim form, provided in statute. If the debtor files an exemption claim form with the court, the creditor may file an objection to the claim and set the matter for a hearing.

When a writ for continuing lien on earnings is served on an employer, the amount exempt from garnishment for each week of earnings is the greater of 30 times the federal minimum hourly wage or 75 percent of the disposable earnings of the debtor.

In February 2012, the Washington Supreme Court issued *Anthis v. Copland*, holding that certain public employee pensions are not exempt from garnishment once the funds have been paid to the retiree. The court emphasized that the exemption statute for federal pensions explicitly states the funds are exempt "whether the same be in the actual possession of such person or be deposited or loaned," but that the public employee pension statutes do not contain such language.

Judgment and Order to Pay. If it appears from the garnishee's answer that the garnishee owes the debtor any amount, not exempt, at the time the writ of garnishment was served, the court must issue a judgment in favor of the creditor. The order directs the garnishee to pay the judgment amount directly to the creditor or the creditor's attorney.

Summary: A number of changes are made to the laws governing garnishment proceedings.

Garnishment Forms. Separate forms are created for writs for continuing liens on earnings and writs issued for other personal property, including separate answer and exemption claim forms. The notice form to be used whenever the federal government is the garnishee is modified to reflect that the creditor's attorney may issue the notice. The creditor is no longer required to provide multiple copies of forms and envelopes to the garnishee, and the garnishee may use its own answer form containing specific information.

The exemption claim form is amended to add a check box for debtors to claim an exemption for the cash amounts allowed under current law and to specify that federally qualified pensions, such as state or federal pensions, IRAs, and 401K plans, are exempt when deposited into a bank account. The changes to the exemption claim form expire January 1, 2018.

Garnishment Attorney Fee. The garnishment attorney fee is changed to a minimum of $100 or 10 percent of the unsatisfied judgment and a maximum of $300.

Exemptions. The wage exemption for writs for continuing liens on earnings is increased to 35 times the federal minimum hourly wage.

The statutes for certain public employee pensions are amended to provide that such pensions are exempt when in the possession of the person or deposited in a bank account.

Estimated Interest. A writ must direct the garnishee to hold interest estimated to accrue during the garnishment process. The writ must specify a dollar amount of estimated interest per day that may accrue during the garnishment process. The amount must be based on an interest rate of 12 percent or the rate established in the judgment, whichever amount is less.

Judgment and Order to Pay. A creditor may apply for the judgment and order to pay ex parte. Ex parte fees are added to the list of recoverable costs in a garnishment proceeding.

When a default judgment is entered against the garnishee and the garnishee makes a motion to have this default judgment reduced, the garnishee must pay the accruing interest, costs, and attorneys' fees for any garnishment on the judgment against the garnishee.

Other. A continuing lien on earnings has priority over any prior wage assignment, except an assignment for child support.

Votes on Final Passage:

House	92	4	
Senate	46	0	(Senate amended)
House	56	41	(House concurred)

Effective: June 7, 2012
January 1, 2018 (Section 8)

SHB 1559

C 160 L 12

Limiting indemnification agreements involving design professionals.

By House Committee on Judiciary (originally sponsored by Representatives Haigh, Dammeier and Goodman).

House Committee on Judiciary
Senate Committee on Judiciary
House Committee on Ways & Means
Senate Committee on Labor, Commerce & Consumer Protection

Background: Indemnification agreements in contracts require one party (the indemnitor) to pay the other party (the indemnitee) for any damages, losses, or expenses the indemnitee may suffer relating to the performance of a contract. Indemnification agreements also may impose a duty on the indemnitor to defend the indemnitee in any action brought against the indemnittee related to performance under the contract.

Indemnification agreements are generally enforceable and interpreted in accordance with the same rules for the enforcement and interpretation of contracts. Statutory law, however, limits the enforcement of indemnification agreements in contracts relating to construction, maintenance, or other work on any structure, project, development, or improvement attached to real estate, or in motor carrier transportation contracts.

In these contracts, a clause that indemnifies against liability for damages caused by or resulting from the sole negligence of the indemnitee is void and unenforceable. A clause that indemnifies against liability for damages caused by or resulting from the concurrent negligence of

the indemnitee and indemnitor is enforceable only to the extent of the indemnitor's negligence and only if specifically and expressly provided for in the agreement.

Summary: Restrictions on the enforceability of indemnification agreements in certain contracts are revised to include contracts for architectural, landscape architectural, engineering, or land surveying services (design professional services), and to specify that indemnification includes the duty and cost to defend. In a contract for design professional services, a clause that indemnifies against liability for damages resulting from the sole negligence of the indemnitee is unenforceable, and a clause that indemnifies against liability for damages resulting from the concurrent negligence of the indemnitee and indemnitor is enforceable only to the extent of the indemnitor's negligence and only if specifically and expressly provided for in the agreement.

Votes on Final Passage:

House	98	0	
House	98	0	
Senate	45	1	(Senate amended)
House	98	0	(House concurred)

Effective: June 7, 2012

ESHB 1627

C 212 L 12

Limiting the authority of boundary review boards.

By House Committee on Local Government (originally sponsored by Representatives Fitzgibbon, Maxwell, Springer, Eddy, Clibborn and Tharinger).

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

Background: Boundary Review Boards. Boundary review boards (boards) are authorized in statute to guide and control the creation and growth of municipalities in metropolitan areas. While statute provides for the establishment of boards in counties with at least 210,000 residents, a board may be created and established in any other county. Board members are appointed by the Governor and local government officials from within the applicable county.

Upon receiving a timely and sufficient request for review, and following an invocation of a board's jurisdiction, a board must review and approve, disapprove, or modify proposed actions, including actions pertaining to the creation, incorporation, or change in the boundary of any city, town, or special purpose district. In reaching decisions on proposed actions, boards must satisfy public hearing requirements and must attempt to achieve objectives prescribed in statute, including the preservation of natural neighborhoods and communities, and the use of physical boundaries. Generally, decisions on proposed actions must be made within 120 days of the board receiving a valid request for review.

Board modifications of proposed actions must adhere to legal requirements and limitations. Examples of these provisions are as follows:

1. Modifications must be based upon evidence to support a conclusion that the proposed action is inconsistent with one or more prescribed board objectives.
2. The amount of territory that boards may add to town annexation proposals is limited by the size of the original proposal and area limitation provisions applicable to towns.
3. Boards may not modify the proposed incorporation of a city with an estimated population of 7,500 or more by removing or adding territory from the proposal if that territory constitutes 10 percent or more of the area proposed for incorporation.

Additionally, board decisions in counties planning under the Growth Management Act (GMA) must be consistent with the planning goals of the GMA and other provisions.

Supreme Court Action. On November 9, 2006, the Washington Supreme Court (Court) ruled in *Interlake Sporting Association, Inc. v. Washington State Boundary Review Board for King County, and City of Redmond*, 158 Wn.2d 545 (2006), that the King County Board exceeded its statutory authority when it required the City of Redmond to annex an area that was more than three times larger than the area the city intended to annex. In its ruling, the Court indicated that boards may modify or adjust boundaries of proposed actions in ways that do not increase the total acreage of the proposal.

Summary: A boundary review board (board) may modify a proposed action by adding territory that would increase the total area of the proposal before the board. Associated limitations on the board's authority are established and specify that if the proposed action is a city or town annexation, the board may not add an amount of territory that exceeds 100 percent of the total area of the proposal before the board. Additionally, if a board increases the total area of a proposed city or town annexation, the board must hold a separate public hearing on the proposed increase and must, subject to delineated requirements, notify the registered voters and property owners residing within the area subject to the proposed increase.

A provision pertaining to total area limitations for town annexations and associated board modifications is deleted.

Votes on Final Passage:

House	56	42	
Senate	25	24	(Senate amended)
House	55	43	(House concurred)

Effective: June 7, 2012

2SHB 1652
C 9 L 12

Regarding electronic impersonation.

By House Committee on Judiciary (originally sponsored by Representatives Frockt, Kenney, Reykdal, Rolfes, Probst, Goodman, Maxwell, McCoy, Jacks, Jinkins, Ryu, Kagi, Ladenburg, Stanford, Hasegawa, Fitzgibbon, Blake, Billig, Roberts, Clibborn, Ormsby, Moscoso, Hudgins and Liias).

House Committee on Judiciary
Senate Committee on Judiciary

Background: Invasion of Privacy. Washington courts have recognized common law causes of action based upon an invasion of privacy in some contexts. There are generally four distinct types of invasion of privacy claims: (1) unwarranted intrusion into a person's private activities or affairs; (2) appropriation or exploitation of a person's name, likeness, or personality; (3) public disclosure of private facts; and (4) placing another in a false light that is highly offensive.

Generally, these types of invasion of privacy actions are concerned with a person's interest to be left alone. In contrast, a defamation action is intended to protect a person against dissemination of false information that harms the person's reputation.

Personality Rights Statute. There is also a statutory cause of action to protect the use of a person's name or likeness in certain contexts. The personality rights statute grants every person a property right in the use of his or her name or likeness. The statute allows an injured person to sue for damages or an injunction if his or her name or likeness is used for commercial purposes without the person's consent. The statute contains exceptions to protect cultural, educational, artistic, and other uses.

Parental Liability. Under Washington's parental liability statute, if a child under the age of 18 willfully and maliciously inflicts personal injury on another person, the parents with whom the child is living may be liable to the injured person in a civil action in an amount not to exceed $5,000. This statute does not limit recovery against parents for their own negligence.

Laws in Other States. In 2010 California enacted legislation making electronic impersonation a crime and a civil cause of action. New York has enacted legislation criminalizing electronic impersonation in which a person communicates over the Internet with intent to injure or defraud another.

Summary: A civil cause of action is established for electronic impersonation in certain contexts. A person may be liable in a civil action for damages based on a claim of invasion of privacy when:

- the person intentionally impersonates another actual person on a social networking website or online bulletin board without the actual person's consent;
- the person intended to deceive or mislead for the purpose of harassing, threatening, intimidating, humiliating, or defrauding another; and
- the impersonation was the proximate cause of injury to the actual person. Injury may include injury to reputation or humiliation, injury to professional or financial standing, or physical harm.

"Impersonates" means using an actual person's name or likeness to create an impersonation that another would reasonably believe or did reasonably believe was or is the actual person being impersonated.

The actual person who was impersonated may seek actual damages, injunctive relief, and declaratory relief. The court may award the prevailing party costs and reasonable attorneys' fees. A parent's liability for the acts of a minor child is limited based on the parental liability statute.

The act does not apply when the impersonation was:

- for use that would violate the personality rights statutes or would fall under the exception to the personality rights statutes (for matters of cultural, historical, political, religious, educational, newsworthy, or public interest, including works of art, commentary, satire, and parody);
- insignificant, de minimis, or incidental use; or
- performed by a law enforcement agency as part of a lawful criminal investigation.

The act may not be construed to impose any liability on a social networking website, online bulletin board, Internet service provider, interactive computer service, computer hardware or software provider, or website operator or administrator or its employees, unless the provider, operator, administrator, or employee is the person doing the impersonation.

The act does not limit any other civil cause of action available to a person under statute or common law or any criminal prosecution.

"Social networking website" means a website that allows a user to create an account or profile for the purposes of, among other things, connecting the user's account or profile to other users' accounts or profiles. A blog is not a social networking website. "Online bulletin board" means a website that is designed specifically for Internet users to post and respond to online classified advertisements that are viewable by other Internet users.

Votes on Final Passage:

House	97	0
House	95	0
Senate	47	0

Effective: June 7, 2012

SHB 1700
C 67 L 12

Modifying the requirements related to designing various transportation projects.

By House Committee on Transportation (originally sponsored by Representatives Fitzgibbon, Angel, Appleton, Armstrong, Rolfes, Johnson, Clibborn, Rivers, Reykdal, Ormsby, Upthegrove, Liias, Billig and Moeller).

House Committee on Transportation
Senate Committee on Transportation

Background: Cities, towns, and counties are allowed to use funds available for street or road construction, maintenance, or improvement for building, improving, or maintaining bicycle facilities such as paths, lanes, roadways, or routes. If funds are used for bicycle improvements, they must be expended for suitable bicycle transportation purposes and not solely for recreational purposes. Furthermore, bicycle facilities constructed or modified after June 10, 1982, must meet or exceed the Department of Transportation's (DOT) standards. Design standards for bicycle and pedestrian facilities are included in the DOT's design manual.

There are two design standards committees, one that focuses on city or town street design standards and one that focuses on county design standards.

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

The DOT's Office of Highways and Local Programs and the State Design Engineer are responsible for carrying out this executive order. Approaches to context sensitive solutions design include a publication by the Institute of Transportation Engineers' (ITE) entitled *Context Sensitive Solutions in Designing Major Urban Thoroughfares for Walkable Communities* as well as the *Geometric Design of Highways and Streets* published by the American Association of State Highway and Transportation Officials (AASHTO). The AASHTO also publishes a bicycle guide and a pedestrian guide.

Summary: The design standards committees are required to adopt standards for bicycle and pedestrian facilities by July 1, 2012. After December 31, 2012, cities and counties are required to meet or exceed the standards adopted by the design standards committee when constructing or modifying bicycle and pedestrian facilities. In addition to bicycle facilities, cities and counties are allowed to use funds for street or road projects for pedestrian improvement projects.

Votes on Final Passage:

House	67	31	
House	63	32	
Senate	43	6	(Senate amended)
House	62	33	(House concurred)

Effective: June 7, 2012

SHB 1775
C 201 L 12

Encouraging juvenile restorative justice programs.

By House Committee on Early Learning & Human Services (originally sponsored by Representatives Goodman and Kagi).

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

Background: Diversions. If a juvenile is alleged to have committed a misdemeanor or gross misdemeanor, and it is his or her first violation, the prosecutor is required to "divert" the case rather than file a criminal complaint. The prosecutor may have discretion whether to allow the juvenile to enter into a diversion or file a criminal case for a subsequent misdemeanor or gross misdemeanor offense.

A case is diverted when the juvenile enters into an agreement with a diversion unit. The agreement may include, among other things, a requirement that the juvenile attend counseling or pay restitution. A diversion unit may be a probation counselor or any other person, a community accountability board, a youth court under the supervision of the juvenile court, or other entity except a law enforcement official or entity.

When a juvenile enters into a diversion agreement, the only information provided to the juvenile court for dispositional purposes is:

- the fact that a charge or charges were made;
- the fact that a diversion agreement was entered into;
- the juvenile's obligations under such agreement;
- whether the juvenile performed his or her obligations under such agreement; and
- the facts of the alleged offense.

Counsel and Release. In some circumstances, the diversion unit may counsel and release the juvenile without requiring him or her to enter into a diversion agreement. A counsel and release is permitted if the diversion unit determines that there was no victim or that there was no threat of or instance of actual physical harm, that the offense did not involve more than $50 in property loss or damage, and that there is no loss outstanding to the victim.

The diversion unit's authority to counsel and release a juvenile includes the authority to refer the juvenile to community-based counseling or treatment programs. A

diversion or counsel and release becomes part of the juvenile's criminal history.

Restorative Justice. Restorative justice is a set of principles and practices that involve all parties, the offender, victim, and community, to address an offender's actions.

Summary: A juvenile offender's participation in a restorative justice program is sufficient to satisfy the requirements of a diversion agreement or counsel and release.

Votes on Final Passage:

House	96	1	
Senate	47	0	(Senate amended)
House			(House refused to concur)
Senate			(Senate insisted on position)
House	98	0	
Senate	48	0	

Effective: June 7, 2012

ESHB 1820

C 37 L 12

Implementing the blue alert system.

By House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Hope, Liias, Rivers, Ryu, Moscoso, Morris, Hurst, Condotta, Jinkins, Fitzgibbon, Klippert, Johnson, Sells, Reykdal, Billig, Maxwell and Kelley).

House Committee on Public Safety & Emergency Preparedness
House Committee on General Government Appropriations & Oversight
House Committee on Ways & Means

Background: America's Missing Broadcast Emergency Response (AMBER) Alert System. Washington's AMBER Alert system provides a method to rapidly alert the public to the details of alleged child abductions through the media. The AMBER Alert system is meant to assist with recovery of abducted children through voluntary cooperation between broadcasters, cable systems, and local and state law enforcement agencies.

When a local law enforcement agency determines that an incident qualifies under criteria set for the AMBER Alert system, the agency may activate an AMBER Alert directly in certain circumstances, or submit the information to the Washington State Patrol (WSP). The agency or the WSP notifies the Washington State Emergency Management Division, which issues the AMBER Alert to radio and television media through the Emergency Alert System (EAS). Radio and television media broadcast the information about the abduction provided through the EAS.

An incident must meet certain criteria before an alert is sent, such as that the child must be abducted and not a runaway and is believed to be in danger of death or serious bodily injury. Broadcasted information typically includes a picture or description of the missing child, details of the abduction, the name and a picture or description of the suspected abductor, and information about the vehicle used by the abductor. The WSP also notifies the Department of Transportation (DOT) of the AMBER Alert, and the DOT places the information on highway traffic signs.

Missing Persons Resources. The WSP's Missing and Unidentified Persons Unit oversees efforts to recover missing persons. The WSP runs a Missing Children Clearinghouse (Clearinghouse) to distribute information about missing children to local law enforcement agencies, school districts, the Department of Social and Health Services, and the public. The Clearinghouse includes a toll-free, 24-hour telephone hotline. The WSP also must maintain a regularly updated computerized link with national and statewide missing-person systems or Clearinghouses.

The WSP also promulgates an Endangered Missing Person Advisory Plan to foster voluntary cooperation between law enforcement and state government agencies and the media to enhance the public's ability to assist in recovering endangered missing persons who do not qualify for inclusion in an AMBER Alert.

Blue Alert Systems. Blue Alerts notify law enforcement and the public about descriptions of people suspected of injuring or killing law enforcement officers. Several states have enacted "Blue Alert" systems modeled on AMBER Alert systems. Those states include Florida, Texas, Oklahoma, Alabama, Maryland, Georgia, Delaware, California, Virginia, Mississippi, Tennessee, Utah, and Colorado. A Blue Alert rapidly alerts the public with information identifying the offender, the offender's vehicle, and license plate information in order to help hinder the violator's ability to flee the state and facilitate a speedy capture.

Summary: The Washington State Patrol, in partnership with the Washington Association of Sheriffs and Police Chiefs, must implement a Blue Alert system to assist in apprehending a person suspected of killing or seriously injuring a law enforcement officer. The system must be implemented within available resources and developed consistent with the AMBER Alert system, the Clearinghouse, and the Endangered Missing Person Advisory Plan.

The term "law enforcement officer" includes: police officers, the Attorney General, the Attorney General's deputies, sheriffs and their regular deputies, corrections officers, tribal law enforcement officers, park rangers, state fire marshals, municipal fire marshals, sworn members of the city fire departments, county and district fire fighters, and agents of the Department of Fish and Wildlife. The term also includes an employee of a federal governmental agency who is authorized by law to engage in or supervise the prevention, detection, investigation, or

prosecution of, or the incarceration of any person for, any violation of law, and who has statutory powers of arrest.

The Blue Alert program must include the following: procedures to support the investigating law enforcement agency as a resource for the receipt and dissemination of information about the suspect, the suspect's whereabouts, and methods of escape; a process for reporting information to designated media outlets; and criteria for the investigating agency to determine quickly whether an officer has been seriously injured or killed and whether a Blue Alert needs to be activated.

The Blue Alert system may be activated when the investigating agency (the agency that has primary jurisdiction over the area in which the crime occurred) believes that:

- a suspect has not been apprehended;
- the suspect may be a serious threat to the public;
- sufficient information is available to disseminate to the public to assist in apprehending the suspect;
- release of the information will not compromise the investigation; and
- releasing the victim information will not improperly notify an officer's next of kin.

When a Blue Alert is activated, the investigating agency must provide descriptive information under the Washington Criminal Justice Information Act and the National Crime Information Center system. The investigating law enforcement agency must terminate the Blue Alert with respect to a particular suspect when the suspect is located, the incident is resolved, or it is determined that the Blue Alert system is no longer an effective tool for locating and apprehending the suspect.

Radio and television broadcasting stations, cable television systems, and the employees of those organizations may not be held civilly liable for broadcasting information supplied by law enforcement for distribution through a Blue Alert.

Votes on Final Passage:

House	98	0
Senate	48	0

Effective: June 7, 2012

E3SHB 1860

C 89 L 12

Regarding partisan elections.

By House Committee on General Government Appropriations & Oversight (originally sponsored by Representative Hurst).

House Committee on State Government & Tribal Affairs
House Committee on Ways & Means
Senate Committee on Government Operations, Tribal Relations & Elections
House Committee on General Government Appropriations & Oversight

Background: The election of precinct committee officers (PCOs) is conducted at the primary election. In January 2011 the United States District Court (Court) ruled that the state's implementation of the Top Two Primary is constitutional based on the fact that the ballot and accompanying information clearly explains that a candidate's preference does not imply party endorsement. However, the Court also ruled that the state's method of electing the PCOs is unconstitutional because it "severely burdens the political parties' ability to identify and associate with members of their respective parties." At issue was the Top Two Primary ballot which allows all voters, regardless of party affiliation, to vote for and elect the PCOs.

Summary: Elections for PCOs must be held at the primary election in even-numbered years. Only contested races may appear on the ballot, and write-in candidates are not allowed. If no one files for office, the position must be filled by the county chair of the county central committee of the appropriate political party. If only one person files for office, he or she is deemed elected.

County auditors may offer the PCO election on a consolidated ballot or a physically separate ballot. If a consolidated ballot is used, the race for the PCO must be clearly delineated from other races on the ballot. If a physically separate ballot is used, it must be distinguishable from the top two primary ballot. A ballot is not invalidated if it is returned outside of the security envelope.

Ballot instructions must include the following statement: "In order to vote for precinct committee officer, a partisan office, you must affirm that you are a Democrat or a Republican and may vote only for one candidate from the party you select. Your vote for a candidate affirms your affiliation with the same party as the candidate. This preference is private and will not be matched to your name or shared."

Party affiliation is affirmed by including the following statement after the name of each candidate: "I affirm that I am a Democrat" if the candidate is a Democrat, or "I affirm that I am a Republican" if the candidate is a Republican. In the event a voter votes for candidates from both parties, the votes cast for PCO on the ballot are not counted.

If a provision of the act is held invalid, the remainder of the act is not affected.

Votes on Final Passage:

House	53	44	
House	98	0	
Senate	44	4	(Senate amended)
House	97	1	(House concurred)

Effective: March 29, 2012

ESHB 1983

C 134 L 12

Concerning prostitution and trafficking crimes.

By House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Parker, Kenney, McCune, Hunt, Johnson, Pearson, Ryu, Fagan and Nealey).

House Committee on Public Safety & Emergency Preparedness
Senate Committee on Human Services & Corrections

Background: Indecent Exposure and Prostitution Fees. A person who has been convicted, been given a deferred sentence or prosecution, or entered into a statutory or nonstatutory diversion agreement as a result of an arrest for Indecent Exposure, Prostitution, Promoting Prostitution in the first or second degree, Permitting Prostitution, or Patronizing a Prostitute (or a similar county or municipal ordinance), is assessed a fee. The fee is assessed in addition to the criminal penalties for commission of the crime.

The additional fees are as follows:

- For Promoting Prostitution in the first or second degree, the additional fee is $300.
- For Indecent Exposure, Prostitution, or Permitting Prostitution, the additional fee is $50.
- For Patronizing a Prostitute, the additional fee is $150.

A statutory or nonstatutory diversion agreement is a written agreement between a person and a court, county, or city prosecutor, or designee thereof, where the person agrees to fulfill certain conditions in lieu of prosecution.

A deferred sentence is a sentence that will not be carried out if the defendant meets certain requirements, such as complying with the conditions of probation.

The additional fees imposed for these offenses are collected by the clerk of court and distributed each month for deposit in a state account, the Prostitution Prevention and Intervention Account (Account). The funds in the Account may be used to: (1) support programs that provide mental health and substance abuse counseling, parenting skills training, housing relief, education, and vocational training for youth who have been diverted for a prostitution or prostitution loitering offense; (2) fund services provided to sexually exploited children in secure and semi-secure crisis residential centers with access to staff trained to meet their specific needs; (3) fund services for sexually exploited children; and (4) fund a grant program to enhance prostitution prevention and intervention services.

Typically, a certain percentage of the fines, fees, penalties, and costs collected by the courts must be remitted to the state.

Sex Offender Registration. An offender convicted of a sex offense is required to register with the sheriff of the county in which he or she resides, works, or attends school.

Summary: Indecent Exposure and Prostitution Fees. The additional fees imposed in connection with a prosecution for Promoting Prostitution in the first or second degree is increased from $300 to $3,000 if the defendant has no prior convictions for this offense, $6,000 if the defendant has one prior conviction for this offense, and $10,000 if the defendant has two or more prior convictions for this offense.

The additional fee imposed in connection with a prosecution for Permitting Prostitution or Patronizing a Prostitute is increased from $50 to $1,500 if the defendant has no prior convictions for this offense, $2,500 if the defendant has one prior conviction for the offense, and $5,000 if the defendant has two or more prior convictions for this offense.

A fee of $3,000 will be imposed on a person who is either convicted or given a deferred sentence or deferred prosecution or who has entered into a statutory or nonstatutory diversion agreement as a result of an arrest for a violation of a trafficking crime.

The revenue raised from these fees is collected by the clerk of the court and remitted to the county where the offense occurred for the county general fund, except if the offense occurred within a city or town which provides for its own law enforcement, in which case the funds will be deposited in the city or town general fund.

The funds must be used for local efforts to reduce the commercial sale of sex including prevention and increased enforcement of commercial sex laws. Specifically, at least half of the funds must be spent on prevention, including education programs for offenders, such as john schools, and rehabilitative services such as: mental health and substance abuse counseling, parenting skills training, housing relief, education, vocational training, drop-in centers, and employment counseling, to help individuals transition out of the commercial sex industry.

These fees are exempt from distribution statutes that require a certain percentage of funds collected by courts to be remitted to the state.

Sex Offender Registration. If an offender has a prior conviction for Promoting Prostitution in the first or second degree, a subsequent conviction is considered a sex offense, requiring the offender to register as a sex offender.

Votes on Final Passage:

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

Effective: June 7, 2012

ESHB 2048
C 90 L 12

Concerning low-income and homeless housing assistance surcharges.

By House Committee on Ways & Means (originally sponsored by Representatives Kenney, Darneille, Dunshee, Hasegawa, Green, Upthegrove, Ormsby, Haigh, McCoy, Pedersen, Ryu, Pettigrew, Ladenburg, Moscoso, Hunt, Kagi, Dickerson, Appleton, Sells, Roberts, Reykdal, Frockt, Fitzgibbon, Finn, Goodman and Rolfes).

House Committee on Ways & Means
Senate Committee on Financial Institutions, Housing & Insurance
Senate Committee on Ways & Means

Background: Duties and Authority of County Auditors. The county auditor is responsible for the recording of specified documents required by law to be maintained as part of the public record kept by a county. The documents that must be recorded by a county auditor include judgments, liens, deeds, mortgages, and many other categories of documents pertaining to property ownership and real estate transactions.

State law specifies requirements that must be met by an auditor when exercising his or her recording duties, including the collection of specified fees when a document is recorded. These fees include the following three document recording surcharges totaling $48 that are used to fund programs that provide affordable housing for low-income persons and housing assistance for the homeless:

1. an Affordable Housing for All surcharge of $10;
2. a surcharge for local homeless housing and assistance of $30; and
3. an additional surcharge for local homeless housing and assistance of $8.

Each of the three document recording surcharges includes a portion which is provided to counties and a portion which is provided for state administered housing and homeless programs. The state's portion of the first of the surcharges is deposited into the Affordable Housing for All Account. The state's portion of the remaining two surcharges is deposited into the Home Security Fund.

Homeless Housing and Assistance Act. The Homeless Housing and Assistance Act (Act) was enacted in 2005, with the goal of reducing homelessness by 50 percent statewide and in each county by 2015. The Department of Commerce (COM), with the support of the Interagency Council on Homelessness and the Affordable Housing Advisory Board, is responsible for preparing and publishing a 10-year homeless housing strategic plan with statewide goals and performance measures, and providing biennial progress reports to the Governor and the Legislature. Local areas must also have 10-year plans that are substantially consistent with the state plan.

The $30 surcharge for local homeless housing and assistance was originally authorized in 2005 as a $10 surcharge under the Act. In 2009 legislation enacted increased the surcharge to $30 during the 2009-11 and 2011-13 biennia.

Enacted operating budgets have authorized expenditures from the Home Security Fund to support the following programs administered by the COM and the Department of Social and Health Services (DSHS):

- the Homeless Housing Program (COM);
- Homeless Family Shelters (COM);
- Independent Youth Housing (COM);
- Housing Division Administration (COM);
- the Transitional Housing Operating and Rent Program (COM);
- Secure Crisis Residential Centers (DSHS);
- Crisis Residential Centers (DSHS);
- Hope Centers (DSHS); and
- Grants and vouchers designated for victims of human trafficking and their families (COM).

Summary: The $30 surcharge for local homeless housing and assistance: increases to $40 from September 1, 2012, through June 30, 2015; becomes $30 from July 1, 2015, to June 30, 2017; and returns to $10, beginning July 1, 2017.

The types of documents for which the homeless housing surcharge must be applied is clarified to include: full reconveyence; deeds of trust; deeds; liens related to real property; release of liens related to real property; notice of trustee sales; judgments related to real property; and all other documents pertaining to real property as determined by the COM. By August 31, 2012, the COM must produce and submit to each county auditor a list of documents that are subject to the surcharge.

Through June 30, 2017, any local government that has the authority to issue housing vouchers paid for with funds obtained from document recording fees is required to:

- in conjunction with local landlord and tenant associations, develop, maintain and update at least quarterly an interested landlord list that includes information on rental properties in buildings with fewer than 50 units;
- distribute the list to agencies providing services to individuals and households receiving housing vouchers;
- ensure that a copy of the list or information for accessing the list online is provided with voucher paperwork;
- semi-annually convene interested landlords and agencies that provide services to households receiving housing vouchers to identify successes, barriers, and process improvements; and
- develop and submit annual data, in consultation with landlords and agencies, on specified expenditures made and services provided with document recording

fees to the COM. If such data are not readily available, the local government may request that the COM obtain the information by using a sampling methodology.

Through June 30, 2017, a city or county receiving more than $3.5 million in document recording surcharges is required to receive a Washington State Quality Award program or similar assessment of its quality management, accountability, and performance system every two years. The initial assessment may be a "lite" assessment.

Through June 30, 2017, the COM is required to:

- require its contractors to distribute the interested landlord list;
- annually convene local governments, landlord association representatives, and agencies to identify successes, barriers, and process improvements;
- develop a sampling methodology to obtain required data when a local government or contractor does not have such information readily available;
- develop and submit an annual report to the Legislature that is developed in consultation with local governments, landlord association representatives, and agencies that includes specified expenditures made and services provided with document recording fees; and
- work with local governments and the Washington State Quality Award program on scheduling required assessments.

"Housing vouchers" are payments funded by one of the three housing-related document recording surcharges that are made by a local government or contractor to secure a rental unit on behalf of an individual tenant, or a block of units on behalf of multiple tenants.

"Housing placement payments" are one-time payments funded by document recording surcharges that are made to secure a unit on behalf of a tenant.

"Interested landlord list" is a list of landlords who have indicated to a local government or contractor interest in renting to individuals or households receiving a housing voucher funded by document recording surcharges.

The changes to the local homeless housing and assistance surcharge are null and void if the provisions regarding new requirements for the COM and local governments that have the authority to issue housing vouchers are not enacted. The additional requirements for the COM and local governments that have the authority to issue housing vouchers are null and void if the surcharge changes are not enacted.

Votes on Final Passage:

House	52	44	
House	55	42	
Senate	30	18	(Senate amended)
House	55	41	(House concurred)

Effective: June 7, 2012

SHB 2056

C 10 L 12

Concerning assisted living facilities.

By House Committee on Health Care & Wellness (originally sponsored by Representatives Van De Wege, Bailey, Cody, Johnson and Warnick).

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

Background: Washington began licensing boarding homes in 1958. The Department of Social and Health Services licenses and conducts inspections, investigations of complaints, and enforcement actions related to boarding homes.

Boarding homes are facilities that provide housing and basic services to seven or more residents. Residents of boarding homes are people who live in a boarding home for reasons of age or disability and receive services provided by the boarding home. Services provided to residents by boarding homes include housekeeping, meals, snacks, laundry, and activities. They may also provide domiciliary care, including assistance with activities of daily living, health support services, and intermittent nursing services. Intermittent nursing services include: medication administration, administration of health care treatments, diabetic management, nonroutine ostomy care, tube feeding, and delegated nursing tasks.

Nonresident individuals may also live in a boarding home and receive specified services, but they may not receive domiciliary care from the boarding home. Some of the services that nonresident individuals may receive upon request include:

- emergency assistance;
- facility systems to respond to the potential need for emergency assistance;
- nursing assessment services;
- preadmission assessment for transitioning to a licensed care setting;
- medication assistance and prefilling insulin syringes;
- nutrition management;
- dental services; and
- customary landlord services.

Summary: The term "boarding home" is changed to "assisted living facility" throughout the boarding home licensing statute and elsewhere in the Revised Code of Washington. The Department of Social and Health Services is authorized to apply rules regarding boarding homes to assisted living facilities.

Votes on Final Passage:

House	97	0
Senate	47	0

Effective: June 7, 2012

SHB 2058
PARTIAL VETO
C 9 L 11 E2

Making 2011-2013 supplemental operating appropriations.

By House Committee on Ways & Means (originally sponsored by Representative Hunter).

House Committee on Ways & Means

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

The 2011-13 State Omnibus Operating Appropriations Act (Operating Budget) appropriated $32 billion from the State General Fund and two other accounts, together referred to as State Near General Fund. The total budgeted amount, which includes state and federal funds, is $62 billion.

Summary: Changes are made to the 2011-13 biennial Operating Budget. State Near General Fund appropriations are decreased by $323 million; the total budgeted amount is decreased by $632 million.

Fund transfers and other changes to the original 2011-13 biennial Operating Budget are also made.

Votes on Final Passage:

Second Special Session

House	86	8
Senate	42	6

Effective: December 20, 2011
July 1, 2012 (Sections 903 and 905)

Partial Veto Summary: The Governor vetoed a proviso that directed the Department of Social and Health Services to maintain the physical plant and protect state assets at the closed Maple Lane School.

VETO MESSAGE ON SHB 2058

December 20, 2011

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

Ladies and Gentlemen:

I commend you and your Senate colleagues for your early action 2011 supplemental operating budget. I fully recognize the difficult decisions that had to be made in a short period of time.

As I sign this appropriations bill, there are many issues of critical importance to our state that must still be addressed. I commit to working with you to craft a swift and responsible supplemental budget early in the 2012 legislative session.

I am returning, without my approval as to Section 203(9), Substitute House Bill 2058 entitled:

"AN ACT Relating to fiscal matters."

Section 203(9), page 38, Department of Social and Health Services, Juvenile Rehabilitation Program, Maintaining Maple Lane School

This proviso directs the Department of Social and Health Services to maintain the physical plant and protect state assets at the closed Maple Lane School. No additional funds were provided to perform these tasks. For this reason, I have vetoed Section 203(9). However, since the future use of the facility will be significantly affected by ceasing all maintenance, utilities, and security activities, I am directing the agency to temporarily provide minimum operating systems and security so the Legislature has the opportunity to discuss future uses for the facility. The agency will cease all support of the facility no later than April 1, 2012, unless additional legislative appropriation and direction are given.

With the exception of Section 203(9), Substitute House Bill 2058 is approved.

Respectfully submitted,

Christine O. Gregoire
Governor

3ESHB 2127
PARTIAL VETO
C 7 L 12 E2

Making 2011-2013 fiscal biennium supplemental operating appropriations.

By House Committee on Ways & Means (originally sponsored by Representative Hunter; by request of Governor Gregoire).

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

Background: The state government operates on a fiscal biennium that begins on July 1 of each odd-numbered year. Appropriations are made in the biennial and supplemental budgets for the operation of state government and its various agencies and institutions, as well as for K-12 public schools.

The 2011-13 State Omnibus Operating Appropriations Act (Operating Budget), after the 2011 Second Special Session (including Substitute House Bill 2058), appropriated $31.7 billion from the State General Fund and two other accounts, together referred to as State Near General Fund. The total budgeted amount, which includes state and federal funds, is $61.4 billion.

Summary: State Near General Fund appropriations for the 2011-13 biennium are decreased by $633.7 million; the total budget is decreased by $466.4 million.

Fund transfers and other changes are also made.

Votes on Final Passage:

House 53 45

First Special Session

House 54 43

Second Special Session

House 64 34
Senate 44 2

Effective: May 2, 2012

Partial Veto Summary: The Governor vetoed a number of provisions which increased State General Fund expenditures by $7.9 million (net) and made other changes. See veto message.

VETO MESSAGE ON 3ESHB 2127

May 2, 2012

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

Ladies and Gentlemen:

I am returning, without my approval as to Sections 124; 131(5); 204(1)(f); 205(2)(c); 205(2)(d); 211(6); 213(40); 213(44); 213(45); 213(49); 213(54); 302(13); 308, page 144, lines 27-28; 308(2); 308(12); 505(9); 511(18); 601(7); 714; 919; 925; 926; 930; and 935, Third Engrossed Substitute House Bill 2127 entitled:

"AN ACT Relating to fiscal matters."

Section 124, page 18, Office of the State Treasurer, Supplemental Budget Reductions

The State Treasurer has made significant contributions to solving the state's budget problem, including proposing a $12.6 million transfer from the State Treasurer's Service Account to the General Fund for my proposed 2012 supplemental operating budget. The Legislature increased this transfer to the General Fund by another $3.5 million in Section 804 of this budget. This section would reduce appropriations to the Office of the State Treasurer by $1.2 million. The Treasurer believes this 15 percent reduction would likely lead to lower investment earnings and higher risks to public funds. Moreover, this reduction in the Treasurer's appropriation does not help the General Fund. Rather, it is the transfers in Section 804 that help the General Fund and this appropriation reduction was not included in the transfer. I am leaving Section 804 intact, but given the impacts that the appropriation reduction could have on timely administration of state finances, I am vetoing Section 124. The Treasurer has volunteered to place actual savings in reserve for a later transfer to the General Fund to help balance the next supplemental budget. For these reasons, I have vetoed Section 124.

Section 131(5), pages 32-34, Office of Financial Management, Office of Regulatory Assistance

Section 935, page 276, Office of Regulatory Assistance and Regulatory Agencies, Small Business Activities

The Office of Regulatory Assistance (ORA) is directed to coordinate an agency small business liaison team with regulatory agencies to recommend improvements to inspection practices and customer service. In addition, ORA must develop anonymous customer service surveys related to regulatory agencies and post them to its website. Similar activities were the subject of legislation that failed to pass the Legislature. The underlying goals of this proviso have already been incorporated into Executive Order 12-01, which directed ORA to establish a small business liaison program, conduct regular outreach with small business groups to streamline and reduce redundancy in regulatory practices and inspections, and establish a web-based customer survey tool for input from all businesses. However, these legislative provisos also set prescriptive requirements on regulatory agencies to document inspection violations and corrective notices. These requirements should be established through a statutory change rather than the budget. In addition, insufficient funding is provided to ORA and regulatory agencies to implement these requirements. For these reasons, I have vetoed Section 131(5) and Section 935.

Section 204(1)(f), pages 60-61, Department of Social and Health Services, Jail Services Study

The Department of Social and Health Services is directed to submit a report to the Legislature by December 1, 2012, regarding the utilization of mental health services by those who are incarcerated or have been recently released from incarceration. No funding was provided to the Department to identify and compile the data necessary to compose the report by the deadline. For this reason, I have vetoed Section 204(1)(f).

Section 205(2)(c), pages 71-72, Department of Social and Health Services, Student Transition Funding

Funding is provided to the Department to contract with school districts for instructional support of new students with developmental disabilities that are admitted to a Residential Habilitation Center (RHC). This budget contains three mechanisms for school districts to obtain additional funding for providing special education services to students housed at RHCs, including one program based on demonstrated need for special education funding in excess of state and federal funding otherwise provided. Only one district would be eligible for this transition funding and it failed to demonstrate excessive costs related to special education for the 2011-12 school year. Because school districts have access to other fund sources when there is a demonstrated need, I have vetoed Section 205(2)(c).

Section 205(2)(d), page 72, Department of Social and Health Services, Rainier School Long-Range Development Plan

This proviso appropriates $600,000 to create a long-range vision and development plan for Rainier School. Chapter 30, Laws of 2011 established a task force to make recommendations regarding the development of a system of services for persons with developmental disabilities and the state's long-term needs for residential habilitation center capacity. The long-range vision and development plan for Rainier School should be and is part of this larger, statewide strategy. For this reason, I have vetoed Section 205(2)(d).

Section 211(6), pages 87-88, Department of Social and Health Services, Funding for Community Initiative

The Department of Social and Health Services (DSHS) is required to maintain separate centralized administrative services for community health and safety networks that remain after the sunset of the Family Policy Council. DSHS has the administrative capacity to support this initiative within its current infrastructure. A separate administrative system within the Secretary's office is not necessary. For this reason, I have vetoed Section 211(6).

Section 213(40), page 103, Health Care Authority, Critical Access Hospitals

This proviso requires the Health Care Authority (HCA), in collaboration with numerous parties, to submit a design for rural health system access and quality incentive payments to the Legislature in December 2012. This represents a significant undertaking for which no funding is provided. However, the issue of how to use limited resources to best meet the health care needs of our state's rural residents is an important one. I understand the Legislature intends to focus on this issue, and I will ask my staff and the staff of the relevant agencies to participate in and support these efforts. For this reason, I have vetoed Section 213(40).

Section 213(44), page 106, Health Care Authority, Facility Fees

This item directs the HCA to complete a study on the payment of facility fees and to issue a report to the Legislature by November 1, 2012. Both funding and time is insufficient for the successful completion of this study. Further, the Legislature passed Engrossed Substitute House Bill 2582 this past session which will require hospitals to report to the Department of Health a number of data requirements in regard to facility fees after January 1, 2013. It is premature to conduct this study until the necessary data are submitted and analyzed. For these reasons, I have vetoed Section 213(44).

Section 213(45), pages 106-107, Health Care Authority, Medicaid Managed Care

Section 213(45) requires the director of the HCA to make specific certifications of network adequacy to the Legislature and the Governor prior to awarding a contract for Medicaid managed care services. It also requires a rebidding process in counties where a certification cannot be established and prohibits a reversion to fee-for-service as a result of the procurement process. I am concerned that this proviso circumvents state laws requiring competitive procurements to be free from influence or bias. Competitive procurements ensure that public contracts are awarded based on quality and cost. The agency recently completed its procurement process for Medicaid managed care services. New competitors in the market were able to offer innovative proposals without sacrificing access or quality of care, saving taxpayers $131 million in this biennium. This was done under the specific directive in this operating budget to "place substantial emphasis upon price competition in the selection of successful bidders," when awarding managed care contracts for Medicaid enrollees. A federal judge recently upheld the competitive process. Unfortunately, some competitors did not compete on price, quality, and innovation criteria. This result is what we expect from a competitive procurement process. For these reasons, I have vetoed Section 213(45).

Section 213(49), page 108, Health Care Authority, Lowest Cost Generic Bidding

This proviso permits the HCA to enter into a competitive bidding process for the purchase of lowest cost generic drugs within the Medicaid program. The HCA already has the statutory authority to pursue competitive contracts through the Preferred Drug Program, and therefore, this proviso is not necessary. The current procurement model used by the agency has proven effective in obtaining the lowest cost generic on the market. Increased use of generic drugs has reduced Medicaid expenditures by $118 million in the past five fiscal years. The model also is flexible in meeting the needs of patients and pharmacies by not limiting the choice of generic products and instead providing incentives for dispensing at the lowest cost. However, if another model were to prove more effective, current law gives the HCA the authority to move forward. For these reasons, I have vetoed Section 213(49).

Section 213(54), page 109, Health Care Authority, Rural Health Clinics

The HCA is directed to develop an alternative payment and reconciliation methodology for rural health clinics by December 1, 2012. This proviso is unnecessary as the HCA is committed to continuing discussions with the Rural Health Clinic Association of Washington and the Centers for Medicare and Medicaid Services to identify viable options for developing alternative payment and reconciliation methods. Groundwork was laid for this discussion with federal regulators last summer and fall, as the agency began exploratory discussions with the new federal Center for Medicare and Medicaid Innovation to gauge federal tolerance for innovation in this area. In addition, too little time and money were provided to develop the study. For these reasons, I have vetoed Section 213(54).

Section 302(13), page 136, Department of Ecology, Implementation of Children's Safe Products Legislation

This proviso funds the Department of Ecology's responsibilities for implementing either Senate Bill 6120 or House Bill 2821, regarding children's safe products, with legislative direction that the appropriations would lapse if the bills were not enacted. These bills did not pass. For this reason, I have vetoed Section 302(13).

Section 308, page 144, lines 27-28, Department of Natural Resources, Fiscal Year 2013 General Fund-State Appropriation Change

Section 308(2), page 146, Department of Natural Resources, Emergency Fire Suppression

Section 925, page 268, Department of Natural Resources, Forest Development Account

Section 926, pages 268-269, Department of Natural Resources, Forest Development Account

Section 308(2) shifts $2.1 million in fire suppression costs to the Forest Development Account, which is a trust management account used by the Department of Natural Resources (DNR) to pay for management of state forest trust lands that benefit 19 timber-dependent counties. It is not appropriate to require these 19 counties to bear the statewide costs of fire suppression, even partially, while other trusts and timber landowners remain unaffected. Additionally, $623,000 in fire suppression overtime savings is assumed in this reduction, which is not feasible to achieve by DNR and its partners to manage wildfire responses. For these reasons, I have vetoed Section 308(2).

To restore funding sufficient to cover the $2.1 million in fire suppression costs shifted back to the General Fund, I have also vetoed the fiscal year 2013 General Fund appropriation revision found in Section 308, page 144, lines 27-28. Because this veto will restore more funding than necessary to cover the fire suppression costs shifted back to General Fund-State, the Commissioner of Public Lands has agreed, at my request, to place $1.2 million General Fund-State in reserve for fiscal year 2013.

Sections 925 and 926 make statutory changes needed to allow the use of the Forest Development Account for fire suppression costs by the Department of Natural Resources proposed in Section 308(2). Because I have vetoed Section 308(2), I have also vetoed Section 925 and Section 926.

Section 308(12), pages 148-149, Department of Natural Resources, Marina Rent Rates

Section 930, pages 272-273, Department of Natural Resources, Calculation of Annual Rent for Qualifying Marinas

These items have the effect of reducing marina rent solely benefiting up to six marinas in our state. Revising marina rent rates has long been an issue before the Legislature. The Department has completed several different studies and options for revising marina rents and introduced legislation as early as 2011 to implement these changes. These studies have clearly demonstrated that the current method to set marina rents is inequitable. The Legislature needs to take action on a permanent statutory change that addresses rents for all marinas within the state, not simply "pilot" a rent reduction for a few marinas through the budget. Additionally, the lower rent rates would reduce revenue to the Aquatic Lands Enhancement Account by $75,000 per year, an account which is already over-appropriated by $2 million. For these reasons, I have vetoed Section 308(12) and Section 930.

Section 505(9), page 180, Office of the Superintendent of Public Instruction, Development of New Transportation Allocation Formula

The Office of the Superintendent of Public Instruction (OSPI) is required to develop a new state unit-cost pupil transportation funding allocation for schools, or a hybrid formula, for legislative consideration and potential adoption. From 2006 to 2011, the state invested more than $1,000,000 to study and implement pupil transportation formula options. Consultants for the study, along with a working group of school district finance and transportation experts, recommended the expected cost model of funding over a unit-cost model. This model was enacted by the Legislature, effective September 1, 2011, and OSPI has proceeded with implementation. The state has carefully considered various formula options and invested considerable effort into developing the expected cost model. Another pupil transportation study is unwarranted. For these reasons, I have vetoed Section 505(9).

Section 511(18), page 192, Office of the Superintendent of Public Instruction, Education Reform Program, American Academy

This proviso allocates $200,000 solely for The American Academy to provide social support and academic interventions to at-risk students. The American Academy is one of many programs in the state providing services to at-risk students. This proviso singles out a specific provider, The American Academy, for additional funding when other programs serving at-risk students are equally deserving. For this reason, I have vetoed Section 511(18).

Section 601(7), page 200, State Board for Community and Technical Colleges, Bellevue College Baccalaureate Degrees

Bellevue College would be temporarily authorized through this budget proviso to offer baccalaureate degrees, rather than applied

baccalaureate degrees as currently authorized. The current applied baccalaureate pilot program at Bellevue College and other participating institutions shows promise. While expansion of baccalaureate degree programs into the state's community and technical college system may ultimately prove to be sound public policy, such authorization through a budget proviso is the wrong approach. The Legislature endorsed the System Design Plan in 2010 for the purpose of establishing a process for the expansion of new programs and degrees where there is demand and to ensure financial sustainability. This important planning process cannot succeed if independent authorization is given in a budget proviso. Moreover, it is unlikely that implementation of degree programs on a new campus can be completed by June 30, 2013, when the authority in this subsection will expire. For these reasons, I have vetoed Section 601(7).

Section 714, pages 232-233, Office of Financial Management, Fiscal Year 2013 Information Technology Savings

Section 714 directs the Office of Financial Management to identify information technology (IT) savings and to reduce state agency allotments by $10 million in all funds. The 2011-13 budget already includes another $60 million in central service reductions, as well as administrative cuts in multiple agencies and the expectation that agencies will under-spend their revised budgets by $120 million of reversions. While the state will continue to pursue savings in IT and other back office functions, we have to be realistic about the detrimental effect of random reduction targets. At some point, agencies will not be able to deliver expected services even with increased productivity. So, enough is enough. For this reason, I have vetoed Section 714.

Section 919, pages 253-257, Office of the Governor, Across-the-Board Reductions

Existing law gives the Governor authority to impose across-the-board spending reductions when a cash deficit is projected in a particular fund. To prevent the necessity of a special session if revenues decline, I asked the Legislature for more flexibility in the event there was a need to reduce State General Fund expenditure authority. However, this language actually reduces executive flexibility by mandating that all provisoed amounts be reduced by the same percentage as separate appropriations. While agencies must respect legislative priorities when implementing across-the-board reductions, mandating the preservation of provisoed funds over core services is the wrong approach. For these reasons, I have vetoed Section 919.

I am not vetoing Section 307, which transfers $3.3 million of the Department of Fish and Wildlife's enforcement expenses from the State General Fund to the Recreation Resources Account. However, I do have concerns about this provision of the bill. A veto would not restore the $3.3 million General Fund reduction and would result in the elimination of 30 enforcement officer positions. The Department cannot effectively enforce state fish and wildlife regulations with a reduction of this magnitude. The Recreation Resources Account provides grants for local boating projects across the state. The Legislature should reconsider this transfer next session.

With the exception of Sections 124; 131(5); 204(1)(f); 205(2)(c); 205(2)(d); 211(6); 213(40); 213(44); 213(45); 213(49); 213(54); 302(13); 308, page 144, lines 27-28; 308(2); 308(12); 505(9); 511(18); 601(7); 714; 919; 925; 926; 930; and 935, Third Engrossed Substitute House Bill 2127 is approved.

Respectfully submitted,

Christine O. Gregoire
Governor

SHB 2131
C 6 L 11 E2

Delaying implementation of certain provisions related to evaluations of persons under the involuntary treatment act.

By House Committee on Ways & Means (originally sponsored by Representatives Dickerson and Hunter; by request of Department of Social and Health Services).

House Committee on Ways & Means

Background: Under the state's Involuntary Treatment Act (ITA), a person can be detained and ordered to undergo treatment at an inpatient psychiatric facility when the person, as a result of a mental disorder, presents a likelihood of serious harm or is gravely disabled. Designated Mental Health Professionals (DMHPs) are responsible for investigating and determining whether to detain an individual thought to require involuntary treatment. An initial detention may last up to three days. Under certain criteria, individuals can be committed by a court for additional periods of 14, 90, or 180 days for further treatment.

Legislation enacted in 2010 expanded factors that DMHPs and courts may consider when making determinations for detention and commitment under the ITA. Under these new provisions, a DMHP must consider all reasonably available evidence from credible witnesses with significant contact and history of involvement with the person regarding the historical behavior of the person, prior commitments or recommendations for evaluation, and prior determinations of incompetency or insanity. Credible witnesses are defined as family, landlords, neighbors, and others with significant contact and history of involvement with the person. The 2010 act additionally provides that, in determining whether to detain or commit, DMHPs and the courts may consider symptoms and behavior that standing alone would not justify commitment, but that show a marked deterioration in the person's condition and are closely associated with symptoms and behavior that led to past incidents of involuntary hospitalization or violent acts. The 2010 act set January 1, 2012, as the effective date for these changes.

The 2010 Supplemental Operating Budget provided funding for the Washington State Institute for Public Policy (WSIPP) to complete an assessment of: (1) the extent to which the number of persons involuntarily committed for three, 14, and 90 days is likely to increase as a result of the revised commitment standards; (2) the availability of community treatment capacity to accommodate that increase; (3) strategies for cost-effectively leveraging state, local, and private resources to increase community involuntary treatment capacity; and (4) the extent to which increases in involuntary commitments are likely to be offset by reduced utilization of correctional facilities, publicly funded medical care, and state psychiatric hospitalizations. The WSIPP study estimates that the expanded criteria could result in a significant increase in the number of involuntary commitments. The study also

estimated that between 48 and 193 additional beds would be needed in community and state psychiatric treatment facilities in order to accommodate the need.

Summary: The January 1, 2012, effective date for Designated Mental Health Professionals (DMHPs) and the courts to consider additional information and factors in determining whether to detain or commit a person for involuntary treatment is delayed to July 1, 2015. However, the requirement that DMHPs consider information from credible witnesses regarding prior commitments or recommendations for evaluation and prior determinations of incompetency or insanity when making detention decisions will take effect January 1, 2012.

Votes on Final Passage:

Second Special Session

House	94	0
Senate	47	1

Effective: December 20, 2011
January 1, 2012 (Section 2)

HB 2138

C 11 L 12

Establishing national Korean war veterans armistice day.

By Representatives Ormsby and Bailey.

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

Background: Specially Recognized Days. The following days, while not legal holidays, are specially recognized in statute:

- Korean-American Day (January 13);
- Columbus Day (October 12);
- Former Prisoner of War Recognition Day (April 9);
- Washington Army and Air National Guard Day (January 26);
- Purple Heart Recipient Recognition Day (August 7);
- Washington State Children's Day (second Sunday in October);
- Mother Joseph Day (April 16);
- Marcus Whitman Day (September 4);
- Pearl Harbor Remembrance Day (December 7);
- Civil Liberties Day of Remembrance (February 19); and
- Juneteenth, a Day of Remembrance for the Day the Slaves Learned of their Freedom (June 19).

POW/MIA Flag. Public entities are required to display the National League of Families' Prisoner of War/Missing in Action (POW/MIA) flag on the following days:

- Armed Forces Day (third Saturday in May);
- Memorial Day (last Monday in May);
- Flag Day (June 14);
- Independence Day (July 4);
- National POW/MIA Recognition Day (no date or day is specified); and
- Veterans' Day (November 11).

Korean War Armistice. An "armistice" is defined as an agreement between opposing armies to suspend hostilities in order to discuss peace terms.

On July 27, 1953, the Korean War Armistice Agreement was signed between the Commander in Chief of the United Nations Command, on the one hand, and the Supreme Commander of the Korean People's Army and the Commander of the Chinese People's Volunteers, on the other hand, concerning a military armistice in Korea. Under the agreement, a demarcation line was fixed and a demilitarized zone was established. By its terms, the agreement remains in effect until expressly superseded either by mutually acceptable amendments and additions or by provision in an appropriate agreement for a peaceful settlement at a political level between both sides. To date, a peace treaty has not been signed.

Summary: The Legislature declares that July 27 be specifically recognized as National Korean War Veterans Armistice Day. This date is not to be considered a legal holiday for any purpose. The POW/MIA flag, together with the United States and Washington flags, must be displayed by public entities on this date.

In addition, the third Friday in September is designated as National POW/MIA Recognition Day.

Votes on Final Passage:

House	95	0
Senate	48	0

Effective: June 7, 2012

SHB 2139

C 91 L 12

Concerning the establishment of new regional support network boundaries.

By House Committee on Ways & Means (originally sponsored by Representatives Cody and Hunter; by request of Department of Social and Health Services).

House Committee on Ways & Means

Background: The Department of Social and Health Services (DSHS) is the designated state mental health authority. The DSHS contracts with Regional Support Networks (RSNs) to oversee the local delivery of mental health services for adults and children who suffer from mental illness or severe emotional disturbance. Entities that are selected to operate as the RSN for a designated geographic area must meet regulatory and contractual standards. In cases in which an RSN fails to meet state minimum standards or refuses to exercise its statutory and contractual obligations, the DSHS must assume those responsibilities.

An RSN must be either a county authority or group of county authorities except in circumstances in which an existing RSN chooses not to respond to a request for qualifications, is unable to substantially meet the requirements of a request for qualifications, or notifies the DSHS that it will no longer serve as an RSN. Under these circumstances, the DSHS is required to utilize a procurement process in which other entities recognized by the secretary may bid to serve as the RSN. The DSHS has authority to establish new boundaries in cases where an RSN fails to respond to or meet standards of a request for qualifications or subsequent reprocurement.

There are 13 RSNs in Washington. Twelve of these entities are either single or multi-county authorities, and there is one private entity operating as an RSN in Pierce County. The RSNs subcontract with an array of community mental health agencies to provide required services.

Summary: The DSHS is authorized to establish RSN boundaries in cases in which two or more RSNs propose to reconfigure themselves in a consolidation. In these situations, the RSNs are exempt from specific procurement procedures.

The minimum number of RSNs is reduced from eight to six.

Votes on Final Passage:

House	98	0
Senate	49	0

Effective: June 7, 2012

SHB 2148

C 7 L 11 E2

Suspending annual examinations and show cause hearings for sexually violent predators convicted of a criminal offense or awaiting trial on criminal charges.

By House Committee on Ways & Means (originally sponsored by Representatives Darneille and Hunter; by request of Department of Social and Health Services).

House Committee on Ways & Means

Background: Under the Community Protection Act of 1990, a sexually violent predator (SVP) may be civilly committed for an indefinite period of time. A SVP is a person who: (1) has been convicted of, found not guilty by reason of insanity of, or found to be incompetent to stand trial for a crime of sexual violence; and (2) suffers from a mental abnormality or personality disorder that makes the person likely to engage in predatory acts of sexual violence if not confined to a secure facility. Sexually violent predators are committed to the custody of the Department of Social and Health Services (DSHS) for control, care, and individualized treatment. Most SVPs are housed at the Special Commitment Center (SCC) on McNeil Island.

Annual Examinations. The DSHS must perform an examination of the mental condition of every person committed as a SVP at least once a year. The examination must be prepared by a professionally qualified person. It must address whether the person continues to meet the definition of a SVP and whether conditional release to a less restrictive alternative (LRA) is in the person's best interest and conditions can be imposed to adequately protect the community. The report must be filed with the court, with copies sent to the prosecutor and the committed person. The person may have an expert appointed if he or she is indigent.

Review Proceedings. If the Secretary of the DSHS determines that: (1) the person's condition has so changed that he or she no longer meets the definition of a SVP; or (2) conditional release to a LRA is appropriate, the DSHS must authorize the person to petition the court for either unconditional discharge or conditional release to a LRA.

The committed person may also petition the court for release without the approval of the DSHS. The DSHS must send annual written notice of the right to petition the court, along with a waiver of rights. If the committed person does not waive the right, the court must set a show cause hearing to determine if probable cause exists to warrant a hearing on whether the person's condition has so changed.

At the show cause hearing, the prosecutor must present prima facie evidence that the committed person continues to meet the definition of a SVP and that a LRA is not in the person's best interest and conditions would not adequately protect the community. The prosecutor may rely exclusively upon the annual report prepared by the DSHS. The committed person has a right to an attorney to represent him or her at the show cause hearing.

The court sets a final review hearing if it determines either that: (1) the state failed to present prima facie evidence; or (2) there is probable cause to believe the person's condition has so changed that he or she no longer meets the definition of a SVP or that release to a LRA would be in the person's best interest and conditions would adequately protect the community.

At the final review hearing, the person is entitled to be present and is afforded the same protections as at the commitment proceeding, including the right to a jury trial and the right to be evaluated by an expert. The burden of proof on the state is beyond a reasonable doubt.

The jurisdiction of the court over a civilly committed person continues until the person is unconditionally released. A person subject to court order under the Community Protection Act who is thereafter convicted of a criminal offense remains under the jurisdiction of the DSHS and is returned to the physical custody of the DSHS at the time of release from confinement. Over the past two years, there have been civilly committed persons residing at the SCC who have been convicted of crimes. These persons are serving their criminal sentences and are not in the physical custody of the DSHS.

Summary: The statute requiring the Department of Social and Health Services (DSHS) to conduct an annual examination is suspended during any period of time a sexually violent predator (SVP) is either confined for a criminal conviction or is detained due to a criminal charge. Additionally, during any period of time a SVP is confined for a criminal conviction or detained due to criminal charges, the statute regarding petitions to the court for conditional release or unconditional discharge is suspended. Therefore, the authorization and procedures for annual review proceedings are suspended during a period of criminal confinement or detention. The DSHS must initiate an examination of the committed person's mental condition upon the return of the person to the DSHS custody and must follow procedures regarding examinations as provided in statute.

Votes on Final Passage:

Second Special Session

House	94	0
Senate	48	0

Effective: December 20, 2011

SHB 2149

C 59 L 12

Concerning personal property tax assessment administration, authorizing waiver of penalties and interest under specified circumstances.

By House Committee on Ways & Means (originally sponsored by Representatives Eddy and Kenney).

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

Background: All real and personal property is subject to property tax each year based on its value, unless a specific exemption is provided by law. There are two classes of property. Real property consists of land and the buildings, structures, and improvements that are affixed to land. Personal property consists of all other property, such as machinery, equipment, furniture, and supplies of businesses. Household goods and business inventories are specifically exempt from personal property tax.

The county assessor is required to make a list of all persons in the county that are subject to the assessment of 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. The penalty for failing or refusing to provide a list of taxable personal property is subject to a 5 percent penalty, not to exceed $50 per calendar day, if the failure is not more than one month. An additional 5 percent penalty is levied for each additional month, not to exceed 25 percent in total. If any person willfully gives a false list with intent to defraud, the penalty is 100 percent of the total tax. The penalties are distributed in the same manner as other property tax interest and penalties, and credited to the county general expense fund.

When an assessor has discovered property that has been omitted from the assessment roll, the assessor places the property on the assessment roll at the value for the year in which it was omitted. Placement of omitted property on the assessment roll is limited to three years preceding the year in which the omission is discovered. Omitted property is taxed at the levy rate of the year in which the property was omitted. Taxes from omitted property are to be paid one year from the due date for taxes on the current year's assessment roll.

Summary: The county legislative authority may authorize the assessor to waive penalties for assessment years 2011 and prior for a person or corporation failing or refusing to deliver to the assessor a list of taxable personal property under certain circumstances. To qualify, on or before July 1, 2012, the taxpayer must file with the assessor a correct list and statement of taxable personal property and a completed application for a penalty waiver. Full payment of the tax must be made to the county by September 1, 2012, of the entire balance due on all tax liabilities for which a penalty waiver is requested.

Taxpayers receiving penalty relief may not seek a refund or otherwise challenge the amount of tax liability. Personal property listed by the taxpayer is subject to verification by the assessor and any unreported or misreported property remains subject to taxes, penalties, and interest.

Votes on Final Passage:

House	92	1
Senate	49	0

Effective: March 20, 2012

EHB 2152

C 92 L 12

Clarifying timelines associated with plats.

By Representatives Angel, Takko, Dammeier, Rivers, Kristiansen, Springer, Buys, Tharinger and Liias.

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

Background: Land Divisions and Associated Time Limitations. The process by which land divisions may occur is governed by state and local requirements. Local governments, the entities charged with receiving and determining land division proposals, must adopt associated ordinances and procedures in conformity with state requirements.

Numerous statutorily defined terms are applicable in land use division actions. Examples include the following:

- "Subdivision" generally means the division or redivision of land into five or more lots, tracts, parcels, sites, or divisions for the purpose of sale, lease, or transfer of ownership.
- "Preliminary plat" is a neat and approximate drawing of a proposed subdivision showing the general layout of streets and alleys, lots, blocks, and other elements of a subdivision. The preliminary plat is the basis for the approval or disapproval of the general layout of a subdivision.
- "Short subdivision" generally means the division or redivision of land into four or fewer lots, tracts, parcels, sites, or divisions for the purpose of sale, lease, or transfer of ownership. The legislative authority of any city, town, or county that plans under the Growth Management Act may, with some limitations, increase the number of lots, tracts, or parcels to be regulated as short subdivisions to nine.
- "Short plat" is the map or representation of a short subdivision.
- "Final plat" is the final drawing of the subdivision and dedication prepared for a filing for record with the county auditor. A final plat must contain elements and requirements mandated by statute and applicable local government regulations.

Preliminary plats of a proposed subdivision and dedication must generally be approved, disapproved, or returned by the local government to the applicant for modification within 90 days from the date of filing. For final plats and short plats, the approval, disapproval, or returning action must be completed within 30 days. Absent an extension by the local government, an applicant has seven years to submit a qualifying final plat to the legislative body of the applicable local government.

If a subdivision proposed for final plat is approved by the applicable local government, the county, city, or town must file the final plat with the county auditor. Any lots in a final plat filed by the local government must be a valid land use, notwithstanding changes in zoning laws, for seven years from the date of filing. Additionally, absent public health or safety concerns, a subdivision must be governed by the terms of approval of the final plat, and the requirements in effect at the time of approval, for seven years.

Recent Legislation: Temporary Two-Year Extensions. Legislation adopted in 2010 (Chapter 79, Laws of 2010, Substitute Senate Bill 6544) temporarily extended time limitations associated with final plats and subdivisions from five to seven years. The temporary extension will expire on December 31, 2014.

Shoreline Management Act. The Shoreline Management Act of 1971 (SMA) governs uses of state shorelines and involves a cooperative regulatory approach between local governments and the state. At the local level, the SMA regulations are developed in city and county shoreline master programs that regulate land use activities in shoreline areas of the state. At the state level, the Department of Ecology is charged with reviewing shoreline master programs and approving those that comply with statutory provisions and agency guidelines governing their adoption.

Summary: Time limitations governing the submission of final plats are modified as follows:

- If a preliminary plat is approved by the local government on or before December 31, 2014, the final plat must be submitted to the local government within seven years of the preliminary plat approval.
- If a preliminary plat is approved by the local government on or after January 1, 2015, the final plat must be submitted to the local government within five years of the preliminary plat approval.

One exception to these seven and five year-time limits is specified. If a preliminary plat is approved by the local government on or before December 31, 2007, and if the project is within city limits and not subject to the SMA, the final plat must be submitted to the local government within nine years of the preliminary plat approval.

Time limitations for provisions governing lots in final plats and subdivisions are modified as follows:

- Any lots in a final plat filed for record are a valid land use, notwithstanding changes in zoning laws, for seven years from the date of filing if the date of filing is on or before December 31, 2014.
- Any lots in a final plat filed for record are a valid land use, notwithstanding changes in zoning laws, for five years from the date of filing if the date of filing is on or after January 1, 2015.

One exception to these seven and five-year time limits is specified. Any lots in a final plat filed for record are a valid land use, notwithstanding changes in zoning laws, for nine years from the date of filing if the project is within city limits, not subject to the SMA, and date of filing is on or before December 31, 2007.

General time limitations associated with requirements governing subdivisions are modified as follows:

- Subdivisions are governed by the terms of approval of the final plat, and the requirements in effect at the time of approval, for seven years after final plat approval, provided the date of final plat approval is on or before December 31, 2014.
- Subdivisions are governed by the terms of approval of the final plat, and the requirements in effect at the time of approval, for five years if the date of final plat approval is on or after January 1, 2015.

One exception to these seven and five-year time limits is specified. Absent public health or safety concerns,

subdivisions are governed by the terms of approval of the final plat, and the requirements in effect at the time of approval, for nine years after final plat approval if the project is within city limits, not subject to the SMA, and the date of final plat approval is on or before December 31, 2007.

A temporary extension that, until December 31, 2014, extended time limits associated with final plats and subdivisions from five to seven years is repealed.

Votes on Final Passage:

House	92	0	
Senate	48	0	(Senate amended)
House	95	0	(House concurred)

Effective: June 7, 2012

2SHB 2156

C 50 L 12

Regarding workforce training for aerospace and materials manufacturing.

By House Committee on Education Appropriations & Oversight (originally sponsored by Representatives Kenney, Sells, Haler, Seaquist, Hansen, Maxwell and Carlyle; by request of Governor Gregoire).

House Committee on Labor & Workforce Development
House Committee on Education Appropriations & Oversight
Senate Committee on Higher Education & Workforce Development
Senate Committee on Ways & Means

Background: Aerospace is Washington's largest manufacturing industry. Its primary focus is aircraft and parts manufacturing. According to the Aerospace Competitiveness Study (Competitiveness Study) commissioned by the Washington Aerospace Partnership in 2011, the state's aerospace industry includes about 150 aerospace firms that employ nearly 90,000 workers. (Roughly 650 other firms employ several thousand more workers in companies that serve the aerospace industry.)

The Competitiveness Study cited the high productivity and knowledge of Washington's workforce as a key advantage, but also recommended that the state's post-high school aerospace certification and apprenticeship programs be strengthened to accelerate the state's production of skilled manufacturing workers. A goal of the Washington Council on Aerospace is to continue to identify ways to help increase the coordination, articulation, and growth of aerospace training programs statewide.

The State Board for Community and Technical Colleges (College Board) has general supervision and control over the state system of community and technical colleges. In addition to other powers and duties, the College Board ensures that each college district offers comprehensive educational, training, and service programs to meet the needs of communities and students through academic transfer courses, occupational education courses, and adult education. Thirty-four of the colleges offer workforce training in aerospace-related fields.

The Center of Excellence for Aerospace and Advanced Materials Manufacturing serves as a liaison between the aerospace industry and the training system. Air Washington, a consortium of community colleges and other training providers, recently received a $20 million grant from the federal Department of Labor to develop and implement education, training, and services to meet Washington' s workforce demands, as identified by employers in the aerospace industry.

The Workforce Training and Education Coordinating Board provides planning, coordination, evaluation, monitoring, and policy analysis for the state training system as a whole, and advises the Governor and the Legislature concerning the state training system.

The Aerospace Training Student Loan Program makes loans available to eligible students enrolled in courses offered by the Washington Aerospace Training and Research Center (WATR Center) and the Spokane Aerospace Technology Center (SAT Center). The WATR Center offers courses through partnerships with Edmonds Community College and Renton Technical College. The loan program is administered by the Higher Education Coordinating Board. Legislation enacted in 2011 replaced the Higher Education Coordinating Board for higher education financial aid responsibilities with the Office of Student Financial Assistance as of July 1, 2012.

Summary: The Legislature expresses its intent to improve coordination of the training system to provide better alignment with industry needs and to keep pace with a rapidly changing economy. The Legislature also expresses its intent to increase aerospace skills development and education and training programs, and help increase jobs for Washington's citizens. The requirements relating to training programs are subject to the availability of amounts appropriated for these specific purposes.

The State Board for Community and Technical Colleges (College Board) is required to facilitate coordination and alignment of aerospace training programs to the maximum extent possible. In doing so, the College Board is required to collaborate with certain long-term training providers, short-term training providers, and apprenticeship program providers. Coordination and alignment must include, but is not limited to, the following:

- providing information about aerospace training programs;
- providing information about grants and partnership opportunities;
- providing coordination for professional development for faculty and other education and training providers;

- evaluating certain programs annually for completion and job placement results; and
- making budget recommendations to the Governor and the Legislature on aerospace training programs.

The College Board is also required to establish the Aerospace and Advanced Materials Manufacturing Pipeline Advisory Committee (Advisory Committee). This Advisory Committee must consist of 11 to 15 members. A majority of members, including the chair, must represent industry. At least two members must represent labor. Other members must be education and training providers, including directors of long-term training, short-term training, and apprenticeship programs.

The Advisory Committee is required to:

- provide direction for a skills gap analysis produced with the Workforce Training and Education Coordinating Board (Workforce Board) using data developed through the Education Data Center, and consistent with the joint assessment of higher education and training credentials required to match employer demand;
- establish goals for students served, program completion rates, and employment rates;
- coordinate and disseminate industry advice for training programs; and
- recommend training programs for review by the Workforce Board in coordination with the College Board.

The Workforce Board, with the College Board, is required to evaluate training programs recommended for review by September 1, 2012, and every year thereafter. These evaluations must include outcome results for employers and persons receiving training. The Workforce Board is also required to conduct and complete analyses of the training system, including net impacts, cost-benefit analyses, and outcome results by September 1, 2016, and every four years thereafter.

The Aerospace Training Student Loan Program is made available to students enrolled in aerospace industry courses offered by Renton Technical College. References to the Higher Education Coordinating Board are replaced with references to the Office of Student Financial Assistance.

Votes on Final Passage:

House	94	3	
Senate	48	0	(Senate amended)
House	94	1	(House concurred)

Effective: June 7, 2012
July 1, 2012 (Sections 4-8)

EHB 2159
C 1 L 11 E2

Regarding grant opportunities for STEM career courses.

By Representatives Maxwell, Pettigrew, Sells, Seaquist, Orwall, Hansen, Probst, Carlyle, Jinkins, Billig, Lytton and Dahlquist; by request of Governor Gregoire.

House Committee on Education

Background: Workforce Education Centers of Excellence. The community and technical college system has designated certain colleges as Centers of Excellence for workforce education in particular targeted industries that are strategic to the economic growth of a region or the state.

One example is the Center of Excellence for Aerospace and Advanced Materials Manufacturing (Center for Aerospace) located at Everett Community College. The Center for Aerospace has been working with other colleges to align courses in aerospace and manufacturing to skills required for entry-level jobs, and has worked with the Office of the Superintendent of Public Instruction (OSPI) to develop secondary CTE programs that allow students to begin a progression of courses in high school, continue seamlessly in college, and complete an industry-recognized certificate or degree in advanced manufacturing. This type of course progression is called a program of study.

The Washington Aerospace Training and Research Center, affiliated with the Edmonds Community College, has collaborated with The Boeing Company to develop a 12-week training and certification program for entry-level jobs in aerospace assembly.

Project Lead-the-Way. Project Lead-the-Way (PLTW) is a national curriculum in science, technology, engineering, and mathematics (STEM) for middle and high school students. Students learn principles of STEM through hands-on, project based learning. The curriculum includes modeling software, engineering kits, and other activities. For high school students, the Pathway to Engineering curriculum includes foundation courses, specialized courses, and a capstone course. Some colleges and universities offer college credit for the PLTW courses.

To teach a PLTW course, a teacher must receive two weeks of intensive training by an approved PLTW affiliate university. Ongoing inservice and supplemental professional development opportunities are also available.

Education Data Center. The Education Data Center (EDC) is housed within the Office of Financial Management and acts as a data warehouse with the capacity to link data across the K-12, postsecondary, and workforce systems. This capacity enables the EDC to examine postsecondary and workforce outcomes for K-12 students, including those in particular high schools or programs.

Summary: Three grant programs are established to be administered by the OSPI, with each grant subject to funds

appropriated for its purpose. The first program is grants to high schools to implement a training program to prepare students for employment as entry-level aerospace assemblers. The second program is grants to skill centers to implement enhanced manufacturing skills programs. The third program is grants to high schools to implement specialized courses as provided by a national, multidisciplinary STEM program.

All grant funds are allocated on a one-time basis through a competitive process and may be used for curriculum, course equipment and materials, and professional development for program teachers. In the case of the aerospace assembler program and the enhanced manufacturing skills program, the OSPI must work with the Center for Aerospace to develop a program of study that meets industry needs.

Applicants for the grants must demonstrate:

- engaged and committed faculty and leadership;
- capacity to offer the program and maximize the use of grant resources;
- linkages to programs at community and technical colleges and private technical schools;
- a history of successful partnerships within the community and support for implementing the program including through apprenticeships, materials, instructional support, internships, and other program components;
- a plan that includes a start-date for classes and recruitment and retention of students; and
- capacity to continue the program after the initial grant year.

Applicants for the grants to offer specialized STEM courses must also demonstrate current or planned training of course teachers and a plan to promote opportunities for students to earn college credit.

The EDC must collect student participation and completion data for each of the three grant programs and follow students to employment or further training and education in the two years following high school. For the students in specialized STEM courses, the EDC must also examine mathematics and science course-taking patterns to determine the extent that participation reduces mathematics remediation. Study findings must be reported annually beginning January 2014 through January 2018.

Votes on Final Passage:

Second Special Session

House	77	18
Senate	48	0

Effective: March 14, 2012

HB 2160

C 2 L 11 E2

Regarding revised standards and assessments for teacher certification integrating STEM knowledge and skills.

By Representatives Maxwell, Dammeier, Springer, Pettigrew, Sullivan, Sells, Orwall, Hansen, Probst, Carlyle, Jinkins, Billig, Lytton and Dahlquist; by request of Governor Gregoire.

House Committee on Education

Background: Teacher Standards. Standards for teacher certification and certificate renewal are established by the Professional Educator Standards Board (PESB). The standards outline both teaching competencies and subject matter knowledge in 33 endorsement areas. Prospective teachers must pass an assessment of subject matter knowledge for their endorsement area called the Washington Educator Skills Test (WEST-E). The WEST-E tests are aligned both with Washington's teacher standards and the Essential Academic Learning Requirements (EALRs) for students. The PESB is also part of a multi-state consortium developing a performance-based assessment of teaching effectiveness for certification purposes. Certificate renewal requires either continuing education or development of an individual professional growth plan.

Student Standards. Revisions to the EALRs for mathematics were adopted in 2008, and for science in 2009. Accordingly, statewide student assessments are being revised to align with the new EALRs. In addition, the Superintendent of Public Instruction adopted the Common Core standards in reading and mathematics in 2011, which will be phased in over the next several years. The Common Core standards were developed by a consortium of states. A similar multi-state effort is underway to develop Next Generation science standards.

Summary: The PESB must, as part of its regular review and revision of teacher certification standards, revise the standards for endorsement in elementary education and middle and secondary mathematics and science, as well as any other endorsements related to science, technology, engineering, and mathematics (STEM). Revisions for mathematics must be adopted by September 1, 2013. Revisions related to science must be adopted by September 1, 2014. The revision must include the integration of STEM knowledge and skills and be aligned with the Common Core standards, new state mathematics and science standards and assessments, and the Next Generation science standards. The revised endorsement standards must also include concepts and instructional practices for interdisciplinary connection with engineering and technology.

The PESB must revise the WEST-E assessments to measure the revised endorsement standards and require candidates taking the assessment of teaching effectiveness

to demonstrate effective instruction that addresses the revised standards.

The PESB must require continuing education or professional growth plans for certificate renewal by elementary teachers and secondary teachers in STEM-related fields to include a specific focus on integrating STEM instruction.

Votes on Final Passage:

Second Special Session

House	93	2
Senate	48	0

Effective: March 14, 2012

SHB 2169

C 8 L 11 E2

Modifying the uniform unclaimed property act.

By House Committee on Ways & Means (originally sponsored by Representatives Hasegawa, Kenney and Ormsby).

House Committee on Ways & Means

Background: The Uniform Unclaimed Property Act governs the disposition of property that is unclaimed by its owner. A business that holds unclaimed property must transfer it to the Department of Revenue (DOR) after a holding period set by statute. The holding period varies by the type of property, but for most unclaimed property, such as abandoned bank accounts, stocks, and bonds, 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's duty is to find the rightful owner of the property, if possible. With some exceptions, the DOR will sell property that is still unclaimed within five years after it is received. State law requires the DOR to hold stocks, bonds, and other securities for a period of time – usually three years – before being sold. When the unclaimed property is sold, the sale proceeds are deposited in the State General Fund.

The owner of unclaimed property may come forward at any time to claim the property. If the property has already been sold by the DOR, the owner is generally entitled to the proceeds of the sale, plus any interest accruing as part of the security, less administrative costs. However, if abandoned stock or other securities are sold before the expiration of the three year holding period by the DOR, the owner is entitled to the greater of the market value of the security at the time the claim is made or the proceeds of the sale, less any administrative costs.

Summary: The Department of Revenue (DOR) must sell all securities received under the unclaimed property program as soon as practicable unless, in the judgment of the DOR, the securities are worthless, cannot be sold, or are not cost-effective to sell. Owners of stock making a claim under the Unclaimed Property Act are entitled to the proceeds received from the sale less administrative costs, or the stock if the DOR has not yet ordered the sale of the stock.

Votes on Final Passage:

Second Special Session

House	94	0
Senate	44	4

Effective: December 20, 2011

SHB 2177

C 135 L 12

Protecting children from sexual exploitation.

By House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Ladenburg, Dammeier, Jinkins, Zeiger, Darneille, Dahlquist, Seaquist, Angel, Kelley, Wilcox, Hurst, McCune, Kirby, Appleton, Green, Ryu, Warnick and Finn).

House Committee on Public Safety & Emergency Preparedness

Senate Committee on Judiciary

Background: Discovery Rules in Criminal Cases. Discovery, the mandatory pretrial disclosure of evidence, is governed by court rules. In criminal proceedings, the governing rule is Criminal Rule 4.7. Criminal Rule 4.7 is a reciprocal discovery rule that separately lists the obligations of both the prosecutor and defendant when engaging in discovery.

Rule 4.7(a)(1)(v) requires a prosecutor to disclose to a defendant any books, photographs, documents, or other tangible objects which the prosecutor intends to use during trial or which were obtained from or belonged to the defendant. Generally, materials furnished to an attorney under the discovery rules must remain in the exclusive custody of the attorney and used only for the purpose of conducting the case. However, if a prosecutor establishes cause, the court may issue a protective order further restricting disclosure of the materials. The terms of the order may not be so restrictive as to prevent a defendant's meaningful access to the trial materials. A defendant's access to trial materials is considered to be related to his rights to adequate representation and a fair trial.

Some conditions approved by the Washington Supreme Court to restrict disclosure of materials depicting a minor engaged in sexually explicit conduct include: allowing the defendant to access the evidence only under counsel's supervision, holding the defense counsel personally responsible for any unauthorized distribution of the material, and requiring a firewall between the Internet and any computer used to access the materials.

Adam Walsh Act. The federal law on discovery in criminal cases was similar to Washington law until the

passage of the Adam Walsh Child Protection and Safety Act of 2006 (Act). The Act requires, in part, that child pornography used as trial materials remain in the care, custody, and control of the government or the court. The court may not grant any requests by criminal defendants to copy or otherwise reproduce child pornography as long as the government makes the material "reasonably available" to the defendant.

The material is considered to be "reasonably available" if the defendant, the defendant's attorney, and anyone the defendant may seek to qualify to provide expert testimony at trial is allowed ample opportunity for inspection of the material at a government facility.

The Act applies only to proceedings in federal courts.

Summary: Defendant's Access to Child Pornography. Any material depicting a minor engaged in sexually explicit conduct must remain in the care, custody, and control of either a law enforcement agency or the court. Despite any request by the defendant or prosecution, any property or material that constitutes a depiction of a minor engaged in sexually explicit conduct must not be copied, photographed, duplicated, or otherwise reproduced, so long as the property or material is made reasonably available to the parties.

Such material is deemed to be reasonably available if the prosecution, defense counsel, or any individual sought to be qualified to furnish expert testimony at trial has ample opportunity for inspection, viewing, and examination at a law enforcement facility (or a neutral facility approved by the court upon petition by the defense). The defendant may only view the material in the presence of his or her attorney or, if pro se, under the supervision of a person appointed by the court.

Production of Mirror Imaged Hard Drive for Expert Analysis. If the defendant has retained an expert to conduct a forensic examination of the material, the court may direct that a mirror image of a computer hard drive be produced. The mirror imaged hard drive will remain in the care, custody, and control of a law enforcement agency or the court, unless the defendant makes a substantial showing that the expert's analysis cannot be accomplished under those terms. In that case, the court may order the release of the mirror imaged hard drive to the expert for analysis, subject to a protective order. The protective order must contain terms and conditions necessary to protect the rights of the victims, document the chain of custody, and protect physical evidence.

Storing, Sealing, and Destruction of Exhibits Containing Child Pornography. Exhibits which depict a minor engaged in sexually explicit conduct must be controlled in the following manner:

Storing. The clerk of court must store any such exhibit in a secure location, such as a safe. The clerk may transfer the materials to a law enforcement agency evidence room for safekeeping, if the agency agrees not to destroy the evidence without an order of the court.

Sealing at the End of Trial. The prosecutor must seek an order sealing the exhibit at the close of trial. If the order is granted, the exhibit must be labeled and sealed with evidence tape to prevent access or viewing.

To obtain access to the sealed exhibit, an individual must seek permission from the superior court after providing 10 days notice to the prosecuting attorney before seeking permission from the superior court. Appellate attorneys must be granted access, though the materials will remain in the care and custody of the court or a law enforcement agency. Other persons may not be granted access unless they demonstrate to the court that their reason is important enough to justify another violation of the victim's privacy.

Destruction. If the criminal proceeding ends in a conviction, the clerk of court is required to destroy the exhibit five years after the judgment. Before destroying the exhibit, the clerk must contact the prosecuting attorney and verify that there is no collateral attack on the judgment.

If the criminal proceeding ends in a mistrial, the clerk must maintain the exhibit or return it to the law enforcement agency for safekeeping.

If the criminal proceeding ends in an acquittal, the clerk must return the exhibit to the law enforcement agency that investigated the criminal charges for either safekeeping or destruction.

Materials Currently Distributed to the Defense Team. In cases pending on the effective date of the act, if materials depicting a minor engaged in sexually explicit conduct have been distributed through the discovery process, the materials must be returned to the superior court judge, who will order either the destruction or the safekeeping of the depiction. If the case is no longer pending, the materials must either be returned to the law enforcement agency that investigated the criminal charges or be destroyed.

For violations of the law relating to sexual exploitation of children committed after December 31, 2012, it is not a defense that the initial receipt of the materials occurred legally through discovery.

Votes on Final Passage:

House	92	0	
Senate	46	0	(Senate amended)
House	95	0	(House concurred)

Effective: June 7, 2012

SHB 2181
C 12 L 12

Extending the age for service in the Washington state guard.

By House Committee on State Government & Tribal Affairs (originally sponsored by Representatives Dammeier, Orwall, Bailey, Finn, McCune, Sullivan, Klippert, Hudgins, Hope, Hunt, Taylor, Jinkins, Ladenburg, Hansen, Ryu, Maxwell, Asay, Kelley, Kenney, Hurst and Shea).

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

Background: The Washington State Guard (Guard) is a military organization available to serve the Governor in the event that the National Guard in the State of Washington is called into federal service. The Governor may call the Guard into state service in other instances, such as in the wake of a natural disaster.

The period of enlistment in the Guard is set by regulation by the Adjutant General. However, no enlistment may be fulfilled unless the term of service can be completed before the applicant reaches age 64.

Summary: The Adjutant General may extend the service age upon request by an active member of the Guard if the Adjutant General determines the member's extension would be in the best interest of the Guard. Extensions are for a one-year duration and may be renewed until the member reaches age 68.

Votes on Final Passage:

House	95	0
Senate	48	0

Effective: June 7, 2012

EHB 2186
C 13 L 12

Concerning licensed midwives ability to work with registered nurses and licensed practical nurses.

By Representatives Bailey, Cody, Schmick, Darneille, Ahern, Green, Kelley and Kenney.

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

Background: Registered Nurses. A registered nurse is a person who performs acts requiring substantial specialized knowledge, judgment, and skill based on the principles of the biological, physiological, behavioral, and sociological sciences in a variety of areas, including the execution of medical regimen as prescribed by a licensed:

- physician and surgeon;
- dentist;
- osteopathic physician and surgeon;
- podiatric physician and surgeon;
- physician assistant;
- osteopathic physician assistant; or
- advanced registered nurse practitioner.

A registered nurse may administer medications, treatments, tests, and inoculations, if within his or her scope of practice, at the direction of a licensed:

- physician and surgeon;
- dentist;
- osteopathic physician and surgeon;
- naturopathic physician;
- optometrist;
- podiatric physician and surgeon;
- physician assistant;
- osteopathic physician assistant; or
- advanced registered nurse practitioner.

Licensed Practical Nurses. A licensed practical nurse is a person who performs services requiring the knowledge, skill, and judgment necessary for carrying out selected aspects of the designated nursing regimen under the direction and supervision of a licensed:

- physician and surgeon;
- dentist;
- osteopathic physician and surgeon;
- physician assistant;
- osteopathic physician assistant;
- podiatric physician and surgeon;
- advanced registered nurse practitioner; or
- registered nurse.

A licensed practical nurse may administer drugs, medications, treatments, tests, injections, and inoculations at the direction and under the supervision of a registered nurse or at the direction of a licensed:

- physician and surgeon;
- osteopathic physician and surgeon;
- dentist;
- naturopathic physician;
- podiatric physician and surgeon;
- physician assistant;
- osteopathic physician assistant; or
- advanced registered nurse practitioner.

Midwives. A licensed midwife renders medical care for compensation to a woman during prenatal, intrapartum, and post-partum stages. A licensed midwife must consult with a physician when there are significant deviations from normal in either the mother or the infant.

Summary: Registered Nurses. A registered nurse may execute a medical regimen as directed by a licensed midwife. A registered nurse may also administer medications, treatments, tests, and inoculations at the direction of a licensed midwife.

Licensed Practical Nurses. A licensed practical nurse may practice under the direction of a licensed midwife. A licensed practical nurse may also administer drugs,

medications, treatments, tests, injections, and inoculations at the direction of a licensed midwife.

Votes on Final Passage:

House	95	0
Senate	49	0

Effective: June 7, 2012

SHB 2188

C 93 L 12

Regulating air rescue or evacuation services.

By House Committee on Business & Financial Services (originally sponsored by Representatives Ryu and Parker).

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

Background: The Insurance Code (Code) governs all insurance transactions that occur in this state or affect subjects located within this state. "Insurance" is defined as "a contract whereby one undertakes to indemnify another or pay a specified amount upon determinable contingencies."

Among other duties for insurers and health carriers, the Code requires:

- minimum reserves to ensure solvency;
- registration with the Office of the Insurance Commissioner (OIC); and
- the filing of forms and rates with the OIC.

There are a number of services, products, persons, and entities that are regulated under the Code in a less stringent manner than a traditional insurance product, agent or broker, or insurer. There are also several exemptions from the Code. One exemption is related to private air ambulance services.

Private air ambulance services that solicit and accept membership subscriptions, charge fees, and provide services are not insurers or health carriers and are exempt from the provisions of the Code if the service:

- meets licensure requirements;
- attains and maintains accreditation by the Commission on Accreditation of Medical Transport Services or another accreditation organization approved by the Department of Health;
- has operated in Washington for a minimum of two years; and
- submits evidence of compliance with these provisions to the OIC.

Summary: Rescue services include:

- rescue, evacuation, and emergency transport and crisis management services related to the emergency;
- locator services for medical and legal professionals;
- visa and passport services;
- emergency message services;
- emergency-related travel and emergency-related services and information; and
- other services established by rule of the Insurance Commissioner.

A subscription service that solicits membership subscriptions, charges membership fees, and provides rescue services to its members who are traveling more than 100 miles away from home is not an insurer or a health carrier.

A subscription service that provides rescue services must satisfy any licensing requirements of the jurisdiction in which the services are provided.

It is not required that a subscription service own the means of transportation that will be used to provide the contracted services.

Votes on Final Passage:

House	95	0
Senate	45	0

Effective: June 7, 2012

ESHB 2190

PARTIAL VETO

C 86 L 12

Making 2011-2013 supplemental transportation appropriations.

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

House Committee on Transportation

Background: The operating and capital expenses of state transportation agencies and programs are funded on a biennial basis by an omnibus transportation appropriations act (transportation budget) adopted by the Legislature in odd-numbered years. Additionally, supplemental budgets may be adopted during the biennium making various modifications to agency appropriations. The transportation budget provides appropriations to the major transportation agencies including: the Washington State Department of Transportation (WSDOT), the Washington State Patrol (WSP), the Department of Licensing, the Washington Traffic Safety Commission, the Transportation Improvement Board (TIB), the County Road Administration Board (CRAB), and the Freight Mobility Strategic Investment Board (FMSIB). The transportation budget also provides appropriations out of transportation funds to many smaller agencies with transportation functions.

Since the 2011-2013 biennial Transportation Budget was enacted in May 2011, several changes have occurred that impact budgetary conditions. Transportation revenues to fund activities in the current biennium have declined by about $30 million, according to official

forecasts. At the same time, project expenditures have been lower than expected, a result of good bids received on capital contracts. Some delays in project activity in the previous fiscal biennium have resulted in additional work to be done in the current fiscal period, while for several other projects planned to be completed by June of 2013 there has been a schedule slippage.

The Transportation 2003 (Nickel) Act was passed in 2003, increasing the fuel tax rate by 5 cents. A bond bill was also enacted, supporting a $4.2 billion program of projects over the course of 10 years and underwritten by Nickel Act revenues. In 2005 the Transportation Partnership Act (TPA) was enacted providing an increase in the motor vehicle fuel tax rate of 9.5 cents, phased in over several years. Like the Nickel package, the TPA was enacted along with a bond bill that allowed for the early spending of $8.5 billion in capital projects over 16 years.

The State Route (SR) 520 bridge replacement and high-occupancy vehicle (HOV) project was included as part of the TPA package. In 2009 legislation was enacted authorizing tolls to be imposed on the SR 520 corridor and authorizing $1.95 billion worth of bonds to be sold to pay for the construction of the bridge and associated landings. In 2010 enacted legislation modified the limitations on the SR 520 proceeds, providing that bonds could be used to pay for projects in the corridor beyond just the replacement floating bridge and landings.

The Transportation Infrastructure Finance and Innovation Act (TIFIA) program provides federal credit assistance in the form of direct loans, loan guarantees, and standby lines of credit to finance surface transportation projects of national and regional significance. The TIFIA credit assistance provides improved access to capital markets, flexible repayment terms, and potentially more favorable interest rates than can be found in private capital markets.

During federal fiscal year 2011, the federal Highway Administration received 34 letters of interest for $14 billion in the TIFIA loans. Of these, a select few were invited to apply. The WSDOT submitted its 68-page application on December 16, 2011, for the SR 520 bridge replacement and HOV project. The application requests $320 million for the construction of the west approach bridge.

Summary: The 2011-2013 biennial Transportation Budget is amended to reflect a decline in state revenues since its enactment , the need to issue additional bonds for the SR 520 bridge replacement and HOV project, the receipt of additional federal funds, reduced spending expectations resulting from lower inflationary projections, a reprogramming of unfinished work from the previous fiscal biennium, changes in the schedule of some projects, and emergent operating expenses. Net spending authority is increased by about $930 million, with much of the authority increase going to the WSDOT Improvements Program to allow the issuance of the remaining bonds and potential receipt of the TIFIA funds authorized for the SR 520 bridge replacement and the HOV project.

The transportation budget is also amended to provide expenditure authority for new revenue attributable to increases in fees in other legislation. Appropriations connected with the increase in various drivers' and vehicle fees are provided: to the WSP; to the WSDOT ferry system for operations; to the WSDOT for road preservation and maintenance; for transit operations; for the Safe Routes to Schools program; to the FMSIB; for the construction of a new 144-car class ferry boat vessel; for the TIB; and for the CRAB. In addition, the WSDOT is provided $8 million to begin the design, preliminary engineering, and rights-of-way acquisition on several projects in anticipation of the next major transportation revenue investment package.

Votes on Final Passage:

House	82	16	
Senate	44	5	(Senate amended)
House			(House refused to concur)
Conference Committee			
Senate	43	6	
House	85	13	

Effective: March 23, 2012
June 7, 2012 (Sections 701-713, 805, and 806)

Partial Veto Summary: The Governor vetoed six sections or subsections in the 2012 Supplemental Transportation Appropriations Act. The effect was to remove certain directive language concerning:

- a review by the state Chief Information Officer of conversion of WSP communication systems through the narrowbanding process;
- making the narrowbanding contract contingent on an independent financial and compliance review;
- an evaluation of the proposed move of the WSDOT Aviation program from Arlington to Olympia;
- a requirement for the WSDOT to approve a reduction in the speed limit on a state highway in the vicinity of a state university research and extension center; and
- a reduction of the workforce in certain WSDOT operating programs in the 2013-15 biennium.

The veto also removed a section making certain provisions null and void if Engrossed Substitute Senate Bill 6455 was not enacted. There is no effect of the vetoes on any appropriations.

VETO MESSAGE ON ESHB 2190

March 23, 2012

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 102(9), 604, 212(2), 216(7), 602(4), and 717, Engrossed Substitute House Bill 2190 entitled:

"AN ACT Relating to transportation funding and appropriations."

Section 102(9), pages 4-5, Office of Financial Management

Section 604, page 93, Washington State Patrol

These provisos require the Office of the Chief Information Officer (OCIO) and the Washington State Patrol to conduct a technical review of the State Patrol's conversion to narrowbanding. Funding was not provided in either proviso, and review of the narrowbanding project has already been done by external entities. For these reasons, I have vetoed Section 102(9) and Section 604.

Section 212(2), page 28, Department of Transportation

This proviso directs the Department to provide a report about a possible move of the Aviation Division from Arlington to Olympia, and states that this move cannot occur unless approved by the Legislature during the 2013 session. A financial analysis has already been completed that identifies savings by moving the Aviation Division office to a state-owned building. For this reason, I have vetoed Section 212(2).

Section 216(7), page 35, Department of Transportation

This proviso requires the Secretary of the Department of Transportation, upon the request of a county, to reduce the maximum speed limits on a state highway in proximity to a state university research and extension center. As highway safety remains one of my top transportation concerns, I have instructed the Department to work with the affected counties identified in this proviso by June 30, 2012. Nevertheless, for safety reasons, state highway speed limits should be managed in a consistent manner at the state level. For this reason, I have vetoed Section 216(7).

Section 602(4), page 91, Department of Transportation

This proviso requires that the Department of Transportation's 2013-15 biennial budget submittal include a three percent reduction in workforce in Information Technology, Program Delivery Management, Administration and Support, and Planning and Research. The Department believes it is more appropriate that the budget be informed by workload needs, federal planning requirements and other management responsibilities, which are balanced against project delivery expectations and available resources. The proviso also imposes a management-to-staffing ratio on the Department's administrative operating programs. These programs require a higher-than-average concentration of managers as they provide statewide management and oversight of the highways construction program and other core programs. Therefore, it is not appropriate to impose a management-to-staffing ratio on these programs. For these reasons, I have vetoed Section 602(4), and instructed the Department to continue to find efficiencies and make reductions in its administrative overhead this biennium and in the 2013--15 biennial budget submittal. For this reason, I have vetoed Section 602(4).

Section 717, page 98, Conditionally Additive Appropriations

This proviso ties the appropriation of additional transportation funding in sections 702, 705, 708, 710, 711(2), 712, and 713 to the passage of Engrossed Substitute Senate Bill 6455, which did not pass. In order to preserve the appropriations, I have vetoed Section 717.

With the exception of Sections 102(9), 604, 212(2), 216(7), 602(4) and 717, Engrossed Substitute House Bill 2190 is approved.

Respectfully submitted,

Christine O. Gregoire
Governor

SHB 2191

C 94 L 12

Concerning police dogs.

By House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Rivers, Blake, Klippert, Hurst, Haler, Takko, Alexander, Hope, Harris and Reykdal).

House Committee on Public Safety & Emergency Preparedness
Senate Committee on Judiciary

Background: A police dog is a dog used by a law enforcement agency specially trained for law enforcement work and under the control of a dog handler.

A person is guilty of Harming a Police Dog if he or she maliciously injures, disables, shoots, or kills a dog that the person knows or has reason to know is a police dog. The dog does not have to be engaged in police work at the time when the person injures or kills the dog. Harming a Police Dog is an unranked class C felony offense. The maximum sentence for unranked felonies is one year of confinement, along with possible community service, legal financial obligations, community supervision, and a fine.

Generally, state law provides that when a dog bites a person, the dog owner is liable for any damages that may be suffered by the victim, regardless of the former viciousness of the dog or the dog owner's knowledge of such viciousness.

Summary: In addition to any criminal penalties that are imposed, courts are authorized to impose a civil penalty of $5,000 for harming a police dog. If the police dog is killed, courts must impose a mandatory civil penalty of $5,000; however, the court has authority to increase the fine up to a maximum of $10,000. Any money collected from the civil fines must be distributed to the jurisdiction that owns the police dog.

Police dogs are excluded from the statutory provisions that make a dog owner liable for damages that a victim may sustain from a dog bite.

Votes on Final Passage:

House	98	0	
Senate	49	0	(Senate amended)
House	95	0	(House concurred)

Effective: June 7, 2012

SHB 2194
C 213 L 12

Modifying the manufactured/mobile home landlord tenant act and other related provisions.

By House Committee on Judiciary (originally sponsored by Representatives Pedersen, Rodne, Goodman and Kenney).

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

Background: The Manufactured/Mobile Home Landlord Tenant Act (MMHLTA) governs the legal rights, remedies, and obligations arising from a rental agreement between a landlord and a tenant of a mobile home lot. The MMHLTA covers issues such as the required contents of rental agreements, duties of landlords and tenants, grounds for termination of tenancy, and rules with respect to the transfer of the rental agreement.

Rental Agreements. Rental agreements for mobile home lots must be written, must include certain specified provisions, and are prohibited from containing certain other provisions. One required provision in a rental agreement is a description of the boundaries of the mobile home space that informs the tenant of the exact location of the tenant's space in relation to other tenants' spaces.

Prohibited Conduct by Landlords. Landlords are prohibited from engaging in specified conduct. A landlord may not deny any tenant the right to sell the tenant's manufactured/mobile home or park model or require its removal as a result of the sale. A landlord may not prohibit meetings by tenants held in park community or recreation halls to discuss mobile home living and affairs. A landlord may not evict a tenant or decline to renew a rental agreement because the tenant engaged in a certain activity, including filing a complaint with a state or local government relating to an alleged violation of a statute or ordinance by the landlord.

Sale of a Manufactured/Mobile Home. A tenant who sells his or her manufactured/mobile home or park model has the right to assign his or her rental agreement to the purchaser, subject to the consent of the landlord, which cannot be unreasonably withheld. The tenant must provide written notification to the landlord at least 15 days before the intended sale and transfer of the rental agreement. The tenant must also verify in writing to the landlord payment of all taxes, rent, and reasonable expenses due on the manufactured/mobile home or park model and mobile home lot.

Termination of Tenancy. A landlord is allowed to terminate a tenancy for a number of specified reasons, such as nonpayment of rent or substantial violation of park rules. Other causes for termination of tenancy include the tenant's creation of a nuisance, or any other substantial just cause, that materially affects the health, safety, or welfare of other park residents. The landlord must provide the tenant with written notice to cease the conduct immediately and that failure to do so will result in termination of the tenancy.

Remedial Action. A landlord must commence remedial action within certain time periods after being notified by the tenant that the landlord has failed to comply with certain duties, such as failure to maintain utilities in good working condition. In the case of a notice from the tenant that the landlord has failed to provide water or heat, the landlord must commence remedial action within 48 hours, except where circumstances are beyond the landlord's control.

Definitions. The Manufactured/Mobile Home Dispute Resolution Program (Program) is administered by the Office of the Attorney General and provides a process for the resolution of disputes arising under the MMHLTA. The chapter governing the Program contains definitions of terms that conflict with how those terms are defined under the MMHLTA.

Summary: Various provisions of the Manufactured/Mobile Home Landlord Tenant Act (MMHLTA) are amended.

Rental Agreements. The required contents of a rental agreement are expanded to include a written description, picture, plan, or map of the location of the tenant's responsibility for utility hook-ups. In addition, the required description of the boundaries of a tenant's mobile home space may be provided through a written picture, plan, or map. A specific statement is added that any prohibited provision that is included in a rental agreement is unenforceable.

Prohibited Conduct by Landlords. A landlord may not prohibit a tenant from posting on the tenant's manufactured/mobile home or park model, or on the mobile home lot, a commercially reasonable "for sale" sign or other sign designed to advertise the sale of the manufactured/mobile home or park model. A landlord may enforce reasonable rules or restrictions on the placement of "for sale" signs if the main purpose of the rules is to protect the safety of residents and if the rules meet other standards for enforceability. In addition, the landlord may restrict the number of signs on the lot to two and may require the size of signs to conform to those commonly used by home sale businesses.

A landlord may not prohibit tenants from distributing information or holding meetings in a tenant's home to discuss issues relating to mobile home living and affairs. In addition, a landlord may not evict a tenant or fail to renew a rental agreement where a tenant files a complaint with the federal government regarding a landlord's violation of statutes or rules.

Sale of a Manufactured/Mobile Home. A tenant who sells his or her manufactured/mobile home or park model and assigns his or her rental agreement must notify the purchaser of all taxes, rent, and reasonable expenses due

on the manufactured/mobile home or park model and the mobile home lot.

Termination of Tenancy. When a landlord notifies a tenant that the tenancy will be terminated unless the tenant ceases to engage in a nuisance or other conduct that endangers the health, welfare, or safety of residents, the notice must describe the particular nuisance or harmful conduct and what the tenant must do to cease the nuisance or harmful conduct.

A provision is added explicitly stating that a tenancy may be terminated for rules violations only with respect to enforceable rules.

Remedial Action. The requirement that a landlord commence remedial action within 48 hours after receiving notice of his or her failure to provide water or heat is revised by removing the reference to heat and including electricity and sewer or septic service.

Definitions. Definitions of "mobile home park," "park model," and "recreational vehicle" in the chapter governing the Manufactured/Mobile Home Dispute Resolution Program are amended to be consistent with the definitions of those terms in the MMHLTA.

Votes on Final Passage:

House	94	1
Senate	46	3

Effective: June 7, 2012

HB 2195

C 95 L 12

Enacting the uniform interstate depositions and discovery act.

By Representatives Rivers, Pedersen, Rodne, Goodman and Kelley; by request of Uniform Laws Commission.

House Committee on Judiciary
Senate Committee on Judiciary

Background: Parties to a lawsuit may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved in the pending action. A court in a foreign state (a state other than Washington) has no power to compel discovery in Washington, and may only do so with a valid subpoena issued by a Washington court. A subpoena is a document issued by a court that requires a person to be somewhere at a certain time to provide testimony or produce documents or items. In order for a litigant in a foreign action to obtain a subpoena for discovery that is enforceable in Washington, the jurisdiction of the Washington court must be invoked. Generally this is accomplished by retaining a Washington-licensed attorney to commence an action in the Washington court with jurisdiction over the person to be deposed or the discoverable property.

Washington Subpoena Procedure. The general practice for requesting a subpoena in Washington is as follows: A litigant must open a case with the clerk of the Washington court in the jurisdiction in which discovery is sought and pay a filing fee. The litigant must then go before a judge or court commissioner and obtain an order commanding the clerk to issue a subpoena. Upon receipt of the order, the clerk must issue the subpoena.

Uniform Act. In 2007 the National Conference of Commissioners on Uniform State Laws promulgated the Uniform Interstate Depositions and Discovery Act (Act). The Act creates a uniform mechanism by which litigants may present the clerk of a court located in the state in which discovery is sought with a subpoena issued by a court in the trial state. Once the clerk receives the trial state's subpoena, the clerk will issue a subpoena containing the same relevant information as the subpoena from the trial state for service upon the person or entity to which the subpoena is directed.

Summary: The Uniform Interstate Depositions and Discovery Act (Act) is adopted. A litigant in a foreign action may present a subpoena issued in the trial state to the clerk of the court in the Washington county in which discovery is sought. The clerk of the Washington court must then issue a Washington subpoena for service upon the person to be deposed or from whom discovery materials are sought. The Washington subpoena must contain all of the relevant terms of the subpoena from the trial state and the contact information for all counsel of record or unrepresented parties. In issuing the subpoena, the Washington court acts in accordance with its own procedure.

Service of the subpoena and discovery procedures must follow the Washington Superior Court Civil Rules. All applications to the court for a protective order or to enforce, quash, or modify a subpoena issued through the Act's procedures must comply with Washington court rules and applicable statutes.

Votes on Final Passage:

House	95	0
Senate	48	0

Effective: June 7, 2012

ESHB 2197

C 214 L 12

Concerning the Uniform Commercial Code.

By House Committee on Judiciary (originally sponsored by Representatives Pedersen, Rodne and Eddy; by request of Uniform Laws Commission).

House Committee on Judiciary
Senate Committee on Judiciary

Background: The Uniform Commercial Code (UCC), organized into 11 articles, is a model code drafted by the National Conference of Commissioners on Uniform State Laws (NCCUSL) in collaboration with the American Law

Institute (ALI). The UCC provides a consistent and integrated framework of rules to deal with commercial transactions. All 50 states have adopted the UCC.

Since its original promulgation in 1951, the various articles of the UCC have been revised to adapt to changing business practices and developments in the law. The NCCUSL and the ALI adopted revised Article 1 in 2001 and revised Article 7 in 2003.

Article 1. Article 1 of the UCC contains general definitions and principles that apply as default rules to all other articles of the UCC unless contrary provisions are specified in those articles. Issues covered under Article 1 include: principles of interpretation; parties' power to choose applicable law and vary rules by agreement; the general obligation of good faith in the performance of contracts and duties; and other general rules governing commercial transactions.

Article 7. Article 7 of the UCC governs warehouse receipts, bills of lading, and other documents of title. These documents are essential components of the system of storing and shipping goods in commerce. A warehouse receipt is a document of title issued by a warehouse engaged in the storage of goods. A bill of lading is a document of title issued by a carrier engaged in the transportation of the goods. Documents of title represent the rights to the items being shipped and stored. The transfer of the document of title transfers rights in the goods.

Article 7 establishes the requirements and mechanisms for the transfer of these rights through rules governing the negotiation and transferability of documents of title. These rules, devised for tangible documents of title, generally require delivery of possession of the document in order to negotiate or transfer the document. Article 7 governs other issues related to the shipping and storage of goods in commerce, including the circumstances under which warehouses and carriers may place liens on goods being stored or shipped, and the allocation and enforcement of risk of damage or loss of goods in storage or transit.

Summary: Revised Article 1 and Revised Article 7 of the UCC as promulgated by the NCCUSL are adopted, with minor modifications to conform to Washington law.

Article 1. Article 1 of the UCC is reorganized and updated to conform to changing business practices and developments in the law, to conform to amendments that have been made to other articles of the UCC, and to clarify ambiguities and make technical corrections.

A specific statement is added that Article 1 applies to a transaction only if the transaction is covered within the scope of another article of the UCC.

The definition of "good faith" is amended to conform to other revised articles. "Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing. Various other definition provisions are reorganized and revised for consistency with other articles.

Evidence of "course of performance" is allowed in interpreting a contract, in addition to evidence of course of dealing and usage of trade. "Course of performance" refers to a sequence of conduct between the parties under a particular agreement.

The general statute of frauds for contracts governing personal property is deleted. The federal Electronic Signatures in Global and National Commerce Act is modified, limited, and superseded, with exceptions, including an exception for transactions governed by Article 2 or Article 2A of the UCC.

Article 7. Article 7 of the UCC is revised to incorporate new rules for electronic documents of title and to update the statute in light of changing business practices and developments in the law.

An electronic document of title is evidenced by a record consisting of information stored in an electronic medium. A system using the concept of "control" is established for the negotiation and transfer of electronic documents of title. A negotiable electronic document of title is negotiated by delivery of the document, which requires voluntary transfer of control. A person has control of an electronic document of title if a system employed for evidencing the transfer of interests in the electronic document reliably establishes that person as the person to which the electronic document was issued or transferred. Rules for determining whether a system satisfies this requirement are established.

A process is established for reissuing an electronic document of title as a tangible document of title, and vice versa. Various other changes are made to accommodate electronic documents of title. Statute of frauds requirements are extended to include electronic records and signatures. Definitions of "record" and "sign" are revised so that electronic records and signatures are treated as equivalent to paper documents and written signatures. The terms "written" and "writing" are generally replaced with the term "record."

Rules regarding a warehouse's ability to limit its liability for loss or damage are revised to eliminate the requirement that the limitation on damages must set forth a specific liability per article or item, or based on value per unit of weight. Provisions governing warehouse liens are expanded to allow warehouse liens where goods are covered by a storage agreement but a warehouse receipt has not been issued.

A carrier's lien on goods covered by a bill of lading is expanded to include the proceeds of those goods if the proceeds are in the possession of the carrier. Certain requirements that are imposed on common carriers who issue bills of lading are made applicable to all issuers of bills of lading.

The federal Electronic Signatures in Global and National Commerce Act is modified, limited, and superseded, with exceptions. Electronic data storage providers and electronic data transmitters are specifically excluded from coverage under Article 7.

Other UCC Articles. Conforming amendments are made to various other articles of the UCC to accommodate the electronic document of title changes in Article 7 and to conform to other revisions made in Article 1 and Article 7. Provisions of Article 5 are amended to re-number the article consistent with the uniform law numbering system.

Votes on Final Passage:

House	97	0	
Senate	47	1	(Senate amended)
House	95	0	(House concurred)

Effective: June 7, 2012
July 1, 2013 (Sections 902, 1403, 1502, 1508, 1511, 1514, 1516, and 1518)

HB 2210

C 202 L 12

Extending contribution limits to school board candidates.

By Representatives Billig, Carlyle, Lytton, Dahlquist, Asay, Fitzgibbon, Appleton, Warnick, Klippert, Hurst, Stanford, Kelley, Goodman, Ryu, Hudgins, Ormsby, Nealey, Hunt, Haigh, Hargrove, Finn, Tharinger, Santos, Moeller, Takko, Armstrong, McCoy, Jinkins, Probst, Van De Wege, Maxwell, Green, Sells, Reykdal, Ladenburg, Hasegawa, Pollet, Kenney and Kagi.

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

Background: The Fair Campaign Practices Act was enacted following passage of Initiative 134 (I-134) in 1992. The initiative imposed campaign contribution limits, further regulated independent expenditures, restricted the use of public funds for political purposes, and required public officials to report gifts received in excess of $50. The contribution limits imposed by I-134 apply only to elections for statewide office and elections for state legislative office.

Contributions made by an individual, a union, a business, or a political action committee are limited to an aggregate of $800 per election to a candidate for state legislative office or county office and an aggregate of $1,600 per election to a candidate for statewide office, port district office, and judicial office.

Campaign contribution limits are also imposed on political parties. State party central committees, minor party committees, and legislative caucus committees may contribute an aggregate of up to 80 cents per registered voter in the candidate's district for an election cycle. County central committees and legislative district committees may contribute an aggregate of up to 40 cents per registered voter in the candidate's district. County central committees and legislative district committees combined may not contribute to any one candidate an amount more than 40 cents times the number of registered voters statewide. These limits are adjusted for inflation biannually by the Public Disclosure Commission.

Summary: School board offices are added to the list of public offices subject to campaign contribution limits. A contribution from an individual, union, business, or political action committee is limited to an aggregate of $800 per election to a candidate for a school board office.

Votes on Final Passage:

House	71	24
Senate	43	4

Effective: June 7, 2012

SHB 2212

C 161 L 12

Extending the expiration date of RCW 90.90.030.

By House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Blake and Chandler; by request of Department of Ecology).

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

Background: The Department of Ecology (Department) has the authority, which expires on June 30, 2012, to enter into voluntary regional agreements (VRA) between the Department and water users that provide for the appropriation of new water for out-of-stream use developed in the Columbia River basin. Any VRA must protect instream flows. Specifically, any new water appropriated under a VRA may not have a negative impact on seasonal instream flows in the main stem of the Columbia and Snake rivers.

The Department must follow specific notification and consultation procedures prior to entering into a VRA. This process includes a consultation with county legislative authorities, the Department of Fish and Wildlife, affected tribal governments, and the federal government.

Any VRAs entered into by the Department prior to June 30, 2012, remain in effect after June 30, 2012. However, after that date, the Department does not have the authority to enter into additional VRAs.

Summary: The Department of Ecology's authority to enter into voluntary regional agreements for the purposes of providing new water for out-of-stream use in the Columbia River basin is extended from June 30, 2012, to June 30, 2018.

Votes on Final Passage:

House	95	0
Senate	47	0

Effective: June 7, 2012

HB 2213
C 14 L 12

Modifying certain definitions for the purpose of firefighting services for unprotected lands.

By Representatives Chandler, Van De Wege and Johnson.

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

Background: Among other obligations, the Department of Natural Resources (DNR) has the duty and authority to prevent, control, and suppress state forest fires. Numerous statutorily defined terms are applicable in the provision of firefighting services of the DNR. Examples include:

- "fire protection service agency" or "agency" means any local, state, or federal governmental entity responsible for the provision of firefighting services;
- "fire protection jurisdiction" means an area or property located within a fire protection district, a regional fire protection service authority, a city, a town, a port district, certain lands protected by the DNR, or on federal lands;
- "improved property" means property upon which a structure is located, but does not include roads, bridges, land devoted primarily to growing and harvesting timber, or land devoted primarily to the production of livestock or agricultural commodities for commercial purposes; and
- "unprotected land" means improved property located outside of a fire protection jurisdiction.

Fire protection agencies are not obligated to provide firefighting services to unprotected land. If firefighting services are provided to unprotected land and the property owners have not formed or annexed into a fire protection jurisdiction or contracted with a fire protection agency for firefighting services, the property owners must reimburse the agency initiating firefighting services on unprotected land for actual incurred costs that are proportionate to the fire itself.

The State Building Code exists to promote the safety and welfare of occupants and users of buildings and structures in Washington. It provides definitions of a number of structures, including agricultural structures.

Summary: The definition of "improved property" in regards to forest protection is modified to specify that the definition includes agricultural structures, as defined in the State Building Code, and bridges.

Votes on Final Passage:

House	96	0
Senate	48	0

Effective: June 7, 2012

2SHB 2216
C 162 L 12

Increasing penalties for vehicular homicide and vehicular assault.

By House Committee on Ways & Means (originally sponsored by Representatives Hurst, Pearson, Van De Wege, Dahlquist, Tharinger, Goodman, Johnson, Dammeier, Sells, Kelley, McCune and Kristiansen).

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

Background: An adult who is convicted of a felony crime is sentenced under the provisions of the Sentencing Reform Act (SRA). The SRA contains a sentencing grid that provides a standard sentence range based on the seriousness level of the current offense and the offender's prior criminal history score, which is calculated based on rules relating to the number and type of past convictions and the current conviction. The sentencing judge will sentence the offender to a period of confinement within that standard range. Under certain circumstances a sentencing judge may impose an exceptional sentence that falls outside the standard range.

A person commits the crime of Vehicular Homicide if the person's driving of a vehicle proximately causes the death of another person and if the person was driving the vehicle: (1) while under the influence of alcohol or drugs; (2) in a reckless manner; or (3) with disregard for the safety of others. Vehicular Homicide is a class A felony.

Vehicular Homicide while driving under the influence of alcohol or drugs is ranked at a seriousness level of IX under the SRA. A person convicted of the crime who has no prior offenses that count towards the offender score would receive a standard sentence range of 31-41 months in prison.

Summary: The seriousness level ranking for the crime of Vehicular Homicide while driving under the influence of alcohol or drugs is increased from a level IX to a level XI offense, resulting in a standard sentence range of 78-102 months for a person with no prior offenses.

Votes on Final Passage:

House	98	0
Senate	46	0

Effective: June 7, 2012

ESHB 2223
C 96 L 12

Regarding the effective date of RCW 19.122.130, from the underground utility damage prevention act.

By House Committee on Technology, Energy & Communications (originally sponsored by Representatives Takko, Morris, Armstrong and Angel; by request of Utilities & Transportation Commission).

House Committee on Technology, Energy & Communications
Senate Committee on Energy, Natural Resources & Marine Waters

Background: The Underground Utilities Damage Prevention Act. In 2011 legislation known as the Underground Utilities Damage Prevention Act (Act) was enacted. The Act made substantial changes to the statute governing safe excavation practices near underground facilities. A law governing safe excavation practices near underground facilities is often referred to as a "Dig Law," or a "Call Before You Dig Law."

Under the Act, all underground facility operators must subscribe to the one-number locator service, a service through which an excavator may notify utilities and request field-marking of underground facilities. An excavator must mark the excavation area with white paint and provide notice of excavation to the one-number locator service two to 10 days before excavation begins. Underground utility operators must respond by marking underground facilities within two days of being notified of the planned excavation. Excavators may not proceed until all known facilities are marked or provided information regarding unlocatable underground facilities.

Safety Committee. Under the Act, the Utilities and Transportation Commission (Commission) is authorized to contract with a statewide, nonprofit entity to create a Safety Committee. The purpose of the Safety Committee is to: (1) advise the Commission and other state agencies, the Legislature, and local governments on best practices and training to prevent damage to underground utilities, and policies to enhance worker and public safety; and (2) review complaints alleging violations involving practices related to underground facilities.

The Safety Committee is made up of 13 members that serve staggered three-year terms. The Safety Committee must include members who represent a broad range of underground utility stakeholders and meet at least once every three months.

The Commission's authorization to contract with a nonprofit entity expires December 31, 2020.

Enforcement of Civil Penalties. The Commission may enforce civil penalties when it receives written notification from the Safety Committee indicating that a violation of the Act has likely been committed by a person subject to regulation by the Commission, or involving the underground facilities of such a person.

If the Commission receives written notification from the Safety Committee that a violation has likely been committed by a person who is not subject to regulation by the Commission, and in which the underground facility involved is also not subject to regulation by the Commission, the Commission may refer the matter to the Attorney General for enforcement of a civil penalty.

Civil penalties may not be more than $1,000 per initial violation, and not be more than $5,000 per subsequent violation within three years.

Effective Date. The Act takes effect January 1, 2013.

Summary: The Utilities and Transportation Commission is authorized to contract with a nonprofit entity to create a Safety Committee in advance of January 1, 2013, the effective date of the Underground Utilities Damage Prevention Act.

By January 1, 2013, the Safety Committee may pass bylaws and provide for those organizational processes that are necessary to complete the Safety Committee's tasks.

Votes on Final Passage:

House	97	0
Senate	49	0

Effective: June 7, 2012

HB 2224
C 97 L 12

Concerning Washington estate tax apportionment.

By Representatives Nealey and Pedersen; by request of Washington State Bar Association.

House Committee on Judiciary
Senate Committee on Judiciary

Background: The estate tax is a tax on the value of the estate of a person living in Washington at the time of his or her death or a non-resident who owns property in Washington at the time of his or her death. The personal representative of a decedent's estate is required to file a state tax return within nine months of the decedent's death if the gross estate or taxable estate plus any taxable gifts is valued at $2 million or more. The taxable estate is calculated by subtracting $2 million and any other applicable statutory deductions from the gross estate. Washington's estate tax ranges from 10 percent to 19 percent of the taxable estate, depending on the estate's value.

Washington has adopted the Uniform Estate Tax Apportionment Act (Act). The Act provides a default system for apportioning the estate tax among those interested in an estate in the event that a decedent has not done so. If a decedent's will or revocable trust provides for apportionment of the estate tax among beneficiaries, that provision will be followed. However, if no such provision is made, or to the extent that the apportionment provision is incomplete, the estate tax is apportioned ratably among

the persons who have an interest in the estate, with some exceptions.

Summary: The Washington Uniform Estate Tax Apportionment Act is modified to provide that beneficiaries receiving specific pecuniary gifts or specific gifts of tangible personal property are exonerated from apportionment of the estate tax up to a certain amount. Beneficiaries receiving specific gifts of tangible personal property are exonerated from apportionment of the estate tax up to the value of property permitted to pass by affidavit for small estates pursuant to probate code (currently $100,000), and beneficiaries receiving specific gifts of money are exonerated from apportionment of the estate tax up to half the value of property permitted to pass by affidavit for small estates pursuant to probate code (currently $50,000). The tax associated with the exonerated gifts is reapportioned among the beneficiaries receiving non-exonerated gifts.

If the aggregate value of a decedent's gifts of money or tangible personal property exceeds the exoneration ceiling for that kind of gift, each beneficiary receiving that kind of gift will share the maximum exoneration amount (either $50,000 or $100,000 depending on whether the gift is pecuniary or in the form of tangible personal property) on a pro rata basis with the other beneficiaries receiving that kind of gift. That is, a percentage of each beneficiary's gift of money or tangible personal property will be exonerated in the amount of the total exoneration limit that reflects that beneficiary's proportional share of all gifts of money or tangible personal property from the estate.

Gifts must meet certain criteria to qualify for exoneration. First, the exoneration only applies to specific gifts. If a gift is made of the residual estate, this apportionment exoneration does not apply. Second, the exoneration only applies to qualifying gifts of money and tangible personal property.

Votes on Final Passage:

House	94	0
Senate	45	3

Effective: June 7, 2012

ESHB 2229
C 98 L 12

Regarding reporting compensation of certain hospital employees.

By House Committee on Health Care & Wellness (originally sponsored by Representatives Jinkins, Hasegawa, Darneille, Wylie, Cody and Roberts).

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

Background: The Department of Health licenses 97 hospitals in Washington. Of these, 87 are either nonprofit hospitals or public hospital district hospitals.

Among the reporting requirements for hospitals, they must submit financial and discharge data to the Department of Health on a quarterly and annual basis. Each quarter, hospitals must submit utilization and financial reports. Each year, hospitals must submit their annual budgets at least 30 days before the beginning of their fiscal years and file year-end reports within 120 days of the close of their fiscal years.

Summary: Nonprofit and public hospital district hospitals must annually report certain employee compensation information to the Department of Health (Department). The requirement begins with employee compensation information for 2012.

The reporting requirement may be satisfied in one of two ways. First, within 135 days of the end of the hospital's fiscal year, the hospital may file the schedule of its federal Internal Revenue Service (IRS) Form 990 that contains compensation information. If the hospital elects to report by means of the Form 990 and the information does not identify the compensation of the hospital's lead administrator, the hospital must additionally report that individual's compensation information.

Alternatively, within 135 days of the end of the calendar year, the hospital may submit the names and compensation information for the five highest compensated employees of the hospital who do not have any direct patient responsibilities. The term "compensation" includes base compensation, bonus and incentive compensation, other payments that qualify as reportable compensation, retirement and deferred compensation, and nontaxable benefits.

The Department shall develop a form for hospitals to use when reporting compensation. The form shall follow the format and requirements of the compensation portion of the Form 990.

Votes on Final Passage:

House	71	26
Senate	46	2

Effective: June 7, 2012

ESHB 2233
C 48 L 12

Creating a procedure for the state's retrocession of civil and criminal jurisdiction over Indian tribes and Indian country.

By House Committee on State Government & Tribal Affairs (originally sponsored by Representatives McCoy, Hunt, Haigh, Pedersen, Appleton, Morris, Billig, Fitzgibbon, Eddy, Sells, Tharinger, Jinkins, Hasegawa, Pollet, Wylie, Upthegrove and Roberts).

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

Background: History of Public Law 280 and the State's Assumption of Jurisdiction Over Indians and Indian Country. As of the early 1950s, the federal government and Indian tribes jointly exercised criminal and civil jurisdiction over Indians and Indian country. However, in 1953 the United States Congress (Congress) enacted Public Law 280 (PL 280), partly in response to the perception that joint federal/tribal jurisdiction led to inadequate law enforcement in Indian country. Under PL 280, both criminal and civil jurisdiction over Indians and Indian country were transferred from the federal government to selected states. Other specified states were given the option to assume such jurisdiction in the future. The selected states that were granted immediate jurisdiction were Alaska, California, Minnesota, Nebraska, Oregon, and Wisconsin. The optional states under PL 280 were Washington, Arizona, Florida, Idaho, Iowa, Montana, Nevada, North Dakota, South Dakota, and Utah.

Public Law 280 also established that for a state to acquire criminal or civil jurisdiction over the Indians and Indian country within its borders, it must pass legislation explicitly assuming such jurisdiction. Washington enacted such legislation in 1963, authorizing the state to assume civil and criminal jurisdiction over Indians and Indian country within its territory. However, under this legislation the assumption of jurisdiction by the state requires the tribes' consent. Such consent requires that the tribe formally request the state to assume such jurisdiction. Upon receiving this request, the Governor must issue a proclamation affirming the state's jurisdiction over Indians and Indian country in accordance with applicable federal laws.

Although the state's 1963 legislation establishes that the state's jurisdiction over a tribe occurs only upon the request of a tribe, the statute explicitly identifies eight substantive areas of criminal and civil law over which the state retains jurisdiction even without a tribe's consent: compulsory school attendance; public assistance; domestic relations; mental illness; juvenile delinquency; adoption proceedings; dependent children; and operation of motor vehicles on public streets, alleys, roads, and highways.

Amendment of PL 280 and the Authorization of State Retrocession. In 1968 the Congress amended PL 280 to include a retrocession provision authorizing a state that has previously assumed jurisdiction over Indians and Indian country to return all or some of its criminal and/or civil jurisdiction back to the federal government, subject to the approval of the United States Department of the Interior. The term "retrocession," therefore, refers to the process of a state returning its jurisdiction over an Indian tribe back to the United States government.

Civil Retrocession Under State Law Following the Amendment of PL 280. Despite the 1968 amendment of PL 280, state law neither authorizes the state to retrocede its civil jurisdiction over Indians and Indian country nor provides any mechanism for tribes to request retrocession.

Criminal Retrocession Under State Law Following the Amendment of PL 280. Following the amendment of PL 280, a state law was enacted providing a legal procedure by which a tribe may request the state to retrocede criminal jurisdiction over Indians and Indian country. This procedure requires the approval of the Governor and the Legislature and applies only to specific tribes identified in statute.

Under this statutory procedure, in order to request that the state retrocede its criminal jurisdiction back to the federal government, an Indian tribe must submit a resolution to the Governor expressing its desire for state retrocession of criminal jurisdiction acquired by the the state over Indians or Indian country. Upon receipt of the resolution, the Governor may issue a proclamation retroceding the state's criminal jurisdiction back to the United States. The power of the Governor to authorize criminal retrocession is discretionary. In effect, then, the Governor has veto power over any criminal retrocession proposal put forth by an Indian tribe or group. In turn, in order for retrocession to become effective, the Governor's retrocession proclamation must be submitted to a duly authorized federal officer and then approved by the Secretary of the Interior. However, the state's criminal retrocession statutes categorically prohibit the retrocession of either civil or criminal jurisdiction over the following eight areas:

- compulsory school attendance;
- public assistance;
- domestic relations;
- mental illness;
- juvenile delinquency;
- adoption proceedings;
- dependent children; and
- operation of motor vehicles on public streets, alleys, roads, and highways.

After retrocession, the federal government rather than the tribe and/or the state has jurisdiction over certain major crimes committed by Indians on Indian lands. Major crimes under the federal law include homicide, assault, rape, kidnapping, arson, burglary, and robbery, as well as other serious felonies.

Over the years, seven tribes in Washington have sought and received retrocession of state jurisdiction over criminal acts by Indians committed on tribal lands. These tribes are the Quileute, Chehalis, Skokomish, Muckleshoot, Tulalip, Swinomish, and the Colville Confederated Tribes of Washington.

Tribes that remain subject to state jurisdiction may enter into arrangements with local law enforcement agencies for providing law enforcement on tribal lands. However, tribes subject to full state criminal jurisdiction are not eligible for federal funding for law enforcement purposes. Those tribes that have sought and obtained retrocession of state jurisdiction have become eligible for federal law enforcement funding.

Governor's Retrocession Workgroup. In June of 2011 the Governor convened a Joint Executive-Legislative Workgroup (Workgroup) in order to examine both civil and criminal tribal retrocession issues. The Workgroup was created in response to the tribal retrocession bills considered by the House and Senate during the 2011 Legislative session and consisted of a broad range of gubernatorial appointees, including:

- tribal leaders;
- legislative members from the House and Senate;
- designees from the United States Attorney's Offices for the Eastern and Western Districts of Washington;
- a designee of the Washington State Attorney General;
- professors of Indian Law from the University of Washington and Seattle University;
- state, local, and tribal law enforcement officials;
- an official from the Office of Superintendent of Public Instruction; and
- various executive branch and state agency officials.

The Workgroup conducted a series of meetings during the summer and fall, the last of which involved the consideration of legislative options.

Summary: Overview of the Retrocession Procedure. A three-step retrocession procedure is created in which the Governor is granted plenary power to approve or deny a proposed retrocession. The three procedural steps are as follows:

- A tribe must submit a retrocession resolution to the Governor.
- The Governor must approve or deny the retrocession through a process that includes government-to-government meetings with the tribe, as well as non-binding recommendations from the two houses of the Legislature.
- If the Governor approves of the proposed retrocession, a formal retrocession request is forwarded to the Department of the Interior, which has ultimate authority with respect to the authorization of a proposed retrocession.

Retrocession Procedure Requirements. Before criminal and/or civil retrocession may occur, various procedural requirements must be met.

Tribal Resolution. The governing body of a tribe must pass a resolution requesting that the state retrocede back to the federal government all or part of its civil and/or criminal jurisdiction over the tribe. Before a tribe submits a retrocession resolution to the Governor, the tribe and affected municipalities are encouraged to collaborate in the adoption of interlocal agreements, or other collaborative arrangements, with the goal of ensuring that the best interests of the tribe and the surrounding communities are served by the retrocession process.

The tribe's retrocession resolution must be forwarded to the Governor, accompanied by information about its plan regarding its exercise of jurisdiction following the proposed retrocession.

Action by Governor and Legislature. The Governor must convene a government-to-government meeting with the tribe within 90 days of receiving the retrocession resolution. The Governor must consult with elected officials from the counties, cities, and towns proximately located to the area of the proposed retrocession. Also, if the proclamation addresses issues related to the operation of motor vehicles on public roadways, then the Governor must consider whether: (1) there are interlocal agreements in place addressing the uniformity of motor vehicle operations in Indian country; (2) there is a tribal traffic policing agency that will ensure the safe operation of motor vehicles; (3) the affected tribe has traffic codes and courts in place; and (4) there are appropriate traffic control devices in place sufficient to maintain road safety.

Within 120 days of the Governor's receipt of the tribal resolution, the appropriate standing committees of the state House and Senate may conduct public hearings on the tribe's request for state retrocession. Following such public hearings, the designated legislative committees may submit non-binding, advisory recommendations to the Governor.

Within one year of her or his receipt of the retrocession resolution, the Governor must issue a proclamation, if approving the retrocession request either in whole or in part. This one-year deadline may be extended by the mutual consent of the tribe and the Governor. Also, both the tribe and the Governor have unilateral authority to extend the one year retrocession decision deadline by another six months.

Federal Action. If the Governor approves the proposed retrocession, the proclamation must be submitted to a duly designated officer of the Department of the Interior, which must then approve or deny the retrocession request. The proclamation does not become effective until it is approved by the federal government in accordance with federal retrocession procedures.

Other Provisions. Notwithstanding the state's retrocession of criminal and/or civil jurisdiction:

- the state must retain the civil jurisdiction necessary for the civil commitment of sexually violent predators; and
- retrocession will not abate any action or proceeding filed with any court or agency of state or local government preceding the effective date of the retrocession.

These retrocession procedures:

- do not affect the validity of any retrocession procedure commenced previously under other specified statutes; and
- may be used by any tribe to complete a pending retrocession process or to obtain retrocession with respect to any civil or criminal jurisdiction retained

by the state following a previously completed partial retrocession.

Other specified statutes related to retrocession are not applicable to a retrocession initiated under this act.

Votes on Final Passage:

House	54	42	
Senate	42	6	(Senate amended)
House			(House refused to concur)
Senate	42	6	(Senate amended)
House	59	38	(House concurred)

Effective: June 7, 2012

E2SHB 2238

C 62 L 12

Regarding environmental mitigation.

By House Committee on General Government Appropriations & Oversight (originally sponsored by Representatives Wilcox, Clibborn, Armstrong, Billig, Takko, Rivers, Angel, Hinkle, Schmick, Orcutt, Johnson, Warnick, Dahlquist, Blake and Chandler).

House Committee on Environment
House Committee on Agriculture & Natural Resources
House Committee on General Government Appropriations & Oversight
Senate Committee on Transportation

Background: Both the state and federal governments require a proponent of a project that will diminish the function of an existing wetland to mitigate that loss of function. This duty is called compensatory wetland mitigation. The project proponent has a number of options available to him or her for mitigating wetland loss; however, any mitigation plan must be approved by the state (primarily through the Department of Ecology) and the United States Army Corps of Engineers.

Projects that disturb wetlands are expected to undergo a sequencing review. Actual compensation for wetland loss does not occur unless the loss cannot be avoided or minimized through project planning. Once mitigation requirements are triggered, a project proponent must develop a mitigation plan that either restores the damaged wetland, creates new wetland functions at a new site, enhances an existing wetland, or preserves an at-risk wetland.

Summary: The opportunity for a new environmental mitigation option is created for the proponents of projects that reduce existing wetland function or otherwise negatively affect the environment. This option is for the project proponent to coordinate with the Department of Ecology (DOE) or of the Department of Fish and Wildlife (DFW) and pair the mitigation investment made by the project proponent with the funding needs of one of three existing state programs: the Forestry Riparian Easement Program, the Riparian Open Space Program, and the Family Forest Fish Passage Program. The Department of Natural Resources is authorized to serve as a resource to project proponents, the DOE, and the DFW when identifying potential projects within the three programs that could be utilized in a mitigation plan. The inclusion of funding for one of these three programs in any mitigation plan may not be additive to any existing mitigation requirements.

To prepare for the implementation of the new mitigation option, the DOE and the DFW must prepare two reports to the Legislature. The first report, due December 31, 2012, must summarize any successes in utilizing the existing three state programs as an element of a mitigation plan and identify any constraints that were uncovered in the early implementation of the new mitigation option. The second report is due on December 31, 2013. This report must identify any other existing program that may be appropriate for inclusion in a mitigation plan and explore the feasibility of developing new programs.

The DOE and the DFW are both provided with specific authority to seek federal, private, and in-kind funds to implement the new mitigation option and to complete the required reports.

Votes on Final Passage:

House	88	9
Senate	42	7

Effective: June 7, 2012

SHB 2239

C 215 L 12

Establishing social purpose corporations.

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

House Committee on Judiciary
Senate Committee on Judiciary

Background: The Washington Business Corporations Act (WBCA) provides requirements for the creation, organization, and operation of corporations and the relationship between the corporation directors, officers, and shareholders. The WBCA is based on the Model Business Corporation Act, prepared by the American Bar Association, which generally establishes default rules regarding the organization and operation of corporations.

Under the WBCA, a corporation's directors and officers have a fiduciary duty to the corporation – an obligation to act in its best interests. This duty has been interpreted as a responsibility to maximize financial returns for shareholders. The risk of liability can arise for directors and officers if they make decisions on the basis of some mission, at the expense of maximizing shareholder value. Such decisions could be interpreted as

a breach of the duty to act solely in the corporation's best interests.

There is an emerging corporate model designed to permit a company to pursue a social mission in addition to maximizing shareholder value. The "benefit corporation" model has three main elements: (1) the corporation must establish a general public benefit, aimed at yielding material positive societal impacts; (2) corporate directors must consider the corporation's public benefit when making decisions; and (3) each year, the corporation must report on its social and environmental performance, as assessed by a third party standard.

Several states, including New Jersey, Vermont, Maryland, Virginia, California, and Hawaii, have adopted benefit corporation legislation. A number of other states are pursuing similar legislation that allows companies to combine the goals of pursuing a social or environmental purpose and financial returns for shareholders.

Summary: A new type of corporate business model is established under the WBCA, the "social purpose corporation." A social purpose corporation, while subject to all provisions applicable to other corporations, must be organized to promote a general social purpose that is intended to positively affect certain constituencies. These constituencies must include one or more of: (1) the corporation's employees, suppliers, or customers; (2) the local, state, national, or world community; or (3) the environment. In addition, a social purpose corporation may set forth specific social purposes for which the corporation is organized.

Formation/Dissolution. Any person may form a social purpose corporation by delivering articles of incorporation that not only conform to existing requirements for all corporations, but also identify clearly the corporation's intent to become a social purpose corporation. This is achieved by including the words "social purpose corporation" or the abbreviation "SPC" in the corporation's name and providing a statement that the corporation is organized as a social purpose corporation. The articles of incorporation must set forth the general social purpose for which the corporation is organized and any specific social purposes designated by the corporation.

In addition, the articles of incorporation must state that the mission of the corporation may be contrary to maximizing profits and earnings, or maximizing shareholder value in mergers or other significant transactions.

A social purpose corporation's articles of incorporation may set forth certain performance requirements for directors and officers. These include the requirement to consider the impacts of any corporate action on the corporation's social purposes and the requirement to furnish shareholders an assessment of the overall performance of the corporation with respect to its social purpose, prepared in accordance with a third-party standard.

Other provisions relating to voting conditions, approval requirements, and limiting the duration of the corporation's existence to a specified date may also be added to the articles of incorporation.

An existing corporation may elect to become a social purpose corporation, subject to a two-thirds majority vote of eligible shareholders and any other voting conditions established by the board of directors. To elect to become a social purpose corporation, an electing corporation must amend its articles of incorporation according to the standard for forming a social purpose corporation. The election does not affect any obligations or liabilities incurred by the electing corporation.

A social purpose corporation may elect to cease to be a social purpose corporation, subject to at least a two-thirds majority shareholder vote and any other voting conditions established by the board of directors. The corporation will thereafter continue to exist as a traditional corporation. The election does not affect any obligations or liabilities incurred by the social purpose corporation prior to its election to cease to become a social purpose corporation.

Responsibilities/Standards of Conduct. Directors and officers of social purpose corporations must discharge their duties in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and in a manner they believe to be in the best interests of the corporation.

In discharging their duties, directors and officers may consider the social purposes of the corporation. Any action or inaction carried out as a result of such consideration will be deemed to be in the best interests of the corporation. No liability will attach to a director or officer who acted in the best interests of the corporation, and directors and officers are not responsible to any party other than the corporation and its shareholders.

Reporting Requirements. Not later than four months after the close of the corporation's fiscal year, the board of directors of a social purpose corporation must produce a social purpose report, to be furnished to the corporation's shareholders and made publically available on the corporation's website, free of charge. The social purpose report must include a narrative description of the efforts of the corporation intended to promote the social purposes of the corporation. The narrative discussion may include additional information concerning the corporation's social purpose objectives and specific actions taken or to be taken to achieve the corporation's social purposes.

Failure to produce a report does not affect the validity of any corporate action. If a social purpose report has not been furnished to shareholders for at least two consecutive fiscal years, the superior court in which the social purpose corporation's registered office is located may order a social purpose report to be furnished to shareholders, after notice is given to the corporation.

Materially Altering/Eliminating Designated Social Purposes. Proposed amendments to a social purpose

corporation's articles of incorporation that would materially change one or more of the corporation's social purposes must be approved by at least a two-thirds majority of eligible shareholders.

Similarly, a plan of merger or share exchange whereby a social purpose corporation would not be the surviving corporation, or a sale of a social purpose corporation's assets, must be approved by at least a two-thirds majority. This requirement is mandatory unless the surviving corporation of the plan of merger or share exchange, or the acquirer of the social corporation's assets, is a social purpose corporation whose social purposes are not materially different.

Additional Elements. Provisions that establish requirements for notifying shareholders and prospective shareholders that the corporation is a social purpose corporation, limit derivative proceedings, and create dissenter's rights are also included. Definitions of "social purpose corporation" and related terms are added to the WBCA.

Votes on Final Passage:

House	62	31
Senate	34	14

Effective: June 7, 2012

HB 2244

C 15 L 12

Concerning the liability of landowners for unintentional injuries that result from certain public or private airstrip operations.

By Representatives Hargrove, Sullivan and Moeller.

House Committee on Judiciary
Senate Committee on Energy, Natural Resources & Marine Waters

Background: *Landowner Duties, Generally.* Under Washington tort law, a landowner's duty of care to persons entering his or her land depends on the status of the entering party: invitee, licensee, or trespasser. Generally, landowners owe trespassers and licensees only a duty to refrain from willfully or wantonly injuring them. Landowners owe invitees an affirmative duty to keep the land in reasonably safe condition. This includes an affirmative duty to inspect the premises in order to discover any dangerous conditions, and landowners may be held liable for unintentionally causing harm through acts of negligence, gross negligence, or recklessness.

Recreational Use Immunity Statute. The Recreational Use Immunity Statute prescribes an alternative framework for determining landowner liability in certain cases. A landowner who allows the public to use his or her land for certain recreational purposes is immune from liability for unintentional injuries suffered by a recreational user. The immunity does not apply, however, to injuries caused by a "known dangerous artificial latent condition" on land where warning signs have not been posted. Immunity extends to landowners allowing the following (non-exhaustive) list of activities:

- cutting/gathering/removing firewood;
- hunting, fishing, and clam digging;
- camping, and picnicking;
- swimming, hiking, rock climbing, and horseback riding;
- bicycling, skateboarding, and other nonmotorized wheel-based activities;
- driving off-road vehicles, snowmobiles, and other vehicles;
- boating, kayaking, canoeing, rafting, and other water sports;
- viewing historical, archeological, or scenic sites;
- winter sports; and
- hangliding and paragliding.

The statute applies to both public and private landowners who allow public use without a fee, although the statute does identify three exceptions to the no-fee requirement: (1) private landowners may extract a $25 administrative fee for the cutting, gathering, and removing of firewood; (2) landowners may charge up to $20 per person per day for access to public offroad vehicle facilities; and (3) certain passes and permits required by state agencies do not qualify as fees.

Summary: Aviation activities generally, in addition to hangliding and paragliding, are added to the list of recreational activities for which a landowner may be immune from liability for unintentional injury to a recreational user of the property.

Votes on Final Passage:

House	94	0
Senate	48	0

Effective: June 7, 2012

HB 2247

C 16 L 12

Expanding the types of medications that a public or private school employee may administer to include topical medication, eye drops, and ear drops.

By Representatives Green, Cody, Billig, Fitzgibbon, Reykdal, Maxwell, Jinkins, Finn, Moeller and Ryu.

House Committee on Health Care & Wellness
Senate Committee on Early Learning & K-12 Education

Background: A public or private school employee may administer oral medications to children who are in the custody of the public or private school at the time of administration if the following conditions are met:

- The school district or the private school has policies that address:

  - the designation of the employees who may administer the medications;
  - the acquisition of parent requests and instructions; and
  - requests from licensed health professionals prescribing within the scope of their prescriptive authority and instructions regarding students who require medication for more than 15 consecutive school days, the identification of the medication to be administered, the means of safekeeping medications, and the means of maintaining records of the administration of the medications.
- The school district or private school possesses a written, current, and unexpired request of a parent, legal guardian, or other person having legal control over the student to administer the medication to the student.
- The public school district or private school possesses:
  - a written, current, and unexpired request from a licensed health professional acting within the scope of his or her prescriptive authority for administration of the medication, because there exists a valid health reason that makes administration of the medication advisable during school hours or the hours when the student is under the supervision of school officials; and
  - written, current, and unexpired instructions from the licensed health professional regarding the administration of the medication to students who require medication for more than 15 consecutive work days.
- The medication is administered by a designated school employee in compliance with the prescription or written instructions.
- The medication is first examined by the employee administering the medication to determine whether it appears to be in the original container and properly labeled.
- A physician, advanced registered nurse practitioner, or registered nurse has been designated to train and supervise the designated employee in proper medication procedures.

A school employee, school district, or private school is immune from civil or criminal liability arising from the administration of medications in a manner that complies with state law, the applicable prescription, and applicable written instructions. Similarly, a school employee, school district, or private school is immune from criminal or civil liability for the discontinuance of the medication as long as notice has been given to the parent, legal guardian, or other person having legal control over the student.

Summary: The type of medication that may be administered by a school employee is expanded to include topical medications, eye drops, and ear drops.

In order to be able to administer the medications, a physician, advanced registered nurse practitioner, or registered nurse must be designated to delegate to (in addition to training and supervising) the designated employee in proper medication procedures.

Votes on Final Passage:

House	96	0
Senate	49	0

Effective: June 7, 2012

SHB 2252

C 68 L 12

Concerning proof of payment for certain transportation fares and disclosure of certain information on transit passes and fare media.

By House Committee on Transportation (originally sponsored by Representative Fitzgibbon).

House Committee on Transportation
Senate Committee on Transportation

Background: Metropolitan municipal corporations (Metros), regional transit authorities (RTAs), city-owned transit systems (city-owned transits), and public transportation benefit areas (PTBAs) are special purpose districts authorized to provide public transportation services within their respective boundaries. Passengers traveling on public transportation operated by Metros, RTAs, city-owned transits, and PTBAs are required to pay the established fare and to provide proof of payment when requested to do so by persons designated to monitor fare payment.

Metros, RTAs, city-owned transits, and PTBAs are authorized to designate persons to monitor fare payment, and to establish a schedule of civil fines and penalties for civil infractions related to fare payment violations. A civil infraction not to exceed $250 may be issued by designated fare monitors to passengers who: fail to pay the fare; fail to provide proof of payment when requested to do so by a person designated to monitor fare payment; or refuse to leave the vehicle when asked by a person designated to monitor fare payment. The authority to issue civil citations for fare payment violations is supplemental to any other existing authority to enforce fare payment.

Certain transportation-related information is exempt from public disclosure requirements, including personally identifying information that an agency may have on vanpool riders, paratransit participants or applicants, transit passes, and transponders. All transit pass and other fare media payment information may be disclosed in aggregate form, or for certain law enforcement purposes, if the request is accompanied by a court order.

Generally speaking, "public transportation service" means the transportation of packages, passengers, and their incidental baggage by means other than by chartered bus or sight-seeing bus, together with the terminals and parking facilities necessary for passenger and vehicular access to and from such systems.

Summary: Metros, RTAs, city-owned transits, and PTBAs are authorized to require passengers to produce proof of payment in a manner determined by the transit agency. This authority includes the ability to require a person using an electronic fare payment card to validate the card through the use of an electronic card reader.

In cases where fare payment is required prior to boarding a transit vehicle, Metros, RTAs, city-owned transits, and PTBAs are required to place conspicuous signage in boarding areas in order to issue civil infractions for failure to pay the required fare. The signage must clearly indicate the location where fare media may be purchased and that a person using a fare media card must present the card to an electronic reader before entering the transit vehicle or a restricted fare paid area.

The term personally identifying information, as used in relation to the disclosure of information regarding transit passes and other fare media, which may be disclosed to the entity who pays for the pass or fare media for the purpose of preventing fraud or to the news media when reporting on public transportation or public safety, is defined to include the purchase and use data collected on an individual's transit pass. The disclosure of aggregate data relating to transit passes is limited to purchase and use data.

Votes on Final Passage:

House	95	2	
Senate	46	0	(Senate amended)
House	95	0	(House concurred)

Effective: June 7, 2012

SHB 2254

C 163 L 12

Enacting the educational success for youth and alumni of foster care act.

By House Committee on Ways & Means (originally sponsored by Representatives Carlyle, Kagi, Reykdal, Darneille, Maxwell, Jinkins, Pedersen, Seaquist, Roberts, Dickerson and Kenney).

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

Background: Educational Outcomes for Foster Youth. State and national studies indicate that educational outcomes for foster youth lag behind the general population. For example, foster youth graduate from high school at a lower rate than their nonfoster care peers. A Washington State Institute for Public Policy study found that only 59 percent of youth in foster care enrolled in 11th grade completed high school by the end of 12th grade compared to 86 percent for nonfoster youth. According to a 2011 study by Chapin Hall at the University of Chicago, former foster youth attend post-secondary education at a lower rate and, if they do attend, have much lower graduation rates. Former foster youth are also more likely to experience homelessness, unemployment, and incarceration than youth who were never in foster care.

The Passport to College Promise Program. Legislation enacted in 2007 created the Passport to College Promise program (Passport program) as a pilot program until July 1, 2013. The Passport program provides: (1) outreach and information to foster youth regarding the opportunities available to them for post-secondary education, and (2) scholarships to eligible former foster youth to cover their full costs of resident undergraduate tuition, fees, and living expenses. The Higher Education Coordinating Board (HECB) administers the Passport program under contract with a nonprofit organization, and the Department of Social and Health Services assists with identifying eligible students.

To be eligible for a scholarship, a student must have been emancipated from foster care after having spent at least one year in foster care since his or her 16th birthday. A student must also be a Washington resident enrolled at least half-time in a college in Washington, make satisfactory academic progress, not already have a bachelor's or professional degree, and not be pursuing a degree in theology. An eligible student may receive a scholarship for up to five years or until the student's 26th birthday, whichever occurs first.

College Bound Scholarship. Legislation enacted in 2007 created the Washington College Bound Scholarship. Students are eligible if they qualify for free- or reduced-price lunch and are notified in seventh grade. Students must pledge during their seventh or eighth grade years that they will: (1) graduate from high school; (2) graduate with a C average; and (3) not have any felony convictions. To receive the scholarship, the student must have kept the pledge, must have a family income at high school graduation below 65 percent of the state median, and must be a resident student. The Office of Superintendent of Public Instruction provides notification and the HECB develops and distributes the pledge forms, tracks scholarship recipients, and distributes scholarship funds. The scholarship is equal to the cost of the student's tuition and fees at a Washington public college or university, plus $500 for books and materials, minus the value of any other state financial aid received for those items. The HECB may purchase Guaranteed Education Tuition, known as GET, units to award as part of the scholarship.

The first scholarships are awarded to students graduating in 2012. The award does not supplant other

grants, scholarships, or tax programs. If the scholarship is not used within five years it reverts back to the account to be used for scholarships for other students.

State Policies to Promote Educational Continuity for Foster Youth. In order to maximize foster children's educational continuity and achievement, administrative regions of the Department of Social and Health Services (DSHS) must develop protocols with school districts specifying strategies for communication, coordination, and collaboration regarding the status and progress of foster children. Additionally, in order to serve students who are the subject of child dependency cases, their educational records must be released to the DSHS upon request.

Summary: The expiration date of the Passport to College Promise program (Passport program) is changed to June 30, 2022, and the pilot status of the program is removed. An additional purpose of the Passport program is added related to improving high school graduation of foster youth through coordination, outreach, and intervention. The definition of "emancipated from foster care" is removed to be consistent with the provisions of the act. The definition of "institute of higher education" is changed to any institution that is eligible to and participating in the State Need Grant program.

Institutions of higher education are required to explain on registration materials that there may be financial aid and support services available for students formerly in foster care.

Provisions related to supplemental education transitional planning are replaced with a requirement for the Department of Social and Health Services (DSHS) to contract with at least one nongovernmental entity that has demonstrated success in working with foster care youth in improving educational outcomes, to the extent that funds are appropriated for this purpose. The nongovernmental entity or entities must:

- administer a program of education coordination for foster youth in Washington from birth through the 12th grade;
- engage in a public-private partnership with the DSHS;
- raise a portion of the funds needed for service delivery, administration, and evaluation;
- provide services to support individual youth when referred by a social worker with the DSHS or a nongovernmental agency with responsibility for education support services;
- be collocated in the DSHS to provide timely consultation and in-service training; and
- report outcomes biannually to the DSHS.

Foster youth must be enrolled automatically in the College Bound Scholarship program with no action necessary by the student or his/her family. The DSHS is responsible for forwarding enrollment forms. Foster youth eligibility for enrollment in the College Bound Scholarship program is not limited to seventh and eighth grade, but extends up to age 21 for students who have not obtained a high school diploma.

In relation to education records, data, and accountability, the DSHS is permitted to share educational records that it receives from schools with those entities with which it has contracted, or with which it is formally collaborating, and that have responsibility for educational support services and outcomes of foster students. The DSHS is encouraged to create data-sharing agreements to assure accountability with respect to the disclosure of educational records.

The K-12 Data Governance Group is required to maintain a comprehensive needs requirement document detailing specific information, technical capacity, and changes to law that might be necessary in order to allow timely sharing of records.

The Office of Superintendent of Public Instruction (OSPI) is required to report on the implementation status of the state's plan for cross-system collaboration to promote educational stability and improve educational outcomes of foster youth pursuant to the federal Fostering Connections Act, in consultation with the DSHS and the Administrative Office of the Courts. The first report is due on December 1, 2012, and annually thereafter through 2015.

Reporting requirements with respect to educational experiences and progress of students in foster care are transferred from the OSPI to the Education Research and Data Center at the Office of Financial Management.

Similar to the Interstate Compact on Military Children, school districts are required to waive specific courses if a foster child has completed similar coursework in another district or provide reasonable justification for denial. School districts are also required to work together to facilitate credit acquisition and on-time graduation.

It is recommended that entities with which the DSHS contracts or collaborates to provide educational services to foster care children explore models for harnessing technology to keep in constant touch with the students they serve and keep students engaged.

The act is named the Educational Success for Youth and Alumni of Foster Care Act.

Votes on Final Passage:

House	88	7	
Senate	48	1	(Senate amended)
House	94	4	(House concurred)

Effective: July 1, 2012

SHB 2255
C 17 L 12

Concerning nondepository institutions regulated by the department of financial institutions.

By House Committee on Business & Financial Services (originally sponsored by Representatives Kirby and Bailey; by request of Department of Financial Institutions).

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

Background: The Department of Financial Institutions (DFI) regulates a wide variety of professions and organizations. The Director of the DFI (Director) is appointed by the Governor.

Consumer Loan Companies. Consumer loan companies are regulated and licensed under the Consumer Loan Act (CLA). A consumer loan company may make secured loans (including home loans) or unsecured loans. The CLA limits the rates and fees lenders may charge on loans, restricts certain loan provisions such as prepayment penalties, requires that lenders fully disclose the terms of loans, and prohibits lenders from engaging in unfair and deceptive acts and practices. Individuals who make residential loans under the CLA must be licensed as mortgage loan originators. No person or entity may service residential mortgage loans without being licensed or exempt from licensing under the CLA. Licensing includes fees, background checks, and financial responsibility requirements.

There are a number of exemptions under the CLA, including an exemption for entities making loans under the Retail Installment Sales Act (RISA).

The Director may take a number of disciplinary and enforcements actions under the CLA. The Director may only issue a subpoena if the Director has required:

- attendance and examination under oath, and the licensee has not attended or testified; or
- documents, and the licensee has not produced the required documents.

Check Cashers and Check Sellers. The state regulates check cashers and sellers under the Check Cashers and Check Sellers Act (CCSA). A "check casher" is a person or entity that for compensation engages in the business of cashing checks, drafts, money orders, or other commercial paper. A "check seller" means a person or entity that for compensation engages in the business of selling checks, drafts, money orders, or other commercial paper. A licensed check casher or seller may only make a small loan (also known as a payday loan) if the check casher or seller has a small loan endorsement to their license.

The Director may issue a statement of charges to licensees or applicants for a license if, in the opinion of the Director, the licensee or applicant:

- is engaging, has engaged, or is about to engage in unsafe or unsound financial practices;
- is violating, has violated, or is about to violate the CCSA, including rules, orders, or subpoenas, or any condition imposed in writing by the Director or the Director's designee in connection with the granting of any application or other request by the licensee or any written agreement made with the Director;
- obtains a license by means of fraud, misrepresentation, concealment, or through mistake or inadvertence of the Director;
- provides false statements or omissions of material information on the application that, if known, would have allowed the Director to deny the application for the original license;
- fails to pay a fee required by the Director or maintain the required bond;
- commits a crime involving moral turpitude, financial misconduct, or dishonest dealings;
- knowingly commits or is a party to any material fraud, misrepresentation, concealment, conspiracy, collusion, trick, scheme, or device whereby any other person relying upon the word, representation, or conduct acts to his or her injury or damage;
- converts any money or its equivalent to his or her own use or to the use of his or her principal or of any other person;
- fails, upon demand, to disclose any information within his or her knowledge to the Director;
- fails, upon demand, to produce any document, book, or record in his or her possession for inspection of the Director;
- commits any act of fraudulent or dishonest dealing, and a certified copy of the final holding of any court, tribunal, agency, or administrative body of competent jurisdiction regarding that act is conclusive evidence; or
- commits an act or engages in conduct that demonstrates incompetence or untrustworthiness, or is a source of injury and loss to the public.

The Director may ban any person from participating in the affairs of a licensee for a number of reasons. The Director of the DFI may impose sanctions against any:

- licensee;
- applicant; or
- director, officer, sole proprietor, partner, controlling person, or employee of a licensee.

Mortgage Brokers. The DFI licenses mortgage brokers and mortgage loan originators under the Mortgage Broker Practices Act (MBPA). The MBPA has provisions regarding licensing, continuing education, prohibited practices, examinations, investigations, and criminal,

civil, and administrative penalties for mortgage brokers and mortgage loan originators.

Escrow Agents. Escrow agents are regulated by the DFI under the Escrow Agent Registration Act (Escrow Act). The Escrow Act has provisions regarding licensing, prohibited practices, examinations, investigations, and penalties.

Money Transmitters. The DFI regulates money services businesses (money transmitters and currency exchangers) under the Uniform Money Services Act (UMSA). Money transmission is the receipt of money for the purpose of transmitting or delivering the money to another location, whether inside or outside the United States. The transmission/delivery of the money can take place by any means, including wire, facsimile, or electronic transfer.

Currency exchange is the exchange of the money of one government for the money of another government, or holding oneself out as being able to complete such an exchange.

Various types of businesses are exempted from the definition. There are provisions in the USMA regarding licensing, prohibited practices, examinations, investigations, and penalties.

Mortgage Lending. Mortgage lenders may fall into a number of regulatory categories, including:

- banks;
- credit unions;
- consumer loan companies; and
- mortgage bankers.

Banks and credit unions may be chartered with the state and are regulated by the state. They also may be regulated under a national charter. A bank or credit union may also seek to convert from a state to a national charter or vice versa.

Mortgage lenders must follow a number of state and federal laws, including laws that provide disclosure to borrowers and potential borrowers.

Summary: Consumer Loan Companies. *Exemptions.* The RISA exemption in the CLA is amended to exclude the selling of a specific type of prepaid access.

An exemption from loan originator licensing is created for an individual who offers or negotiates a residential mortgage loan secured by the individual's residence.

Prohibited practices. It is a prohibited practice to:

- fail to comply with other applicable state or federal laws or regulations; or
- make a loan from an unlicensed location.

Enforcement. The Director may:

- order refunds to consumers harmed as a result of a violation of the CLA;
- ban any person from participating in the affairs of a licensee if the person violates statutory provisions regarding the disclosure of fees and costs to borrowers, reporting requirements and record-keeping requirements, or mortgage loan originator licensing requirements;
- informally settle complaints and enforcement actions, including requiring payment to the DFI for the purposes of financial literacy and education; and
- issue a subpoena requiring attendance or the production of documents without a finding that the licensee has not attended or testified, or produced the required documents. A prior failure to attend or testify or produce documents is no longer required before a subpoena is issued.

Check Cashers and Check Sellers Act. The definition of "licensee" is modified to specifically include a check casher or seller located in or outside of the State of Washington and those check cashers and sellers who should have a small loan endorsement.

The Director may:

- require licensees to obtain a license or transition an existing license using a multistate licensing system; and
- informally settle complaints and enforcement actions, including requiring payment to the DFI for the purposes of financial literacy and education.

It is a prohibited practice for a check casher or check seller to:

- sell a specific type of prepaid access in a retail installment loan under the RISA;
- advertise a statement that is false, misleading, deceptive, or that omits material information;
- fail to pay annual assessments by due date; or
- failure to pay other monies due the Director.

The Director may issue a statement of charges for:

- omitting material information on an application;
- knowingly or negligently omitting material information in an exam or investigation;
- failing to pay an assessment or failing to maintain the required bond; or
- violating any applicable federal or state law.

Mortgage Brokers. The Director may informally settle complaints and enforcement actions, including requiring payment to the DFI for the purposes of financial literacy and education.

Escrow Agents. The Director may:

- require licensees to obtain a license or transition an existing license using a multistate licensing system; and
- informally settle complaints and enforcement actions, including requiring payment to the DFI for the purposes of financial literacy and education.

Money Transmitters. The Director may:

- require licensees to obtain a license or transition an existing license using a multistate licensing system; and
- informally settle complaints and enforcement actions, including requiring payment to the DFI for the purposes of financial literacy and education.

Mortgage Lending. Disclosures that comply with the federal Real Estate Settlement Procedures Act are deemed to be compliant with disclosures required under state law.

Miscellaneous. A number of other clarifying and language changes are made.

Votes on Final Passage:

House	96	0
Senate	49	0

Effective: June 7, 2012

SHB 2259
C 227 L 12

Eliminating certain duplicative higher education reporting requirements.

By House Committee on Higher Education (originally sponsored by Representatives Zeiger, Seaquist, Haler and Roberts).

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

Background: Institutions of higher education are required by state law to report on a variety of information related to crime statistics and campus safety. These requirements include: submitting a monthly report, as well as publishing an annual report, on crime statistics; developing a campus safety plan and updating it annually; entering into a memorandum of understanding that outlines the responsibilities of affected local governments in the event of a campus emergency; and establishing a task force to examine campus security and safety issues at least annually.

These institutions are also required to report information related to campus security under the federal Higher Education Opportunity Act of 2008. This federal law updated and expanded campus security reporting provisions for higher education institutions contained in the federal Clery Act. The 2008 law added, among other provisions: new categories to the list of hate crimes all institutions must disclose; a new disclosure regarding the relationship of campus security personnel with state and local law enforcement agencies; implementation and disclosure of emergency notification and evacuation procedures; and implementation and disclosure of missing student notification procedures for institutions with on-campus student housing.

Summary: The requirements in state law for institutions of higher education related to crime statistics reporting and campus safety plan development are repealed.

Votes on Final Passage:

House	98	0
Senate	46	0

Effective: June 7, 2012

SHB 2261
C 203 L 12

Providing limited immunity for organizations making charitable donations of eye glasses or hearing instruments.

By House Committee on Judiciary (originally sponsored by Representatives Takko, Reykdal, Orcutt, Wilcox, Jinkins, Finn and Hudgins).

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

Background: Various state and federal laws provide immunity from liability to individual actors rendering assistance or services without payment. Generally, these immunity provisions do not apply to acts or omissions that constitute gross negligence.

The state Good Samaritan Act provides immunity from liability for individuals who provide emergency care at the scene of an emergency without expectation of compensation. The Good Samaritan Act includes immunity provisions for physicians and other health care providers volunteering health care services with nonprofit organizations or with for-profit organizations that regularly provide services to the public or uninsured. Services must be given without payment or expectation of payment in order for the immunity to apply.

The federal Volunteer Protection Act provides immunity from liability for individuals providing volunteer services for government or nonprofit entities. Under Washington law, volunteers for a nonprofit entity only receive the immunity protection when the entity maintains a prescribed amount of liability insurance relative to its revenues.

Alaska, Oregon, and Arizona have all passed laws specifically shielding charitable organizations from liability for facilitating donations of used eyeglasses.

Summary: Charitable organizations are not liable for damages arising out of any act or omission associated with providing people with previously owned eyeglasses or hearing instruments. Organizations are still subject to liability for damages arising out of acts or omissions that constitute gross negligence or willful or wanton misconduct.

The immunity only applies if certain criteria are met. The person to whom an organization provides eyeglasses or hearing instruments must be at least 14 years of age and no compensation may be expected or collected. The

eyeglasses or hearing devices must be provided by a medical professional who has personally examined the recipient or has personally consulted with the medical professional who examined the recipient.

An organization must qualify as a charitable organization in order for the immunity to apply. Charitable organizations are those that regularly engage in or provide financial support for a benevolent or charitable activity that benefits nonmembers. Also, a charitable organization's income must not be distributable to its members, directors, or officers, and none of those actors or any other employee or agent may be paid an amount beyond a fixed, reasonable, and approved level of compensation.

Votes on Final Passage:

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

Effective: June 7, 2012

EHB 2262

C 217 L 12

Regarding constraints of expenditures for WorkFirst and child care programs.

By Representatives Kagi, Hinkle, Darneille, Ladenburg, Walsh, Goodman, Carlyle, Fitzgibbon, Jinkins, Roberts, Ryu and Kenney.

None.

Background: Creation of the Temporary Assistance to Needy Families Program. Before 1997 Washington operated a welfare program for low income families with children called Aid to Families with Dependent Children (AFDC). If a family had children under the age of 18 years and met income and resource standards, the family was eligible for assistance under the program. The family had a legal entitlement to monthly cash payments and medical coverage through the Medicaid. This assistance continued as long as the family met the eligibility criteria.

In 1996 the United States Congress (Congress) enacted the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. This act replaced the AFDC program with a new program called the Temporary Assistance for Needy Families (TANF) program. Under this federally funded program for public assistance, the states were required to implement reforms as set forth by the Congress. Instead of an uncapped federal funding formula based upon the state's caseload, a capped federal block grant was provided to the states. States are required to meet a maintenance-of-effort (MOE) of state spending annually. A state's failure to meet the MOE is subject to a penalty.

WorkFirst. In 1997 Engrossed House Bill 3901 was enacted, which implemented the reforms required by the Congress. To receive the block grant authorized under the federal legislation, the states were required to establish a program to move TANF recipients into permanent jobs. Under the federal TANF legislation, the receipt of continued assistance was conditioned upon the individual's participation in work activities. In response to this requirement under the federal law, the Washington WorkFirst program (WorkFirst) was created.

The TANF Block Grant. Under the 1997 state legislation, the Department of Social and Health Services (DSHS) was required to operate WorkFirst. Under the new statute, the full amount of the block grant, as well as any state funds appropriated by the Legislature, were required to be appropriated to the DSHS to carry out the provisions of WorkFirst, including child care programs. The DSHS was permitted to expend funds in any manner to effectively accomplish outcome measures defined in the legislation. The DSHS was required to monitor expenditures against the appropriation levels provided.

Child Care Development Fund. The Child Care Development Fund (CCDF) was authorized by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The funds are distributed to the states to operate child care subsidy programs and to improve the quality and availability of child care. States are required to spend state funds in order to receive federal matching funds.

Creation of the Department of Early Learning. Prior to 2006, Early Learning was a division within the DSHS. In 2006 Second Substitute House Bill 2964 was enacted establishing the Department of Early Learning (DEL) as an executive branch agency whose director was appointed by the Governor. Child care licensing and the operation of the Working Connections Child Care Program (Working Connections) were among the functions that were transferred from the DSHS to the DEL. Beginning in the 2007-2009 biennium, the spending authority for the CCDF which is used for Working Connections, Seasonal Child Care Program, child care quality programs, and child care licensing functions were appropriated to the DEL rather than the DSHS. Income eligibility determination and provider payment functions for Working Connections remained within the DSHS.

Restrictions Imposed on Expenditures by the DSHS and the DEL. The TANF block grant monies and state appropriated funds must be spent to carry out the provisions of the TANF program, including WorkFirst, the Diversion Assistance Program, which provides one-time emergency funding, Individual Development Accounts, Entrepreneurial Assistance, child care services, and job support services. The DSHS must employ strategies that accomplish specific outcome measures regarding the WorkFirst program, which include caseload reduction, placement of participants in private sector jobs, and job retention.

In 2010 Engrossed Second Substitute House Bill 3141 was enacted, which required the DEL to implement

policies for the expenditure of funds in Working Connections. These policies were required to be consistent with outcome measures for the WorkFirst program and standards intended to promote the continuity of child care for children from low income households.

Summary: The statute regarding the operation of the WorkFirst program by the Department of Social and Health Services (DSHS) is repealed and a new section regarding the funding for the WorkFirst program is added to statute. The WorkFirst program must be operated within amount appropriated by the Legislature and consistent with policy established by the Legislature to achieve outcomes including improving a recipient's economic status, housing stability, medical and behavioral health, job retention, educational advancement; and the well-being of children in the recipient's care.

The DSHS must create a budget structure to allow for transparent tracking of program spending for the Temporary Assistance for Needy Family (TANF) grants, the Working Connections Child Care program, WorkFirst activities, and the administration of the WorkFirst program. Each biennium the DSHS must establish a biennial spending plan and provide updates if the modifications to the spending plan are made. The DSHS must provide expenditure reports to legislative fiscal committees and the Legislative-Executive WorkFirst Oversight Task Force beginning September 1, 2012, and on a quarterly basis thereafter. Based on the quarterly reports, if expenditures are projected to exceed funding, the DSHS must take actions necessary to ensure services provided are available only to the extent of and consistent with appropriations in the operating budget and policy established by the Legislature.

Spending for administrative purposes, which does not include information technology and computerization for tracking and monitoring required by federal law, must not exceed 15 percent of the TANF block grant, the federal child care funds, and qualifying state expenditures. The Caseload Forecast Council must forecast the TANF and the Working Connections Child Care programs as a courtesy.

Votes on Final Passage:

House	98	0	
Senate	49	0	(Senate amended)
House	98	0	(House concurred)

Effective: July 1, 2012

SHB 2263

C 204 L 12

Reinvesting savings resulting from changes in the child welfare system.

By House Committee on Ways & Means (originally sponsored by Representatives Kagi, Walsh, Carlyle, Ladenburg, Darneille, Goodman, Fitzgibbon, Jinkins, Roberts, Ryu and Kenney).

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

Background: The Department of Social and Health Services Children's Administration (Department) operates Child Protective Services that responds to reports of child abuse or neglect. The Department also operates the foster care system for children who are in out-of-home placements with caregivers and the adoption support program for children who have been adopted. Additionally, the Department contracts with multiple private providers for the purchase of various child welfare services, including: individual and group counseling or therapy; group care and behavioral health services; assessments; reunification services; and adoption services.

Foster Care Budgeting. Budgeting for the foster care costs includes the use of caseload information developed by the Caseload Forecast Council and expenditure data for per capita cost estimates. The appropriations for foster care are increased or reduced depending on the forecasted caseload and per capita costs for certain services related to out-of-home care placements. When the foster care caseloads or per capita costs decline, the corresponding state and federal amounts are decreased from the Department's budget. The caseload and per capita changes for foster care are adjusted in the maintenance level of the budget.

Title IV-E Federal Funding and Demonstration Waivers. The federal foster care program is authorized by Title IV-E of the Social Security Act with specific eligibility requirements and fixed allowable uses of funds, as set by the federal government. Title IV-E is an open-ended entitlement grant and is contingent upon an approved Title IV-E plan to administer or supervise the administration of the program. Generally, funds are available for monthly maintenance payments for: the daily care and supervision of eligible children in out-of-home care; certain services for eligible children; administrative costs to manage the program; training of staff and foster care providers; recruitment of foster parents; and costs related to the design, implementation, and operation of a statewide data collection system. States are required to match the Title IV-E funds with state funds; Washington's federal financial participation rate is 50 percent in federal fiscal year 2012.

A state's Title IV-E claims can increase as the number of children in foster care increases. However, the opposite also occurs: a state's Title IV-E claims can decrease as its

foster care populations decline. Without a waiver, Title IV-E funding may not be used for prevention services or for services after a family has reunified in order to ensure that the reunification is a safe and permanent one.

The Child and Family Services Improvement and Innovation Act authorized the federal Secretary of Health and Human Services to approve up to 10 new child welfare demonstration projects per year, for federal fiscal years 2012-2014, not to last more than five years. The states selected for these demonstration projects must identify one or more specific goals pertaining to increased permanency, reducing time in out-of-home care, and maintaining children safely in their homes.

The Department convened a workgroup statewide advisory committee to make recommendations to the Children's Administration about the content of the waiver application. The Department plans to submit a completed waiver application during the summer of 2012.

Legislation was enacted in 2011 that required the Office of Financial Management, working with the Caseload Forecast Council and the Department, to provide a report to the Legislature regarding reinvesting savings from reduced foster care caseloads into services to prevent the need for, or reduce the duration of, foster care placements. The report recommended a foster care reinvestment approach where savings would only be available to reinvest if there were statewide savings in the foster care caseload for a fiscal year.

Sunset Reviews. The Joint Legislative Audit Review Committee (JLARC) conducts sunset reviews, which assess the effectiveness and performance of a program or agency. The JLARC sunset reviews include a recommendation to either retain the program or agency as-is, modify the program or agency, or allow the program or agency to terminate.

Summary: The Child and Family Reinvestment Account (Account) is created and may be used to: (1) safely reduce entries and prevent re-entry into the foster care system; (2) safely increase reunifications; (3) achieve permanency for children unable to reunify; and (4) improve outcomes for youth who age out of care. Revenues to the Account consist of savings from reductions in the foster care caseload and per capita costs and other public or private funds.

The Department of Social and Health Services Children's Administration (Department), in collaboration with the Office of Financial Management (OFM) and the Caseload Forecast Council, must develop a methodology for calculating state savings for deposit into the Account for the 2013-15 biennium. The methodology must include any relevant provision of a federal Title IV-E demonstration waiver. The savings calculation must be based on actual caseload and per capita expenditures.

The Department must report to the Legislature by December 1, 2012, and the methodology is deemed approved unless the Legislature enacts legislation to modify or reject it. Once the savings methodology is established, the Department must use it at the end of each fiscal year to calculate State General Fund savings to be transferred to the Account by the State Treasurer. The Department must report the savings to the Legislature and the OFM.

Nothing in the act prohibits the Caseload Forecast Council from forecasting the foster care caseload or the Department from including maintenance funding in its budget submittal for caseload costs that exceed the baseline. The savings calculated by the Department are not subject to the Savings Incentive Account process. The transfers into the Account are not subject to calculations for the expenditure limit. The Joint Legislative Audit Review Committee must conduct a sunset review of the act.

Votes on Final Passage:

House	59	38	
Senate	42	6	(Senate amended)
House	60	38	(House concurred)

Effective: June 7, 2012

E2SHB 2264

C 205 L 12

Concerning performance-based contracting related to child welfare services.

By House Committee on Ways & Means (originally sponsored by Representatives Kagi, Walsh, Hinkle, Carlyle, Darneille, Jinkins, Roberts, Dickerson and Ryu).

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

Background: In 2009 Second Substitute House Bill 2106 (2SHB 2106) was enacted, which directed the Department of Social and Health Services (DSHS) to: (1) convert its existing contracts for child welfare services to performance-based contracts by January 1, 2011; and (2) contract with supervising agencies for child welfare services, including case management functions, in selected demonstration sites by June 30, 2012.

In 2010 Substitute Senate Bill 6832 was enacted, which extended the date by which the DSHS had to convert its contracts from January 1, 2011, to July 1, 2011. It also extended the implementation date of demonstration sites from June 30, 2012, to December 30, 2012.

On February 18, 2011, the DSHS issued a Request for Proposal (RFP) for performance-based contracts. Under the Personnel System Reform Act of 2002, state agencies may contract for services customarily and historically performed by state employees if the agency provides 90-day notice to the affected employees, who have 60 days to offer alternatives to the purchase of services by contract and then may compete for the contract if the agency does

not accept the alternatives. However, if the contracting is expressly mandated by the Legislature, then for those contracts the agency is not subject to these requirements. Under 2SHB 2106, the Legislature expressly mandated performance-based contracting and declared that it was not subject to the competitive bidding process.

Upon issuance of the RFP, affected employees were not offered alternatives to the purchase of services by contract. On May 5, 2011, the Washington Federation of State Employees (WFSE) filed a motion for preliminary injunction in Thurston County Superior Court, asking the court to stop the DSHS from proceeding with the RFP. On May 13, 2011, the court issued an oral ruling granting the WFSE's motion for preliminary injunction, and enjoining the DSHS from proceeding with its solicitations under the February RFP. The court found that the scope of the RFP exceeded the legislative mandate, and as a result, the issuance of the RFP was not exempt from the competitive bidding process. The injunction was ordered to remain in place until the DSHS complied with the requirements of the competitive bidding process.

Summary: Changes to Second Substitute House Bill 2106 (2009). Provisions originating in 2SHB 2106 which mandated the conversion of contracts for child welfare services to performance-based contracts are repealed. Multiple implementation dates related to demonstration sites are extended. Child welfare services, including case management, must be provided by supervising agencies in demonstration sites by December 30, 2015. The definition of supervising agency is applicable on or after December 30, 2015. The related Washington State Institute for Public Policy (WSIPP) report is extended to April 1, 2018. The Governor must make a decision regarding statewide implementation no later than June 1, 2018.

Performance-based Contracting Express Mandate. *Scope and Timing.* A new chapter is added to the Washington Code containing a new mandate regarding performance based contracting. Under this new chapter, beginning December 1, 2013, the DSHS may not renew its current contracts with individuals or entities for the provision of child welfare services in geographic areas served by network administrators (definition provided under this act), except as mutually agreed upon between the DSHS and the network administrator to allow for the successful transition of services that meet the needs of children and families.

The DSHS is expressly mandated to enter into performance-based contracts with one or more network administrators for family support and related services by December 1, 2013. The DSHS may enter into performance-based contracts for additional services other than case management. The DSHS must issue its request for proposal no later than December 31, 2012, and must notify the apparently successful bidders by June 30, 2013. When all other elements of the responses to any procurement under this act are equal, contracting with private nonprofit entities and federally recognized Indian tribes located in this state is preferred.

The procurement for family support and related services may not include case management services. Case management means convening family meetings, developing, revising, and monitoring implementation of any case plan or individual service and safety plan (ISSP), coordinating and monitoring services needed by the child and family, caseworker-child visits, family visits, and the assumption of court-related duties, excluding legal representation, including preparing court reports, attending judicial hearings and permanency hearings, and ensuring that the child is progressing toward permanency within state and federal mandates, including the Indian Child Welfare Act.

Procurement Process. The DSHS's procurement process must be developed and implemented in a manner that complies with applicable provisions of intergovernmental agreements between the state and tribal governments. The DSHS must actively consult with other state agencies and philanthropic entities with expertise in performance-based contracting for child welfare services. The Director of the Office of Financial Management must approve the RFP prior to its issuance.

As part of the procurement process, the DSHS must consult with specified stakeholders to assist in identifying the categories of family support and related services that will be included in the procurement. In identifying services, the DSHS must review current data and research related to the effectiveness of family support and related services that mitigate child safety concerns and promote permanency, including reunification and child well-being. Expenditures for the family support services must remain within appropriated levels. Categories of family support and related serviced must be defined no later than July 15, 2012.

Requirements and Standards. The procurement and resulting contracts must include:

- the use of family engagement approaches;
- the use of parents and youth who are veterans of the child welfare system;
- service provider qualifications;
- adequate provider capacity to meet anticipated service needs;
- fiscal solvency of network administrators;
- the use of evidence-based, research-based, and promising practices;
- network administrator quality assurance activities;
- network administrator data reporting; and
- network administrator compliance with applicable provisions of intergovernmental agreements between the state and tribes.

Payment Methodologies. Performance-based payment methodologies must be used in network administrator contracting. The DSHS may transfer financial risk for the

provision of services to network administrators only to the limited extent necessary to implement a performance-based payment methodology, such as phased payment for services. The DSHS may develop a shared savings methodology through which the network administrator will receive a defined share of any savings that results from improved performance.

Department of Social and Health Services and Network Administrator Roles. Network administrators must, directly or through subcontracts with service providers: (1) assist caseworkers in meeting their responsibility for implementation of case plans and ISSPs; and (2) provide the family support and related services within the categories of contracted services included in a child or family's case plan within funds available under contract.

The DSHS caseworkers must choose service providers from among providers in the network administrator's network. The criteria for provider selection must include geographic proximity of the provider to the child or family, and the performance of the provider. If a reasonably qualified provider is not available through the network, then at the request of the DSHS caseworker, a provider who is not currently contracted may be offered a provisional contract, if such provider meets applicable qualifications to participate.

The DSHS must develop a dispute resolution process to be used when the network administrator disagrees with the DSHS caseworker's choice of service provider. The mediator or decision maker must be a neutral employee of the DSHS who has not been previously involved in the case. The dispute resolution process must not result in more than a two-day delay of services needed by the child or family.

The DSHS must actively monitor network administrator compliance with the terms of contracts. The use of performance-based contracts may not be executed in a manner that adversely affects the state's ability to continue to obtain federal funding.

Annual Service Review. Beginning in the 2015-17 biennium, the DSHS and network administrators must annually review and update the services offered through performance-based contracts, review service utilization and outcome data to determine changes needed, and consult with a variety of specified stakeholders when conducting the review.

Washington State Institute for Public Policy. The WSIPP must report to the Legislature and Governor by December 1, 2014, on the DSHS's conversion to performance-based contracting. The WSIPP must submit a second report on specific outcomes achieved through performance-based contracting by June 30, 2016. The WSIPP must consult with a university-based child welfare research entity in Washington. The DSHS and network administrators must respond to the WSIPP's requests for data and other information needed to complete reports in a timely manner.

Votes on Final Passage:

House	77	21	
Senate	47	1	(Senate amended)
House			(House refused to concur)
Senate	47	2	(Senate amended)
House	93	4	(House concurred)

Effective: June 7, 2012

HB 2274

C 18 L 12

Allowing registered tow truck operators to pass the costs of tolls and ferry fares to the impounded vehicle's registered owner.

By Representatives Armstrong, Clibborn and Ormsby.

House Committee on Transportation
Senate Committee on Transportation

Background: Tow truck operators who impound vehicles from private or public property or tow for law enforcement agencies must be registered with the Department of Licensing (Department). Impounds, i.e., the taking and holding of a vehicle in legal custody without the consent of the owner, may only be performed by registered tow truck operators (operators). If on public property, the impound is at the direction of a law enforcement officer. If the vehicle is on private property, the impound is at the direction of the property owner or his agent.

An operator must file a fee schedule with the Department and may not charge fees that exceed those in the schedule.

Operators are also prohibited from committing certain acts. A violation of these prohibitions is a gross misdemeanor. These prohibitions include:

- asking for or receiving compensation, gratuities, or rewards from a person authorized to sign an impound authorization related to the impounding of a vehicle beyond the costs of towing, storage, or other services rendered;
- having an interest in a contract, agreement, or understanding between a person having control of private property and an agent of the person authorized to sign an impound authorization;
- having an interest in an entity whose functions include acting as an agent or representative of a property owner for the purpose of authorizing impounds; and
- entering into any contract or agreement or offering an incentive to a person authorized to order a private impound that is related to the authorization of an impound.

Operators are not prohibited, however, from collecting the costs of towing, storage, or other services rendered during the course of towing, removing, impounding, or storing of an impounded vehicle.

Summary: In addition to collecting costs of towing, storage, or other services, tow truck operators may also collect the costs of tolls and ferry fares paid during the course of towing, removing, impounding, or storing an impounded vehicle.

Votes on Final Passage:

House	98	0
Senate	49	0

Effective: June 7, 2012

HB 2293

C 216 L 12

Expanding consumer cooperative provisions under the nonprofit miscellaneous and mutual corporations act.

By Representatives Pedersen, Rodne and Orwall.

House Committee on Judiciary
Senate Committee on Judiciary

Background: A business that is operated on a nonprofit basis may organize under the Nonprofit Miscellaneous and Mutual Corporations Act (NMMCA) for any lawful purpose, including mutual, social, cooperative, fraternal, or other purposes. The NMMCA sets forth the powers, duties, rights, and obligations of both the corporation and members or shareholders of the corporation, including establishing requirements with respect to annual and other meetings of the corporation.

Meeting Notices. A corporation must give notice of the place and time of meetings not less than 10 nor more than 50 days prior to the meeting date to each member or shareholder entitled to vote at the meeting. If allowed under the corporation's articles, notice of regular meetings other than the annual meeting may be given by providing each member with the adopted schedule of regular meetings for the year at any time after the annual meeting and 10 days prior to a regular meeting. Meeting notices may be provided by electronic transmission if authorized in the articles.

Materials Accompanying Meeting Notices. In certain circumstances, the NMMCA requires written or printed copies of certain information or materials to accompany a meeting notice to members or shareholders. For example, additional materials must accompany a meeting notice when the meeting will address an amendment to the articles of incorporation or a proposed merger of the corporation.

Location of the Annual Meeting. The annual meeting of the members or shareholders of a corporation may be held at any place as provided in the bylaws of the corporation. If a meeting place is not specified in the bylaws, the annual meeting must be held at the registered office of the corporation in Washington.

Summary: New provisions governing notice and other requirements with respect to meetings are established for consumer cooperatives under the NMMCA. A consumer cooperative is a corporation engaged in the retail sale, to its members and other consumers, of goods and services for personal, living, or family use.

Meeting Notices. The window of time in which a consumer cooperative may give notice to its members of the place and time of the annual meeting is expanded to not less than 10 nor more than 120 days before the date of the annual meeting.

Materials Accompanying Meeting Notices. A consumer cooperative may satisfy the requirement of providing certain information or materials in a writing accompanying a meeting notice by: posting the information or materials on an electronic network at least 30 days prior to the meeting; and delivering to members eligible to vote a notification that provides the address of the electronic network and instructions on how to access the posted information or materials.

A consumer cooperative must provide a written copy of the materials upon the request of any member who is eligible to vote.

Location of the Annual Meeting. The articles of incorporation or bylaws of a consumer cooperative may allow annual meetings of the consumer cooperative to take place by means of electronic or other remote communications, rather than a physical assembly at a specific geographic location. Meetings held by means of electronic or other remote access must allow members a reasonable opportunity to read or hear the proceedings substantially concurrently with their occurrence, vote by electronic transmission on matters submitted to a vote by members, and pose questions and make comments to management.

Members participating in an annual meeting by electronic or other remote communications are deemed present at the meeting for all purposes, and the place of the meeting is deemed to be the address of the electronic network or other communications site or connection specified in the meeting notice.

Votes on Final Passage:

House	96	0
Senate	48	0

Effective: June 7, 2012

SHB 2299
C 65 L 12

Creating "4-H" and state flower special license plates.

By House Committee on Transportation (originally sponsored by Representatives Warnick, Clibborn, Haigh, Armstrong, Short, Nealey, Fagan, Tharinger, Hunt, Moscoso and Jinkins).

House Committee on Transportation
Senate Committee on Transportation

Background: The Department of Licensing (DOL) issues special vehicle license plates that may be used in lieu of standard plates. A governmental or nonprofit sponsoring organization seeking to sponsor a special plate either submits an application to the DOL or requests legislation to create the special plate. Generally, the sponsoring organization seeking to sponsor the special plate is required to reimburse the DOL for the costs of establishing the new special plate. There is a moratorium on the issuance of new special license plates by the DOL until June 30, 2013.

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

The DOL collects special license plate fees and, for administrative expenses, deducts an amount not to exceed $12 for new plate issuance and $2 for renewal. After these expenses are paid, the State Treasurer deposits proceeds into the Motor Vehicle Account until the DOL determines the start-up costs for a special license plate are paid.

Summary: A 4-H special license plate is created which would display the 4-H logo. In addition to all fees and taxes required to be paid upon application for a vehicle registration, a fee of $40 is charged for a 4-H special license plate and a $30 fee is charged for renewal of a special license plate.

The bill creates a state flower special license plate which would recognize the Washington state flower. In addition to all fees and taxes required to be paid upon application for a vehicle registration, a fee of $40 would be charged for a state flower special license plate and a $30 fee is charged for renewal of a special license plate.

Once all start-up costs are paid, the State Treasurer deposits remaining special license plate fee amounts into the accounts created in the custody of the State Treasurer for each of these new special license plates. Deposits to the 4-H Programs Account will support Washington 4-H programs. Deposits to the State Flower Account will support Meerkerk Rhododendron Gardens and provide for grants to other qualified nonprofit organizations' efforts to preserve rhododendrons.

Votes on Final Passage:

House	93	1	
Senate	46	3	(Senate amended)
House	94	1	(House concurred)

Effective: January 1, 2013

ESHB 2301
C 99 L 12

Concerning mixed martial arts, boxing, martial arts, and wrestling.

By House Committee on Business & Financial Services (originally sponsored by Representatives Green, Kirby, Pettigrew, Condotta and Jinkins).

House Committee on Business & Financial Services
House Committee on General Government Appropriations & Oversight
Senate Committee on Labor, Commerce & Consumer Protection

Background: The Department of Licensing (DOL) regulates boxing, martial arts, kickboxing, and wrestling events. Federal law requires boxing events, including events on tribal lands, to be supervised by a regulatory entity. Under the federal law, the DOL must have an agreement with a tribe to regulate a tribe's boxing events. A tribe may also have its own regulatory entity if the entity meets minimum federal standards.

"Martial arts" is defined as "a type of boxing including sumo, judo, karate, kung fu, tae kwon do, pankration, muay thai, or other forms of full-contact martial arts or self-defense conducted on a full-contact basis where weapons are not used and the participants utilize kicks, punches, blows, or other techniques with the intent not to injure or disable an opponent, but to defeat an opponent or win by decision, knockout, technical knockout, or submission."

Licensure. Boxers, kickboxers, martial arts participants, promoters, inspectors, and others involved with the events must obtain a license from the DOL unless exempt. The DOL's authority to impose certain sanctions is dependent on whether or not events charge an admission fee.

Existing Licensing Exemptions. There are a number of different exemptions from licensure in statute. All boxing, kickboxing, martial arts, or wrestling events are exempt if the event is:

- conducted by any common school, college, or university and all the participating contestants are bona fide students; or

- an entirely amateur event, as defined, that is promoted on a nonprofit basis or for charitable purposes.

An amateur event is defined as an event in which all the participants are amateurs who are registered and sanctioned by: (1) the United States Amateur Boxing, Inc.; (2) the Washington Interscholastic Activities Association; (3) the National Collegiate Athletic Association; (4) the Amateur Athletic Union; (5) the Golden Gloves of America; (6) the United Full Contact Federation; (7) any similar organization recognized by the DOL as exclusively or primarily dedicated to advancing the sport of amateur boxing, kickboxing, or martial arts; or (8) the local affiliate of any above organization.

Licensing requirements also do not apply to contestants or participants in events:

- at which only amateurs are engaged in contests;
- held and promoted by fraternal organizations or veterans' organizations chartered by the United States Congress, the United States Department of Defense, or any recognized amateur sanctioning body recognized by the DOL; and
- where all funds are used primarily for the benefit of the members of the promoting organization.

Summary: Definitions. The definitions of "chiropractor," "event," "promoter," and "amateur event" are modified.

The definitions of "mixed martial arts" and "training facility" are created.

Licensure. Training facilities, amateur sanctioning organizations, and amateur mixed martial arts participants must be licensed by the DOL. Licensure is not required if the participant meets an exception from licensing.

The DOL may establish licensing standards.

Exemptions. The exemption for entirely amateur events is modified. Language exempting charitable or nonprofit events is struck. All events that meet the definition of an amateur event are exempt except for events that are recognized and sanctioned by an amateur sanctioning organization that is licensed and approved by the DOL.

The exemption for contestants or participants, in events between amateurs engaged in contests held and promoted by fraternal organizations or veterans' organizations chartered by the United States Congress, the United States Department of Defense, or any recognized amateur sanctioning body recognized by the DOL and where all funds are used primarily for the benefit of the members of the promoting organization, is modified. The exemption excludes an event held by an amateur sanctioning body. Language regarding the use of funds is struck.

Events that are held by the United Full Contact Federation or any similar amateur sanctioning organization exclusively or primarily dedicated to advancing the sport of amateur mixed martial arts may be an amateur event but are not exempt from the chapter. Events held by the United Full Contact Federation or any similar amateur sanctioning organization require licensure for the sanctioning body, the promoter, officials, and the participants.

Scope of Regulation. In a number of places throughout the act, the scope of regulation is extended from applying solely to professionals to include amateurs including:

- the definition of promoter;
- the standards of conduct that may be adopted by the Director of the DOL; and
- various acts that are considered unprofessional conduct, including disciplinary actions by regulatory authorities, violations of statutes or rules regarding athletics, aiding and abetting an unlicensed person to act in a manner that requires a license, and misrepresentation or fraud in an event.

A prohibited practice regarding sham or fake events is expanded from boxing events to any professional or amateur boxing, wrestling, or martial arts match or exhibition.

Adequate security requirements are expanded from boxing and wrestling events to also include martial arts events.

The promoter of an amateur event is not required to pay an event fee.

Votes on Final Passage:

House	95	2
Senate	44	5

Effective: June 7, 2012

ESHB 2302

C 42 L 12

Concerning being under the influence with a child in the vehicle.

By House Committee on Judiciary (originally sponsored by Representatives Goodman, Warnick, Kenney, Kagi, Liias, Orwall, Billig, Hasegawa, Finn, Kelley, Rodne, Moeller, Dammeier, Reykdal, Van De Wege, Maxwell, Tharinger, Sells, Jinkins, Hurst, Green, McCoy, Smith, Pearson, Appleton, Darneille, Hunt, Fitzgibbon, Miloscia, Zeiger, Ryu, Stanford, Johnson and Seaquist; by request of Washington State Patrol).

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

Background: The state's drunk driving laws have a number of penalty enhancements for individuals convicted of driving or being in physical control of a motor vehicle under the influence of intoxicating liquor or any drug (DUI). Two enhancements apply to individuals

arrested and convicted of DUI when there is a minor passenger in the vehicle.

First, a law enforcement officer must notify Child Protective Services when arresting a driver for DUI, a child under the age of 13 is in the vehicle, and the driver is the child's parent, guardian, or legal custodian.

Second, if a person who is convicted of DUI committed the offense while a child under the age of 16 was in the vehicle, the court must order the person to use an ignition interlock device on his or her vehicle for an additional 60 days on top of the mandatory ignition interlock requirement already applicable for a DUI conviction.

Summary: The following enhancements apply when an individual is arrested or convicted of DUI with a child under the age of 16 in the vehicle:

Gross Misdemeanor and DUI-related Felonies. At the time of arrest, law enforcement must note that a child under the age of 16 was present in the vehicle.

At the time of arrest, law enforcement must notify Child Protective Services when there was a child under the age of 16, rather than 13, in the vehicle and the person arrested is the child's parent, guardian, legal custodian, sibling, or half-sibling.

The amount of additional time that an individual must have an ignition interlock installed is increased from 60 days to six months.

Gross Misdemeanor DUI Only. If an individual is convicted of a gross misdemeanor DUI with a child under the age of 16 in the vehicle, additional monetary penalties are assessed based on the individual's prior convictions as follows:

- no prior offenses – minimum of $1,000 and maximum of $5,000;
- one prior offense – minimum of $2,000 and maximum of $5,000; and
- two or three prior offenses - minimum of $3,000 and maximum of $10,000.

DUI-related Felonies Only. If an individual is convicted of a felony DUI, Vehicular Assault DUI, or Vehicular Homicide DUI and had a child under the age of 16 in the vehicle at the time of the offense, an enhanced sentence of 12 months for each child in the vehicle is added to the individual's standard sentence. If the sentence exceeds the statutory maximum, the portion of the sentence that is related to having a minor child in the vehicle may not be reduced.

Votes on Final Passage:

House	98	0	
Senate	49	0	(Senate amended)
House	95	0	(House concurred)

Effective: June 7, 2012

HB 2304
C 19 L 12

Transferring the low-level radioactive waste site use permit program from the department of ecology to the department of health.

By Representatives Hudgins, Hunt and Moscoso; by request of Department of Health and Department of Ecology.

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

Background: Low-level radioactive waste (LLRW) is waste material that contains radioactive nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities that exceed standards for unrestricted release but does not include waste containing more than 100 nanocuries of transuranic contaminants per gram of material, spent nuclear fuel, or material that is classified as either high-level radioactive waste or waste that is unsuited for disposal by near-surface burial under federal regulations. It is generated in a variety of ways, by entities such as hospitals, research facilities, and universities and may also include clothing and gloves from nuclear facilities.

The commercial LLRW disposal facility is located near the center of the Hanford Site on approximately 100 acres of federal land leased to the State of Washington. The site has been in operation since 1965 and is the only site in the state accepting commercial LLRW. It is operated by US Ecology Washington, Inc.

The Department of Health (DOH) and the Department of Ecology (Department) share regulatory oversight of the commercial LLRW facility. The DOH licenses the facility and ensures that the commercial disposal facility complies with applicable state and federal regulations and license requirements. It also inspects shipments of LLRW, approves disposal of waste into trenches, and inspects the premises.

The Department issues site use permits for generators, packagers, and brokers using the commercial LLRW disposal facility to dispose of LLRW. Approximately 400 site use permits are issued each year. The cost of a permit varies, depending primarily on volume.

In 2010 following the Governor's directive to consolidate agency functions, the DOH and the Department entered into an interagency agreement allowing the DOH to review site use permit applications and make recommendations to the Department. The Department continues to issue the permits, however, as directed by statute.

Summary: Authority to issue site use permits is transferred from the Department to the DOH. Permits issued by the Department remain valid until the first expiration date that occurs after July 1, 2012. Statutory changes are made to reflect the transfer, with the DOH

charged with the responsibilities and authority held heretofore by the Department.

A change is made in the section pertaining to the authority of the Department Director to clarify that the lease from the federal government to the state covers 115, and not 1,000, acres lying within the Hanford Site.

Votes on Final Passage:

House	96	2
Senate	49	0

Effective: July 1, 2012

HB 2305

C 218 L 12

Changing authority for contracts with community service organizations for public improvements.

By Representatives Angel, Takko and Green.

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

Background: Certain public entities, including counties, cities, and selected special purpose districts, may, without regard to competitive bidding laws for public works, contract with service organizations and similar associations for qualifying public works services. The entity providing the public works service must provide the service and be located in the immediate neighborhood. Examples of provided services include:

- drawing design plans;
- making improvements to a park, school playground, or public square;
- installing equipment or artworks; and
- providing maintenance services for a facility.

Additionally, qualifying public entities may enter into contracts with community service organizations for facility maintenance services under the auspices of community or neighborhood projects undertaken by the community service organization.

Summary: Port districts may contract with community service organizations for certain public works services without regard to competitive bidding laws. Community service organizations may make improvements under these contracts to port habitat sites, and may enter into contracts for facility maintenance services or environ-mental stewardship projects.

Votes on Final Passage:

House	96	0
Senate	49	0

Effective: June 7, 2012

HB 2306

C 100 L 12

Authorizing the presentation of claims for payment for pathology services to direct patient-provider primary care practices.

By Representatives Hinkle and Green.

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

Background: Billing for Pathology Services. Licensed physicians, osteopathic physicians, dentists, and pharmacists are prohibited from receiving a payment, such as a rebate, refund, or commission, if that payment is received in connection with the referral of patients or the furnishing of health care treatment or diagnosis. The stated intent of the prohibition is to prevent licensed health care providers from receiving compensation for services that they did not perform. The prohibition does not apply to a licensed health provider who charges for the health care services rendered by an employee who is licensed to provide the services.

In 2005 the Washington State Attorney General issued a formal opinion related to the application of the referral prohibitions to pathology services. The opinion concluded that a physician could only charge for professional services that are actually rendered, such as taking samples for a biopsy, preparing the sample, and other associated costs. In addition, a physician could charge for services related to reviewing the pathologist's diagnosis or consulting with the patient about the diagnosis. The opinion also specified that if the pathologist indirectly bills the patient through the referring physician, that physician could not, in turn, receive compensation beyond what the pathologist charges.

In 2011 legislation was enacted that defines to whom clinical laboratories and physicians may submit claims for pathology services. Authorized recipients include: (1) the patient; (2) the responsible insurer; (3) the hospital or clinic that ordered the services; (4) the referring laboratory, unless that laboratory is of a physician's office or group practice that does not perform the professional component of the anatomic pathology service; or (5) governmental agencies acting on the behalf of the recipient of the services. The legislation also prohibits licensed health care practitioners from charging for anatomic pathology services unless the services were personally delivered by the practitioner or under the direct supervision of the practitioner.

Direct Patient-Provider Primary Care Practices. A direct patient-provider primary care practice (direct practice) is a health care provider or a group of health care providers that furnishes primary care services through a direct agreement with a patient or a family of patients. Under the direct agreement, the direct practice charges a fee in exchange for being available to provide primary care services to the patient.

Summary: Clinical laboratories and physicians that provide anatomic pathology services may present claims for payment to direct practices. Claims may only be presented to those direct practices that:

- are in compliance with direct practice laws;
- provide written confirmation to the physician or laboratory that the patient does not have insurance coverage for anatomic pathology services;
- provide the patient with an itemized bill that does not mark up the amount billed by the physician or laboratory; and
- disclose to the patient that all pathology services are billed at the same amount charged.

The act applies retroactively to July 22, 2011, for entities that had been in compliance with the act's direct practice provision since that time.

Votes on Final Passage:

House	96	0
Senate	49	0

Effective: June 7, 2012

HB 2308

C 165 L 12

Regulating awarding of costs, including attorneys' fees, in actions challenging actions taken by professional peer review bodies.

By Representatives Rodne and Pedersen.

House Committee on Judiciary
Senate Committee on Judiciary

Background: The federal Health Care Quality Improvement Act of 1986 (HCQIA) was enacted with the stated purpose of encouraging effective professional peer review to improve the quality of medical care and reduce the cost of medical malpractice lawsuits.

The HCQIA provides immunity from damages for actions taken by a professional peer review body if those actions meet certain standards. In order to qualify for immunity, the professional peer review body action must be taken: in the reasonable belief that the action was in furtherance of quality health care; after a reasonable effort to obtain the facts of the matter; after adequate notice and hearing procedures; and in the reasonable belief that the action was warranted by the known facts.

The HCQIA contains a fee-shifting provision for prevailing defendants who meet the standards for HCQIA immunity. The court must award to a substantially prevailing party defending against a claim the costs and reasonable attorneys' fees attributable to the claim if the claim, or the claimant's conduct during the litigation of the claim, was frivolous, unreasonable, without foundation, or in bad faith. A defendant does not substantially prevail when the plaintiff obtains an award for damages or permanent injunctive relief.

The state Health Care Peer Review Act (HCPRA) incorporates the provisions of the federal HCQIA that provide immunity from damages for professional peer review actions that are based on the competence or professional conduct of a health care provider.

In addition, the HCPRA provides the exclusive remedy for actions taken by professional peer review bodies that are found to be based on matters not related to the competence or professional conduct of the health care provider. These actions are limited to appropriate injunctive relief and damages for lost earnings directly attributable to the professional peer review body's action.

With respect to suits based on these actions, the HCPRA provides that reasonable attorneys' fees and costs must be awarded to the prevailing party, as determined by the court. This provision has been interpreted to require the court to award costs and reasonable attorneys' fees to the prevailing party.

Summary: Standards for the award of prevailing party costs and attorneys' fees are revised for suits under the HCPRA that are based on professional peer review body actions not related to competence or professional conduct.

The court must award to the substantially prevailing party the costs of the suit, including reasonable attorneys' fees, attributable to any claim or defense asserted in the action by the nonprevailing party if the nonprevailing party's claim, defense, or conduct was frivolous, unreasonable, without foundation, or in bad faith.

The court must award to the substantially prevailing defendant the cost of the suit, including reasonable attorneys' fees, if the nonprevailing plaintiff failed to exhaust all administrative remedies available before the professional peer review body.

A party may not be considered a substantially prevailing party if the opposing party obtains an award for damages or permanent injunctive relief under the HCPRA.

Votes on Final Passage:

House	96	0	
Senate	49	0	(Senate amended)
House	98	0	(House concurred)

Effective: June 7, 2012

SHB 2312
C 69 L 12

Making military service award emblems available for purchase.

By House Committee on Transportation (originally sponsored by Representatives Zeiger, Clibborn, Armstrong, Ladenburg, Hargrove, Billig, Dammeier, Orwall, Bailey, Takko, Finn, Asay, Smith, Tharinger, Kelley, Pearson, Miloscia and Moscoso).

House Committee on Transportation
Senate Committee on Transportation

Background: Veterans discharged under honorable conditions and individuals serving on active duty in the United States armed forces may purchase a veterans remembrance emblem or campaign medal emblem for display on license plates. Veterans and active duty military personnel who served during periods of war or armed conflict may purchase a remembrance emblem depicting campaign ribbons which they were awarded.

Veterans or active duty military personnel requesting a veteran remembrance emblem or campaign medal emblem must pay a prescribed fee set by the Department of Licensing (Department), show proof of eligibility, and be the legal or registered owner of the vehicle on which the emblem is to be displayed.

The Distinguished Service Cross is the second highest military decoration that can be awarded to a member of the United States Army for extreme gallantry and risk of life in actual combat with an armed enemy force. Actions that merit the Distinguished Service Cross must be of such a high degree to be above those required for all other United States combat decorations but not meeting the criteria for the Medal of Honor. The Distinguished Service Cross is equivalent to the Navy Cross (Navy, Marine Corps, and Coast Guard) and the Air Force Cross (Air Force).

The Silver Star is the third highest military decoration and is awarded for gallantry in action against an enemy of the United States. The Silver Star may be awarded to any person who, while serving in any capacity with the armed forces, distinguishes himself or herself by extraordinary heroism.

The Bronze Star is the fourth-highest combat award of the United States armed forces. It may be awarded for bravery, acts of merit, or meritorious service. As a medal it is awarded for merit, and with the "V" for valor device it is awarded for heroism.

The Department must set fees for veterans remembrance and campaign medal emblems in an amount sufficient to offset the costs of production of the emblems and the administration of that program by the Department plus an amount for use by the Department of Veterans Affairs. The fee for each emblem may not exceed $25. Funds provided to the Department of Veterans Affairs may be used for projects that pay tribute to those living veterans and to those who have died defending freedom in the nation's wars and conflicts and for the upkeep and operations of existing memorials, as well as for planning, acquiring land for, and constructing future memorials.

Summary: Veterans discharged under honorable conditions and individuals serving on active duty in the United States armed forces may purchase a military service award emblem for display on license plates.

The following military service award emblems will be made available: Distinguished Service Cross, Navy Cross, Air Force Cross, Silver Star medal, and Bronze Star medal.

Veterans or active duty military personnel requesting a military service award emblem must pay a prescribed fee set by the Department, show proof of eligibility, and be the legal or registered owner of the vehicle on which the emblem is to be displayed.

Fees for military service award emblems are subject to the same requirements as fees for veterans remembrance and campaign medal emblems.

Votes on Final Passage:

House	96	0
Senate	45	2

Effective: January 1, 2013

SHB 2313
C 228 L 12

Concerning the meeting procedures of the boards of trustees and boards of regents of institutions of higher education.

By House Committee on Higher Education (originally sponsored by Representatives Zeiger, Carlyle, Probst, Wilcox, Anderson, Haler, Fagan, Reykdal, Springer, Buys, Pollet, Wylie, Crouse, Jinkins, Moscoso and Overstreet).

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

Background: The Open Public Meetings Act (Act) requires that all meetings of governing bodies of public agencies be open and public with certain limited exceptions. Public agencies include state educational institutions, such as universities, colleges, and community college districts. Governing bodies include multimember boards, such as boards of regents and boards of trustees. The Act outlines certain procedures for meetings at which action is taken by governing boards of public agencies. It does not require governing bodies to allow the public to speak at public meetings.

Governing boards of four-year institutions of higher education are authorized to set full-time tuition fees for all students, beginning with the 2011-12 academic year through the 2014-15 academic year. Prior to reducing or increasing tuition, governing boards must consult with certain student associations regarding the impacts of

potential tuition increases. Governing boards also must provide certain financial aid data.

Summary: The requirement that governing boards of all institutions of higher education follow procedures for open public meetings in the Open Public Meetings Act is restated. Governing boards also must provide time for public comment at meetings.

Governing boards of four-year institutions of higher education are also required to make public their proposals for tuition and fee increases 21 days before considering adoption, and to allow opportunity for public comment. This requirement applies from the 2011-12 academic year through the 2014-15 academic year. This requirement does not apply if the omnibus appropriations act has not passed the Legislature by May 15.

Votes on Final Passage:

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

Effective: June 7, 2012

ESHB 2314

C 164 L 12

Concerning long-term care workers.

By House Committee on Health Care & Wellness (originally sponsored by Representatives Cody and Green).

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

Background: Long-term Care Worker. Long-term care workers provide care to elderly and disabled clients, many of whom are eligible for publicly funded services through the Department of Social and Health Services' (DSHS) Aging and Disabilities Services Administration. These workers provide their clients personal care assistance with various tasks such as bathing, eating, toileting, dressing, ambulating, meal preparation, and household chores.

Initiative 1163 (I-1163), approved by the voters in November 2011, modifies the law governing background checks, training, and home care aide certification for long-term care workers by reinstating dates originally enacted in 2009. This resulted in making many of these requirements effective on January 1, 2011, instead of January 1, 2014.

The initiative's changes apply to all long-term care workers as defined by law on April 1, 2011, except that long-term care workers employed as community residential service providers are covered beginning January 1, 2016.

Delegation of Nursing Care Tasks. Registered nurses may delegate nursing care tasks that are within the nurse's scope of practice to other individuals where the nurse finds it to be in the patient's best interest. Before delegating a nursing care task, the registered nurse must determine the competency of the person to perform the delegated task and evaluate the appropriateness of the delegation. The registered nurse must supervise the person performing the delegated task.

Nursing care tasks requiring substantial skill or the administration of medications generally may not be delegated unless the delegation is to a registered or certified nursing assistant working in a community-based or in-home care setting. Nursing assistants receiving delegation of nursing care tasks must first complete the required core nurse delegation training and, if administering insulin, must complete specialized diabetes nurse delegation training.

Performance Audits of Long-term Care In-home Care Program. The State Auditor is required, under I-1163, to conduct biannual performance audits of the long-term in-home care program, beginning by January 7, 2013.

Summary: Training and Certification Requirements for Long-term Care Workers. The requirements in I-1163 related to enhanced training and home care aide certification begin on January 7, 2012 (instead of January 1, 2011). Long-term care workers are allowed 120 days after hire or after the bill's effective date, whichever is later, to meet the new training requirements and 150 days after these dates to become certified.

The permanent exemption from certification for supported living providers is clarified by applying the exemption to long-term care workers employed by community residential service businesses. The exemption from enhanced training, continuing education, peer mentoring, and advanced training for these businesses' long-term care workers is clarified by adding, in each relevant provision, that the exemption is until January 1, 2016.

The Department of Health must, by January 1, 2013, adopt a rule establishing a scope of practice for certified home care aides and long-term care workers. The requirement for long-term care workers to be certified does not prohibit other credentialed health care professionals or long-term care workers exempt from certification from providing services as long-term care workers.

Provisions are added that govern the delegation of nursing care tasks to certified home care aides. Certified home care aides wishing to perform a nurse delegated task must successfully complete the nurse delegation training required for nursing assistants.

Any exceptions to an adult family home's duty to ensure that a qualified caregiver is on site will be specified in DSHS rules.

Background Checks for Long-term Care Workers. Several provisions addressing background check requirements for long-term care workers are consolidated, and the starting date of January 7, 2012, is provided for all related provisions. Long-term care workers are required to meet the enhanced background check requirement as a

condition of being certified as a home care aide. The exemption from enhanced background checks for long-term care workers employed by community residential service businesses is clarified by adding that the exemption is until January 1, 2016.

Definitions. A definition is added for "community residential service businesses." These are businesses (1) that are certified by, and contracting with, the DSHS to provide certain services to individuals with developmental disabilities, and (2) in which all of the business's long-term care workers are subject to training requirements for providing the services to individuals with developmental disabilities. All the statutory and regulatory training requirements for long-term care workers providing these services must be reflected in rules adopted by the DSHS by September 1, 2012.

Performance Audits of Long-term In-home Care Program. The State Auditor's performance audits of the long-term in-home care program are required biennially, instead of biannually.

Votes on Final Passage:

House	94	4	
Senate	45	2	(Senate amended)
House	95	0	(House concurred)

Effective: March 29, 2012

ESHB 2318

C 101 L 12

Concerning shared decision making.

By House Committee on Health Care & Wellness (originally sponsored by Representatives Cody, Hinkle, Bailey and Jinkins).

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

Background: A plaintiff can recover damages for health care in several ways, including when the injury resulted from health care to which the plaintiff did not consent. In order to prevail in an action based on lack of consent, a plaintiff must prove that:

- the provider failed to inform the patient of a material fact relating to the treatment;
- the patient consented to the treatment without being aware, or fully informed, of the material fact;
- a reasonably prudent patient under similar circumstances would not have consented to the treatment if informed of the material fact; and
- the treatment in question proximately (i.e., foreseeably) caused injury to the patient.

In an action based on informed consent, it is prima facie evidence (evidence that will prevail unless rebutted by clear and convincing evidence) of informed consent that the patient or his or her representative signed an acknowledgement of shared decision making. The acknowledgement must include at least the following elements:

- a statement that the patient and the health care provider have engaged in shared decision making as an alternative means of meeting informed consent;
- a brief description of the services that the patient and provider have jointly agreed will be furnished;
- a statement that the patient understands the risk or seriousness of the disease or condition to be prevented or treated, the available treatment alternatives, and the risks, benefits, and uncertainties of the treatment alternatives;
- a statement certifying that the patient has had the opportunity to ask the provider questions, and to have the questions answered to the patient's satisfaction, and indicating the patient's intent to receive the services; and
- a brief description of the patient decision aid that was used by the patient and provider.

For purposes of establishing prima facie evidence of informed consent, "patient decision aid" is defined as a written, audio-visual, or online tool that provides a balanced presentation of the condition and treatment options, benefits, and harms. The patient decision aid must be certified by one or more national certifying organizations.

To date, patient decision aids are offered by a variety of organizations, including academic institutions and private companies. There are, however, no patient decision aids that have been certified by a national certifying organization.

The International Patient Decision Aid Standards Collaboration is a group of international stakeholders convened to establish quality criteria for patient decision aids. The group's International Patient Decision Aid Standards evaluate patient decision aids based on content, development process, and effectiveness.

Summary: In order for a nationally certified patient decision aid to be used to establish prima facie evidence of informed consent, the certifying organization must be recognized by the Medical Director of the Health Care Authority (HCA).

Alternatively, a patient decision aid may be used to establish prima facie evidence of informed consent if it has been evaluated, based on the International Patient Decision Aid Standards, by an organization located in the United States or Canada and has a current overall score satisfactory to the Medical Director of the HCA. If there is no such organization in the United States or Canada, the Medical Director of the HCA may independently assess and certify the decision aid based on the International Patient Decision Aid Standards.

The HCA may charge an applicant a fee to defray the costs of the assessment and certification.

It is clarified that a patient decision aid may address any medical condition, including abortion.

Votes on Final Passage:

House	98	0
Senate	46	2

Effective: June 7, 2012

E2SHB 2319

PARTIAL VETO

C 87 L 12

Implementing the federal patient and protection affordable care act.

By House Committee on Ways & Means (originally sponsored by Representatives Cody, Jinkins and Ormsby; by request of Governor Gregoire and Insurance Commissioner).

House Committee on Health Care & Wellness
House Committee on Ways & Means
Senate Committee on Health & Long-Term Care

Background: I. Health Benefit Exchanges. The federal Patient Protection and Affordable Care Act as amended by the Health Care and Education Reconciliation Act of 2010 (ACA) requires every state to establish two Health Benefit Exchanges, one for small businesses and one for individuals. The exchanges may be administratively operated as one entity (Exchange). If a state elects not to establish an Exchange, the federal government will operate one either directly or through an agreement with a nonprofit entity. The Exchange's functions must include:

- facilitating the purchase of qualified health plans by individuals and small groups;
- certifying health plans as qualified health plans based on federal guidelines;
- providing information to individuals about their eligibility for public programs like Medicaid and the Children's Health Insurance Program and enrolling eligible individuals in those programs;
- operating a telephone hotline and website to assist consumers in the Exchange; and
- establishing navigator programs to help inform consumers and facilitate their enrollment in qualified health plans in the Exchange.

In 2011 the Legislature established its Exchange as a public-private partnership separate from the state. The Exchange is to begin operations by January 1, 2014, consistent with federal law and statutory authorization. The Exchange is governed by a nine-member board appointed by the Governor from a list submitted by all four caucuses of the House of Representatives and the Senate (Board). The powers and duties of the Exchange and the Board are limited to those necessary to apply for and administer grants, establish information technology infrastructure, and other administrative functions. Any actions relating to substantive policy decisions must be made consistent with statutory direction.

II. Market Rules. The ACA specifies four categories of plans to be offered through the Exchange and in the individual and small group markets. The categories are based on the actuarial value of the plans; i.e., the percentage of the costs the plan is expected to pay:

- Platinum: 90 percent actuarial value;
- Gold: 80 percent actuarial value;
- Silver: 70 percent actuarial value; and
- Bronze: 60 percent actuarial value.

III. Qualified Health Plans. Only qualified health plans may sell insurance in the Exchange. In order to be a qualified health plan, a carrier must, at a minimum:

- be certified as a qualified health plan based on federal guidelines;
- provide coverage for the essential health benefits;
- offer at least one Silver and one Gold plan in the Exchange; and
- charge the same premium, both inside and outside the Exchange.

IV. Essential Health Benefits. Health plans that offer plans in the Exchange and non-grandfathered health plans in the small group and individual markets outside of the Exchange must offer a federally defined package of benefits called "essential health benefits." The essential health benefits must include, at a minimum, benefits within the following 10 categories:

- ambulatory patient services;
- emergency services;
- hospitalization;
- maternity and newborn care;
- mental health and substance abuse services, including behavioral health treatment;
- prescription drugs;
- rehabilitative and habilitative services and devices;
- laboratory services;
- preventive and wellness services and chronic disease management; and
- pediatric services, including oral and vision care.

On December 16, 2011, the United States Department of Health and Human Services issued a bulletin to solicit input from stakeholders on a regulatory approach that would allow states to choose a "benchmark" plan from the following:

- the three largest small group plans in the state by enrollment;
- the three largest state employee health plans by enrollment;
- the three largest federal employee health plan options by enrollment; and

- the largest Health Maintenance Organization (HMO) plan offered in the state's commercial market by enrollment.

Under this approach, the state would have to supplement the benchmark plan if the plan did not cover the 10 categories of essential health benefits. Health plans would have the option to adjust benefits as long as all 10 categories were still covered and the value of the plan is substantially equal.

V. The Basic Health Option. Under the ACA, a state may contract with private insurers to provide coverage for low-income individuals between 133 and 200 percent federal poverty level, similar to Washington's existing Basic Health Plan. Individuals in the Basic Health Program (BHP) will not participate in the Exchange, but the state will receive federal funding for the BHP equal to 95 percent of the tax credits and cost-sharing reductions the individuals would have received in the Exchange.

VI. Risk Leveling. The ACA contains a variety of mechanisms to address adverse selection both inside and outside of the Exchange, including:

- the individual mandate;
- authorizing open enrollment periods; and
- requiring health carriers to pool risk both inside and outside of the Exchange.

In addition, the ACA creates two temporary and one permanent risk leveling mechanisms:

- Reinsurance: a temporary program administered by the state nonprofit entity, the Reinsurance mechanism requires most health plans (both inside and outside the Exchange) to make payments to the nonprofit entity that will then disburse those funds to plans with higher-risk enrollees.
- Risk Corridors: a temporary program administered by the federal government, the Risk Corridor mechanism is designed to compensate for the difficulty of establishing initial rates in the Exchange. Plans that have lower than expected costs will make payments to the federal government. The federal government will then disburse those funds to plans with higher than expected costs.
- Risk Adjustment: a permanent plan administered by the states, the Risk Adjustment mechanism assesses plans with lower-cost enrollees and makes disbursements to plans with higher-cost enrollees.

VII. The Washington State Health Insurance Pool. Before purchasing insurance on the individual market, Washington residents must complete the Standard Health Questionnaire. Based on the results, an individual may be turned down for coverage. The Washington State Health Insurance Pool (WSHIP) provides health insurance to individuals who have been rejected from the individual market for medical reasons. A WSHIP insurance plan may impose a six-month waiting period for preexisting conditions. Premiums for the WSHIP plans must be between 110 percent and 150 percent of what the largest carriers charge for individual plans with similar benefits.

VIII. Catastrophic Plans. Under the ACA, health plans may offer catastrophic plans to individuals inside and outside of the Exchange. Catastrophic plans are subject to an annual deductible of $5,950 for individuals and $11,900 for families (the deductible does not apply to preventive benefits and up to three primary care visits). The plans are only available to individuals who are both under the age of 31 and exempt from the individual mandate.

Under state law, a catastrophic health plan is defined as:

- a health plan requiring a calendar year deductible of at least $1,880 for individuals ($3,760 for multiple persons) and an annual out-of-pocket expense required for covered benefits of $3,760 for individuals ($6,450 for multiple persons); or
- a health plan that provides benefits for hospital inpatient and outpatient services, provides benefits for professional and prescription drugs provided in conjunction with the hospital services, and excludes or substantially limits outpatient physician services and those services usually provided in an office setting.

IX. Wellness Program Demonstration Projects. Under the ACA, the federal Department of Health and Human Services must establish a 10-state wellness program demonstration project. Under the program, states will apply employer wellness program criteria to programs of health promotion offered by individual market insurers. A state that participates in the program may permit premium discounts, premium rebates, or cost-sharing modifications based on participation in a health promotion program and must:

- ensure that consumer protection requirements are met;
- require verification that premium discounts do not create undue burdens for enrollees, do not lead to cost shifting, and are not a subterfuge for discrimination;
- ensure that consumer data are protected; and
- ensure that the discounts or other rewards reflect the expected level of participation in the program and the anticipated effect the program will have on utilization or claim costs.

Summary: I. Health Benefit Exchanges. The provisions limiting the authority of the Exchange are eliminated. The Exchange is authorized to serve as a premium aggregator and to complete other duties necessary to begin open enrollment beginning October 2, 2013. The Board must establish rules or policies permitting entities to pay premiums on behalf of qualified individuals. The Exchange must report its activities to the Governor and the Legislature as requested, but no less often than annually.

The Exchange is required to be self-sustaining, which is defined as capable of operating without direct state tax subsidy. If at any time the Exchange is no longer self-sustaining, its operations must be suspended. Self-sustaining sources include, but are not limited to, federal grants, federal premium tax subsidies and credits, charges to health carriers, and premiums paid by enrollees. The Board must develop funding mechanisms that fairly and equitably apportion among carriers the administrative costs and expenses of the Exchange and must develop a methodology to ensure that the Exchange is self-sustaining. The Board must report its recommendations to the Legislature by December 1, 2012, and may implement the recommendations if the Legislature does not enact legislation during the 2013 regular legislative session that modifies or rejects the recommendations.

A qualified employer may access coverage for its employees through the Exchange. The Exchange must allow any qualified employer to select a level of coverage so that any of its employees may enroll in any qualified health plan offered through the Exchange at the specified level of coverage.

Exchange employees are authorized to participate in state health benefit and retirement programs.

A designee of the Exchange, in addition to the Exchange itself, may authorize expenditures from the Health Benefit Exchange Account. The Health Benefit Exchange Account is terminated on January 1, 2014.

A person functioning as a navigator under the ACA, is not considered to be soliciting or negotiating insurance for purpose of the statute regulating insurance producers (agents/brokers).

II. Market Rules. The following market rules are created:

- For plan or policy years beginning January 1, 2014, if a carrier offers a Bronze plan outside the Exchange, it must also offer Gold and Silver plans outside the Exchange.
- Catastrophic plans (as defined in the ACA) may only be sold inside the Exchange.

By December 1, 2016, the Board, in consultation the Insurance Commissioner, must review the impact of the market rules on the health and viability of the markets inside and outside of the Exchange and submit recommendations to the Legislature on whether to maintain the market rules or let them expire.

The Insurance Commissioner must evaluate Platinum, Gold, Silver, and Bronze plans and determine whether variation in prescription drug benefit cost-sharing results in adverse selection. If so, the Insurance Commissioner may adopt rules to assure substantial equivalence of prescription drug benefits.

All health plans outside of the Exchange, other than catastrophic plans, must offer plans that conform to the Platinum, Gold, Silver, and Bronze value tiers specified in the ACA.

III. Qualified Health Plans. The Board must certify a health plan as a qualified health plan if the plan:

- is determined by the Insurance Commissioner as meeting state insurance laws and regulations;
- is determined by the Board to meet the requirements of the ACA; and
- is determined by the Board to include tribal clinics and urban Indian clinics as essential community providers in the plan's provider network consistent with federal law. An integrated delivery system may be exempt from the essential community provider requirement if consistent with federal law.

A decision by the Board denying a request to certify or recertify a plan as a qualified health plan may be appealed according to procedures adopted by the Board.

The Board must allow stand-alone dental plans to be offered in the Exchange, consistent with the ACA. Dental benefits offered in the Exchange must be priced separately to assure transparency for consumers.

The Board may permit direct primary care medical home plans, consistent with the ACA, to be offered in the Exchange beginning January 1, 2014.

A state agency must provide information to the Board for its use in determining whether to certify a plan as a qualified health plan. The information must be provided within 60 days, unless the Board and the agency agree to a later date. The Exchange must reimburse the agency for the cost of providing the information within 180 days of its receipt.

The Board must establish a rating system for qualified health plans to assist consumers in evaluating plan choices in the Exchange. Rating factors must, at a minimum, include:

- affordability with respect to premiums, deductibles, and point-of-service cost-sharing;
- enrollee satisfaction;
- provider reimbursement methods that incentivize health homes or chronic care management or care coordination for enrollees with complex, high-cost, or multiple chronic conditions;
- promotion of appropriate primary care and preventive services utilization;
- high standards for provider network adequacy, including consumer choice of providers and service locations and robust provider participation intended to improve access to underserved populations through participation of essential community providers, family planning providers, and pediatric providers;
- high standards for covered services, including languages spoken or transportation assistance; and

- coverage of benefits for tax-deductible spiritual care services.

The Office of the Insurance Commissioner retains regulatory authority over qualified health plans sold in the Exchange.

IV. Essential Health Benefits. The Insurance Commissioner must, by rule, select the largest small group plan in the state by enrollment as the benchmark plan for determining the essential health benefits.

The Insurance Commissioner must, in consultation with the Board and the Health Care Authority (HCA), supplement the benchmark plan as needed to ensure that it covers all 10 categories of essential health benefits specified in the ACA. A health plan required to offer the essential health benefits by federal law may not be offered in the state, unless the Insurance Commissioner finds that it is substantially equal to the benchmark plan. When making the determination, the Insurance Commissioner:

- must ensure that the plan covers the 10 essential health benefits categories required by the ACA; and
- may consider whether the plan has a plan benefits design that would create a risk of biased selection based on health status and whether it contains meaningful scope and level of benefits in each of the 10 essential health benefits categories.

Beginning December 15, 2012, and every year thereafter, the Insurance Commissioner must submit to the Legislature a list of state-mandated health benefits, the enforcement of which would result in federally imposed costs to the state. The list must include the anticipated costs to the state of each benefit on the list. The Insurance Commissioner may enforce a benefit on the list only if funds are appropriated by the Legislature for that purpose.

It is clarified that nothing in the act prohibits the offering of benefits for tax-deductible spiritual care services in plans inside and outside of the Exchange.

V. The Basic Health Option. By December 1, 2012, the Director of the HCA must submit a report to the Legislature on whether to proceed with a federal BHP option. The report must address whether:

- sufficient funding is available to support the design and development work necessary for the program to provide health coverage to enrollees beginning January 1, 2014;
- anticipated federal funding will be sufficient, absent any additional state funding, to cover the essential health benefits and administrative costs (enrollee premium levels will be below the levels that would apply to persons with income between 134 and 200 percent of the federal poverty level through the Exchange); and
- health plan payment rates will be sufficient to ensure enrollee access to a robust provider network and health homes.

Prior to making the finding, the Director of the HCA must:

- consult with the Board, the Office of the Insurance Commissioner, consumer advocates, provider organizations, carriers, and other interested organizations; and
- consider any available objective analysis specific to Washington by an independent, nationally recognized consultant that has been actively engaged in analysis and economic modeling of the BHP for multiple states.

If the Legislature determines to proceed with implementation of a federal BHP, the director of the HCA must provide the necessary certifications to the federal government. To the extent funding is available, the HCA must assume the federal BHP will be implemented in Washington and initiate the necessary design and development work. If the Legislature determines not to proceed, the HCA may cease activities related to BHP implementation.

If adopted, the BHP must be guided by the following principles:

- meeting minimum state certification standards specified in the ACA;
- twelve-month continuous eligibility or enrollment or financing mechanisms that enable enrollees to remain with a plan for the entire plan year;
- achieving appropriate balance with:
  - premiums and cost-sharing minimized to increase affordability;
  - standard health plan contracting requirements that minimize plan and provider administrative cost, while incentivizing improvements and quality and enrollee health outcomes; and
  - health plan payment rates and provider payment rates that are sufficient to ensure enrollee access to a robust provider network and health homes; and
- transparency in program administration.

VI. Risk Leveling. The Insurance Commissioner, in consultation with the Board, must adopt rules establishing the reinsurance and risk adjustment programs required by the ACA.

The Insurance Commissioner's deliberations related to reinsurance rulemaking must include an analysis of an invisible high risk pool option, in which the full premium and risk associated with certain high-risk or high-cost enrollees would be ceded to the reinsurance program. The analysis must include a determination as to:

- whether the invisible high risk pool is authorized under federal law;

- whether the option would provide sufficiently comprehensive coverage for current non-Medicare high risk pool enrollees; and
- how an invisible high risk pool could be designed to ensure that carriers ceding risk provide effective care management to high-risk or high-cost enrollees.

The rules for the reinsurance program must establish:

- a mechanism for collecting reinsurance funds;
- a reinsurance payment formula; and
- a mechanism to disburse reinsurance payments.

The rules must also identify, and may require, submission of the data needed to support operation of the reinsurance program. The rules must identify the sources of the data, and other requirements related to their collection, validation, interpretation, and retention. The Insurance Commissioner may adjust the rules to preserve a healthy market both inside and outside of the Exchange.

The Insurance Commissioner must contract with one or more nonprofit entities to administer the risk adjustment and reinsurance programs. Contribution amounts for the reinsurance program may be increased to include amounts sufficient to cover administrative costs, including reasonable costs incurred for pre-operational and planning activities.

VII. The Washington State Health Insurance Pool. The WSHIP Board must review the populations that may need ongoing access to pool coverage, including persons with end-stage renal disease or HIV/AIDS or persons not eligible for Exchange coverage. If the review indicates the need for continued coverage, the WSHIP Board must submit recommendations regarding modifications to pool eligibility that would allow new enrollees in the WSHIP on or after January 1, 2014, including any needed modifications to the standard health questionnaire or other eligibility screening tool that could be used to determine pool enrollment.

The WSHIP Board must also analyze pool assessments in relation to the assessments for the federal reinsurance program and recommendations for changes in the assessment or any credits that may be considered for the reinsurance program. The analysis must recommend whether the categories of members paying assessments should be adjusted to make the assessment fair and equitable among all payers.

The WSHIP Board must report its recommendations to the Governor and the Legislature by December 1, 2012.

The WSHIP is authorized to contract with the Insurance Commissioner to administer risk management functions if necessary, consistent with the ACA. Prior to entering into a contract, the WSHIP may conduct pre-operational and planning activities, including defining and implementing appropriate legal structures to administer the programs. The reasonable costs incurred by the WSHIP may be reimbursed from federal funds or from the additional contributions from plan members. If the WSHIP contracts to administer and coordinate the reinsurance or risk adjustment programs, the WSHIP Board must submit recommendations to the Legislature with suggestions for additional consumer representatives or other members of the WSHIP Board. The WSHIP must report on these activities to the Legislature by December 15, 2012, and December 15, 2013.

VIII. Catastrophic Plans. Part of the current definition of "catastrophic health plan" is made applicable only to grandfathered health plans issued before January 1, 2014, and renewed thereafter. A grandfathered plan is a catastrophic health plan if it requires a calendar year deductible of at least $1,880 for individuals ($3,760 for multiple persons) and an annual out-of-pocket expense required for covered benefits of $3,760 for individuals ($6,450 for multiple persons). The part of the definition dealing with a health plan that (1) provides benefits for hospital inpatient and outpatient services, (2) provides benefits for professional and prescription drugs provided in conjunction with the hospital services, and (3) excludes or substantially limits outpatient physician services and those services usually provided in an office setting is eliminated.

For non-grandfathered health plans issued on or after January 1, 2014, a "catastrophic health plan" is defined as:

- a health plan that meets the definition in the ACA; or
- a health benefit plan offered outside the Exchange that requires a calendar year deductible or out-of-pocket expenses for covered benefits that meets or exceeds the adjustment required by the ACA.

IX. Wellness Program Demonstration Project. The HCA must pursue an application to participate in a wellness program demonstration project as authorized in the ACA. The HCA must pursue activities that will prepare the state to apply for the demonstration projection once it is announced by the federal government.

Votes on Final Passage:

House	52	43	
Senate	27	22	(Senate amended)
House	55	41	(House concurred)

Effective: March 23, 2013
June 7, 2012 (Sections 1-3, 5-15, 17, and 24-27)

Partial Veto Summary: The section of the bill requiring the operations of the Exchange to be suspended in the event that it is no longer self-sustaining was vetoed.

VETO MESSAGE ON E2SHB 2319

March 23, 2012

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

Ladies and Gentlemen:

I have approved, except for Section 26, Engrossed Second Substitute House Bill 2319 entitled:

"AN ACT Relating to furthering state implementation of the health benefit exchange and related provisions of the affordable care act."

Section 26 requires the exchange to suspend operations if at any time it is not self-sustaining. There are other sections of the bill which require the exchange to be self-sustaining. Section 26 is redundant, and the phrase "at any time" adds an unnecessary element of uncertainty and creates risks of litigation that could interfere with exchange operations. For these reasons I have vetoed Section 26.

Although there are other sections of the bill about which concerns have been raised, I am approving them for the following reasons:

Section 6 imposes market rules essential to help health plans sold in the exchange remain affordable by protecting them against adverse selection, with great care taken not to inappropriately burden the general insurance market. Concern that this section would apply to other than individual or small group plans is misplaced. Such a reading is unsupported by the legislative history and makes no sense in light of the statutory purpose and the corresponding provisions of the federal Affordable Care Act.

Section 7 has also produced some confusion about the effective date when it becomes law and the later operative date when the Insurance Commissioner would implement its provisions. This section will become a statute in existing law on its effective date of June 7, 2012; however, it will not become operative and apply to any health plans until January 1, 2014. This is because the referenced Section 1302 of the Affordable Care Act does not become operative until that later date. The Insurance Commissioner has advised me his office will not apply or enforce the provisions of Section 7 until January 1, 2014.

Section 25 effectively exempts "navigators" acting under the Affordable Care Act from the state licensing requirements applicable to insurance agents or brokers under chapter 48.17 RCW. These are individuals or organizations that will be charged with informing consumers about their new health insurance options – particularly low-income consumers who face language or cultural barriers. Section 25 conforms state law to recent rules issued by the United States Department of Health and Human Services which prohibit a state from requiring a navigator to hold an agent or broker license. These federal rules also call for the state to adopt separate consumer protection standards addressing the unique circumstances under which navigators will operate, which Section 25 does not preclude, and I expect our state will do.

With the exception of Section 26, Engrossed Second Substitute House Bill 2319 is approved.

Respectfully submitted,

Christine O. Gregoire
Governor

SHB 2326

C 219 L 12

Protecting air quality that is impacted by high emitting solid fuel burning devices.

By House Committee on Environment (originally sponsored by Representatives Jinkins, Ladenburg, Darneille, Fitzgibbon, Upthegrove, Seaquist, Moscoso, Green, Kagi, Billig, Tharinger, Pollet, Wylie, Reykdal, McCoy, Eddy, Hunt and Lytton).

House Committee on Environment
Senate Committee on Environment

Background: Clean Air Act Emissions Standards. The federal Clean Air Act requires the United States Environmental Protection Agency (EPA) to set air quality standards for certain pollutants that harm public health and the environment. One of those pollutants is fine particulate matter. In Washington, wood smoke has been identified as a major source of fine particulate matter that can negatively affect air quality standards in an area.

The EPA may designate an area as an area of nonattainment if there is a pattern of failure to reach and maintain air quality standards over a period of time. When an area is designated as a nonattainment area, the state in which the area is located must submit a plan to reach attainment. This designation can cause additional requirements to be imposed for all sources emitting fine particulate matter, including industrial and household sources.

Burn Bans. In Washington, the Department of Ecology (Department) or the local air pollution control authority may impose a burn ban when it forecasts that fine particulate pollution levels will exceed the federal 24-hour standard of 35 micrograms per cubic meter. Burn bans are tiered, so the Department or the local air pollution control authority will typically first call a Stage One burn ban. If a first stage of impaired air quality has been in force and has not achieved sufficient reductions, and a forecast is made that fine particulate pollution levels will exceed the federal 24-hour standard of 25 micrograms per cubic meter, a Stage Two burn ban may be called. Under certain circumstances, the Department or the local air pollution control authority may call a Stage Two burn ban without first calling a Stage One burn ban.

Solid Fuel Burning Devices. Washington's Clean Air Act contains laws about wood stoves and fireplaces, both of which are included in the term "solid fuel burning device." A solid fuel burning device is defined as any device for burning wood, coal, or any other nongaseous and nonliquid fuel, including a woodstove and fireplace. Prohibitions exist on burning a number of materials in a solid fuel burning device, including any substance, other than properly seasoned fuel wood, that emits dense smoke or obnoxious odors. To achieve and maintain attainment in areas of nonattainment for fine particulates under federal law, the Department or the local air pollution control authority may prohibit the use of solid fuel burning devices, except for fireplaces, woodstoves meeting standards in state law, and pellet stoves.

Prior to prohibiting the use of solid fuel burning devices, the Department or the local air pollution control authority must seek input from the affected local government, make written findings, and meet other requirements. The Department or the local air pollution control authority has sole authority for enforcing the prohibition.

Summary: First and Second Stage Burn Bans. The thresholds are lowered for determining when the Department of Ecology (Department) or a local air pollution control authority may call a first and second

stage burn ban due to impaired air quality in an area of fine particulate nonattainment or in areas at risk of fine particulate nonattainment. A first stage burn ban for impaired air quality may be called when forecasted meteorological conditions are predicted to cause fine particulate levels to reach or exceed 30 micrograms per cubic meter, measured on a 24-hour average, within 72 hours. When feasible, a first stage burn ban will only be called for the necessary portions of the county containing the nonattainment area or areas at risk for nonattainment.

In fine particulate nonattainment areas, or areas at risk for fine particulate nonattainment, a second stage burn ban may be called for the county containing the nonattainment area or areas at risk for nonattainment without calling a first stage burn ban only when certain requirements have been met and meteorological conditions are predicted to cause fine particulate levels to reach or exceed 30 micrograms per cubic meter, measured on a 24-hour average, within 24 hours. When feasible, a second stage burn ban will only be called for the necessary portions of the county containing the nonattainment area or areas at risk for nonattainment.

An area at risk for nonattainment means an area where the three-year average of the annual ninety-eighth percentile of 24-hour fine particulate values is greater than 29 micrograms per cubic meter, based on the years 2008 through 2010 monitoring data.

Prohibitions on the Use of Solid Fuel Burning Devices. The Department or a local air pollution control authority may prohibit the use of fireplaces in areas of nonattainment for fine particulates, if needed to meet federal requirements as a contingency measure in a state implementation plan for a fine particulate nonattainment area. However, a prohibition does not apply to a person in a residence or commercial establishment that does not have an adequate source of heat without burning wood.

The Department or a local air pollution control authority may prohibit the use of uncertified solid fuel burning devices in a nonattainment area if an area is designated as a nonattainment area as of January 1, 2015, or if required by the United States Environmental Protection Agency.

A city, county, or local health department may agree to assist the Department or a local air pollution control authority with enforcement of a prohibition on the use of solid fuel burning devices in a fine particulate nonattainment area.

"Prohibit the use" or "prohibition" are defined as the ability for the Department or a local air pollution control authority to include requiring disclosure of an uncertified device, removal, or rendering inoperable, as may be approved by rule by the Department or a local air pollution control authority for areas designated in nonattainment for fine particulates. The effective date of such a rule may not be prior to January 1, 2015. Any such prohibition may not include imposing separate time of sale obligations on the seller or buyer of real estate as part of a real estate transaction, except as provided by law.

Exception for Persons with a Detached Shop or Garage. A person with a shop or garage that is detached from the main residence or commercial establishment, who does not have an adequate source of heat in the detached shop or garage without burning wood, is not required to adhere to a prohibition on the use of a solid fuel burning device issued by the Department or a local air pollution control authority.

Required Assistance and Education by the Department of Ecology. By January 1, 2015, the Department or a local air pollution control authority is required to provide assistance, within existing resources, to households using solid fuel burning devices to reduce the emissions from those devices or change to a lower emission device. Prior to the effective date of a prohibition, the Department or a local air pollution control authority must provide public education in the nonattainment area regarding how households can reduce their emissions through cleaner burning practices, the importance of respecting burn bans, and opportunities for assistance in obtaining a cleaner device.

Report to Legislature. The Department and local air agencies must report back to the appropriate standing committees of the Legislature by December 31, 2014, as well as every two years thereafter through 2018, on progress toward achieving attainment in areas currently in nonattainment, and on whether any other implementation tools are needed to achieve attainment.

Votes on Final Passage:

House	66	30	
Senate	26	21	(Senate amended)
House	62	32	(House concurred)

Effective: June 7, 2012

EHB 2328

C 102 L 12

Addressing job order contracting.

By Representatives Dammeier, Haigh and Hunt.

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

Background: In 2003 job order contracting was authorized as an alternative public works contracting procedure. Under a job order contract, a contractor agrees to perform an indefinite quantity of public works jobs, defined by individual work orders, over a fixed period of time. A public entity may not have more than two job order contracts in effect at any one time, except for the Department of Enterprise Services which may have four contracts in effect at one time. The maximum total dollar amount awarded under a job order contract may not

exceed $4 million per year for a maximum of three years. Individual work orders are limited to no more than $350,000, and no more than two work orders of $350,000 may be issued by a public body in a 12-month period.

Job order contracts may be executed for an initial contract term of two years, with an option to extend or renew the contract for an additional year provided that any extension or renewal is priced as provided in the original proposal and is mutually agreed upon by the public body and the job order contractor. A job order contractor is required to subcontract 90 percent of the work under the contract and may self perform 10 percent. With some restrictions, the use of alternative public works contracting procedures are authorized to a limited number of public entities:

- the Department of Enterprise Services;
- the University of Washington;
- Washington State University;
- cities with a population greater than 70,000 and any public authority chartered by such city;
- counties with a population greater than 450,000;
- port districts with total revenues greater than $15 million per year;
- public utility districts with revenues from energy sales greater than $23 million per year;
- school districts; and
- the state ferry system.

In 2005 the Capital Projects Advisory Review Board (Board) was established to monitor and evaluate the use of traditional and alternative public works contracting procedures and to evaluate potential future use of other alternative contracting procedures. At the end of each contract year, public entities are required to provide the Board with: a list of work orders issued; the cost of each work order; a list of subcontractors hired under each work order; and a copy of the intent to pay prevailing wage and the affidavit of wages paid for each work order subcontract, if requested.

Summary: The restriction limiting a public body to issuing no more than two work orders of $350,000 in a 12-month contract period is eliminated. Public bodies must provide information regarding work orders to the Board each fiscal year, rather than each contract year. The list of public entities authorized to use the job order contracting procedure is expanded to include the state regional universities, The Evergreen State College, and Sound Transit.

Votes on Final Passage:

House	98	0
Senate	48	0

Effective: June 7, 2012

HB 2329

C 166 L 12

Replacing encumbered state forest lands for the benefit of multiple participating counties.

By Representatives Takko, Orcutt, Blake, Chandler, Stanford, Taylor and Van De Wege; by request of Commissioner of Public Lands.

House Committee on Agriculture & Natural Resources
House Committee on Capital Budget
Senate Committee on Energy, Natural Resources & Marine Waters

Background: The term "state forest lands" refers to lands managed by the Department of Natural Resources (Department) for the benefit of the county in which the land is located. Many acres of state forest land were added to this classification through the process of the county initiating a tax lien foreclosure process and transferring management of the land to the Board of Natural Resources (Board). The Department itself also has the direct authority to purchase, or accept gifts of, land that is appropriate to be managed as state forest land.

The Department also manages the Trust Land Transfer Program (Program), which is typically authorized and funded in each biennial capital budget. The Program is generally used to reposition less productive lands managed by the Department with lands that can sustain a higher timber yield. This program has been used in the past to reposition lands within, and add lands to, the state forest land management classification.

The Department is authorized to transfer, or dispose of, lands meeting certain criteria without public auction. One of the criteria for an auction-less transfer is having the land in question be located in a county with a population of 25,000 or fewer and be encumbered with timber harvest deferrals of greater than 30 years which are in place to protect endangered species. Most lands meeting this requirement are located in southwest Washington. Proceeds from any transfers are deposited into the Park Land Trust Revolving Fund and are used to buy replacement lands within the same county from where the proceeds originated.

Revenue generated from state forest lands is shared between the county where the land is located and the Department. Revenues generated from lands in one county may not be shared with other counties.

Summary: The Board of Natural Resources (Board) is given the discretionary authority to create a state forest land pool (land pool) to be managed by the Department of Natural Resources (Department) for the benefit of counties that have a population of 25,000 or fewer and that have existing state forest lands encumbered with 30 year or longer timber harvest deferrals associated with wildlife species listed under the federal Endangered Species Act (ESA). The land pool is a collection of discrete parcels

located over multiple counties that are managed together for multiple beneficiaries.

Only counties satisfying the conditions for inclusion may elect to participate in the land pool; a decision must be formalized through a written request from the county to the Board. Lands in the land pool may be located in any of the participating counties; however, the revenue derived from the land pool must be distributed to all participating counties proportionate to each county's contribution to the asset value of the land pool.

The Board must, prior to creating a land pool, request an analysis of the proposal from the Department. The Department's analysis must evaluate how the proposed land trust would benefit the affected counties, an estimation of the administrative costs associated with managing the land pool, and proposals for administrative structures necessary to create a land pool. This includes the development of proposals for ascertaining how revenue distribution to the participating counties will be calculated. The analysis developed by the Department may be coordinated with the affected counties or a third party association representing the affected counties.

The Board must develop a funding strategy when creating a land pool. The strategy must be developed with the participating counties and outline how land acquisitions for the pool will be funded. One possible funding mechanism is transferring existing state forest land that is encumbered with timber harvest deferrals due to the ESA into Natural Resources Conservation Area status and using the value of the transferred land to acquire new working lands for the land pool. If this strategy is pursued, the Park Land Revolving Trust Fund may be used for this purpose.

If the Board creates a land pool, it may not ever exceed 10,000 acres in size. A participating county may opt out of the land pool at any time by transmitting a written request to do so to the Board. In the event of a county opting to no longer participate, the county remains a beneficiary for lands added to the pool prior to its withdraw but may no longer contribute asset value to the pool and no additional lands maybe acquired for the pool in that county.

Votes on Final Passage:

House	97	0	
Senate	45	3	(Senate amended)
House	98	0	(House concurred)

Effective: June 7, 2012

E2SHB 2337

C 178 L 12

Regarding open educational resources in K-12 education.

By House Committee on Ways & Means (originally sponsored by Representatives Carlyle, Orwall, Sullivan, Maxwell, Lytton, Zeiger, Reykdal, Pettigrew, Liias, Dammeier, Fitzgibbon, Pedersen, Hunt and Hudgins).

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

Background: Individual school districts are responsible for establishing curriculum and selecting textbooks and other coursework materials to support their curriculum. The state funds curriculum and courseware through the Materials, Supplies, and Operating Costs (MSOC) portion of the prototype schools funding model. The 2011-13 biennial Omnibus Operating Appropriations Act appropriated funding equal to $62.45 per full-time-equivalent (FTE) student for the curriculum and textbooks portion of the MSOC allocation in fiscal year (FY) 2013.

Due to individual selection of curricula, a wide variety of materials are used in schools across the state. For example, a 2008 report by the Office of Superintendent of Public Instruction (OSPI) showed that there were 20 or more different math curricula being used in the middle schools in the 2007-08 school year. The Common Core State Standards describe knowledge and skills in reading and mathematics across all grade levels and were developed by a consortium of multiple states. In July 2011 the OPSI adopted the Common Core State Standards, which will serve as the state K-12 learning standards when they are fully implemented in 2014-15.

Summary: The OSPI must take the lead in developing, either by contract or in-house methods, new or existing openly licensed courseware aligned with Common Core State Standards and license it under an attribution license. The OSPI must use its best efforts to seek additional outside funding and advertise to school districts the availability of openly licensed course work. The OSPI must report annually to the Governor and education committees of the Legislature from December 1, 2013, until December 1, 2017, on the development of openly licensed courseware. This report must include input from classroom practitioners.

Votes on Final Passage:

House	88	7	
Senate	47	1	(Senate amended)
House	87	7	(House concurred)

Effective: June 7, 2012

ESHB 2341
C 103 L 12

Concerning community benefits provided by hospitals.

By House Committee on Health Care & Wellness (originally sponsored by Representatives Jinkins, Cody, Ladenburg, Van De Wege, Green, Reykdal, Moeller, Tharinger, McCoy, Darneille and Hunt).

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

Background: Until 1973, all hospitals in Washington were exempt from property taxes. Beginning in 1973, the property tax exemption was applied to nonprofit hospitals. A 2007 report by the Joint Legislative Audit and Review Committee found that in property tax year 2006-07 nonprofit hospitals had an annual property tax savings of approximately $47 million.

Among the requirements for obtaining nonprofit status, a hospital must provide the Washington State Department of Revenue with documentation from the federal Internal Revenue Service that the hospital is exempt from federal income taxes. Federal law requires that hospitals claiming nonprofit status must provide community benefits. The community benefit standard does not quantify a specific level of benefit to the community that must be provided by a hospital, but requires that nonprofit hospitals demonstrate they are providing sufficient benefits to the community. There are several types of community benefits that hospitals may report to satisfy this requirement, including financial assistance in the form of free or discounted health services, other than bad debt; health professions education; community health improvement services; and research.

The federal Patient Protection and Affordable Care Act changes the requirements for hospitals to qualify as nonprofit organizations. Among the new requirements, a hospital must complete a community health needs assessment every three years and adopt an implementation strategy to meet the identified community health needs. When developing a community health needs assessment, a hospital must consider input from people who represent broad interests in the community served by the hospital, including those with special knowledge or expertise in public health.

Summary: As of January 1, 2013, nonprofit hospitals must make the community health needs assessments completed for the federal government widely available to the public every three years. Unless it is contained in the community health needs assessment, a nonprofit hospital must complete a detailed description of the community served by the hospital and make it available to the public. A hospital must provide both a geographic description and a description of the general population of the community served by the hospital. In addition, the description must include specific demographic information, including leading causes of death, levels of chronic illness, and descriptions of the medically underserved, low-income, minority, or chronically ill populations.

Within a year of completing the community health needs assessment, a nonprofit hospital must complete a community benefit implementation strategy and make it widely available to the public. The community benefit implementation strategy must be developed in consultation with community-based organizations and stakeholders and local public health jurisdictions. The hospital must provide a brief explanation for not accepting recommendations for community benefit proposals identified by the stakeholder process. Implementation strategies must be evidence-based, as available, or any innovative programs and practices should be supported by evaluation measures.

Votes on Final Passage:

House	63	35
Senate	42	6

Effective: June 7, 2012

HB 2346
C 220 L 12

Removing the requirement that correctional officers of the department of corrections purchase uniforms from correctional industries.

By Representatives Walsh, Reykdal, Pearson, Hurst, Kristiansen, Nealey, McCune, Appleton, Orwall, Moscoso, Goodman, DeBolt, Rivers, Shea, Armstrong, Maxwell, Johnson, Springer, Darneille, Sells, Fitzgibbon, Eddy, Angel, Upthegrove, Kelley, Ryu, Stanford, Hudgins, Seaquist and Ormsby.

House Committee on Public Safety & Emergency Preparedness
House Committee on General Government Appropriations & Oversight
Senate Committee on Human Services & Corrections
Senate Committee on Ways & Means

Background: The Department of Corrections (DOC) provides inmate work programs through the Correctional Industries Board (Board). The Board develops and implements programs that offer inmates employment, work experience, and training, and that reduce the cost of housing inmates. To achieve these goals, the Board operates five classes of correctional industry work programs. All inmates working in class I–IV employment receive financial compensation for their work. Class V jobs are court ordered community work that is performed for the benefit of the community without financial compensation.

Class II Industries. Class II ("tax reduction") industries are state-owned and operated industries

designed to reduce the costs for goods and services for public agencies and nonprofit organizations. Industries in this class must be closely patterned after private sector industries but with the objective of reducing public support costs rather than making a profit. The products and services of this industry, including purchased products and services necessary for a complete product line, may only be sold to public agencies, nonprofit organizations, and to private contractors when the goods purchased will ultimately be used by a public agency or a nonprofit organization.

Inmates working in tax reduction industries do so by their own choice and are paid a gratuity which may not exceed the wage paid for work of a similar nature in the locality in which the industry is located. Class II gratuities range from 55 cents to $1.55 per hour and includes such jobs as: producing aluminum signs, license plates and tabs, mattresses, asbestos abatement, meat processing, optical lab, engraving, furniture manufacturing, screen printing and embroidery, industrial sewing, and laundry. Security and custody services are provided without charge by the DOC.

The DOC Correctional Officer Uniforms. The uniforms that the DOC correctional officers wear are produced by incarcerated offenders participating in one of the DOCs' class II industry programs. Correctional Industries routinely purchases all of its material supplies for the uniforms from an in-state vendor. The current fabric vendor is Top Value Fabrics, Inc., located in Edmonds, Washington. The uniforms are then sewn or manufactured at one of the DOCs' class II industry programs located at Coyote Ridge Corrections Center, Airway Heights Corrections Center, or the Clallam Bay Corrections Center.

The DOC leases the uniforms directly from its class II Correctional Industries program and supplies all needed uniforms to its correctional officers at no cost to the officer. Each correctional officer receives three short sleeve and three long sleeve shirts, three pants, a winter jacket, a summer jacket, a watch cap, a baseball cap, and duty belt (and rain gear, as necessary). All patches and emblems are included in the leasing price. Mending, repairs, replacement, and laundering of all uniforms is also are provided to each correctional officer at no cost.

Approximately 100 offenders and eight staff are employed in the class II industry program industrial sewing shops that produces correctional officer uniforms.

Summary: Incarcerated offenders under the custody of the DOC are prohibited from making or assembling uniforms worn by correctional officers employed by the DOC.

Effective July 1, 2012, the DOC is exempt from the statutory provisions that require state agencies to purchase goods and services from class II inmate work programs as it relates to uniforms for correctional officers.

Votes on Final Passage:

House	92	3	
Senate	45	3	(Senate amended)
House	92	3	(House concurred)

Effective: June 7, 2012

ESHB 2347

C 179 L 12

Concerning the possession of spring blade knives.

By House Committee on Judiciary (originally sponsored by Representatives Dammeier, Kelley, Wilcox, Van De Wege, Pearson, Hurst, Zeiger, Seaquist, Rodne, Ladenburg, Hope, Green, Klippert and Moscoso).

House Committee on Judiciary
Senate Committee on Judiciary

Background: There is a general prohibition against manufacturing, selling, or possessing certain weapons, including:

- slung shots;
- sand clubs;
- metal knuckles;
- spring blade knives;
- knives with blades that are automatically released by a spring or other mechanism; and
- knives with blades that open by the force of gravity or by a downward, outward, or centrifugal movement of the knife.

It is a gross misdemeanor to violate this prohibition. However, law enforcement officers may possess spring blade knives while on official duty, and may not be prosecuted for possession of a spring blade knife when transporting the knife to and from its place of storage.

Summary: The exemption allowing law enforcement officers to possess, transfer, and store spring blade knives for purposes of official duty is expanded to include firefighters and other rescue members, Washington State Patrol officers, and military members, and to facilitate actual use of spring blade knives. Spring blade knives may also be manufactured, sold, transported, transferred, distributed, or possessed pursuant to contracts with these actors' agencies. Manufacturer contracts with other manufacturers and commercial distributors are exempt from the prohibition against spring blade knives. Trials, testing, and other uses related to evaluation and assessment of spring blade knives by permitted users, companies, and agencies are also exempt.

The general term "spring blade knife" is used to describe the various kinds of knives prohibited in the dangerous weapons statute. Knives with a mechanism designed to create a bias toward closure of the blade that must be overcome by physical exertion are not spring blade knives.

Votes on Final Passage:

House	94	0	
Senate	47	2	(Senate amended)
House	94	0	(House concurred)

Effective: June 7, 2012

SHB 2349
C 167 L 12

Concerning the management of beavers.

By House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Kretz, Blake, Billig, Short, Hinkle, Upthegrove, Fitzgibbon and McCune).

House Committee on Agriculture & Natural Resources
House Committee on General Government Appropriations & Oversight
Senate Committee on Energy, Natural Resources & Marine Waters

Background: The Department of Fish and Wildlife (Department) has the authority to authorize the removal or killing of wildlife that is destroying or injuring property. The ultimate disposition of the removed wildlife is determined by the Director of the Department (Director). The Director may also enter into written agreements with landowners designed to protect the subject property from further wildlife damage.

Private individuals may trap beavers if they hold a state trapping license. All trapping must be conducted in accordance with the trapping seasons established by the Fish and Wildlife Commission.

Summary: The Department of Fish and Wildlife (Department) is specifically authorized to permit the release of captured beavers on public or private property if the landowner of the property consents to the release. Beaver relocations may be limited by the Department to areas of the state where there is a low probability of released beavers becoming a problem, where there is evidence of a historic endemic beaver population, and where conditions exist for the released beavers to improve the riparian area into which they are introduced.

The Department may condition beaver relocations to maximize the success and minimize the risk of the relocation. Release site conditions that the Department may consider include the gradient of the stream, the adequacy of food sources, the elevation, and the stream geomorphology. In addition, the Department may also condition how the capture and release occurs. This includes establishing the timing of the capture and release, the age of the beavers involved, the number of beavers involved, and the requirements for providing supplemental food and lodging materials.

The Department is also directed to inform a person who expresses a desire for beavers of any known location that has a surplus of beavers available. The website maintained by the Department must display a quarterly updated report of nuisance beaver activity, beaver trapping events, and all beaver relocation reported to the Department. A beaver management stakeholder's forum must be convened by the Department by January 1, 2013.

Votes on Final Passage:

House	96	0	
Senate	49	0	(Senate amended)
House	96	1	(House concurred)

Effective: June 7, 2012

SHB 2352
C 104 L 12

Concerning institutions of higher education services and activities fees.

By House Committee on Higher Education (originally sponsored by Representatives Reykdal, Fitzgibbon, Zeiger, Kenney, Maxwell, Haler, Green, Jinkins, Sells, Moscoso, Ormsby, Pollet, Billig, Anderson, Probst, Lytton, Wylie, Ladenburg, Kelley, Angel and Hunt).

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

Background: In addition to tuition fees, students at institutions of higher education are charged services and activities fees also known as "S and A" fees. These fees are dedicated to fund student activities and programs, as well as for repaying bonds and other indebtedness for facilities such as dormitories, hospitals, dining halls, parking facilities, and housing. Services and activities fees are not set by the Legislature, but state law requires that these fees may not increase faster than the rate of increase in tuition.

State statute directs that a services and activities fees committee at each institution of higher education has responsibility for proposing to the administration and the governing board the program priorities and budget levels for that portion of program budgets that derive from services and activities fees. The services and activities fees committee must have at least a majority of student members.

State statute also directs the governing boards of institutions of higher education to give priority consideration to the recommendations of the services and activities fees committee. Student representatives from the services and activities fees committee and representatives of the college or university administration must have an opportunity to address the governing board before board decisions on services and activities fees budgets are made.

The services and activities fees committee is required to evaluate existing and proposed programs and submit budget recommendations for the expenditure of those

services and activities fees with supporting documents to the college or university governing board and administration. The college or university administration is required to review the services and activities fees committee recommendations and publish a written response. This written response must outline potential areas of difference between the committee recommendations and the administration's proposed budget recommendations.

Summary: Services and activities fees committees are required to post services and activities fees expenditure information on their website. By September 30 annually, each services and activities fees committee, in coordination with the institution of higher education, must post the expenditures of services and activities fees from the previous academic year. This information must be clearly visible and easily accessible. At a minimum, the services and activities fees budget information must include all the major categories of expenditure and the amounts expended in each category.

Votes on Final Passage:

House	96	0
Senate	48	0

Effective: June 7, 2012

SHB 2354

C 105 L 12

Adding trafficking in stolen property in the first and second degrees to the six-year statute of limitations provisions.

By House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Orwall, Asay, Hurst, Upthegrove, Armstrong, Ladenburg and Kenney).

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

Background: Statutes of limitations are legislative declarations of the period after the commission or discovery of an offense within which actions may be brought on certain claims, or during which certain crimes may be prosecuted. Once a statute of limitations has expired, there is in place an absolute bar to prosecution.

Statutes of limitations vary according to the crime. In general, simple misdemeanors must be prosecuted within one year, gross misdemeanors must be prosecuted within two years, and felony offenses must be prosecuted within three years of the commission of the crime. However, the limitation period may be varied by statute, and there is no limitation on the time within which a prosecution must commence for the crimes of Murder, Homicide by Abuse, Vehicular Homicide, or for the crimes of Vehicular Assault, Hit and Run injury-accident, or Arson, if death results.

If no period of limitation is statutorily declared for a felony offense, no prosecution may be commenced more than three years after its commission.

A person is guilty of Trafficking in Stolen Property in the first degree if he or she knowingly initiates, organizes, plans, finances, directs, manages, or supervises the theft of property for sale to others or knowingly traffics in stolen property. Trafficking in Stolen Property in the first degree is a seriousness level IV, class B felony offense.

Trafficking in Stolen Property in the second degree occurs when a person recklessly traffics in stolen property. Trafficking in Stolen Property in the second degree is a seriousness level III, class C felony offense.

There is no statutorily declared statute of limitations for the crime of Trafficking in Stolen Property. Accordingly, a prosecution for this offense must be commenced within three years of its commission.

Summary: The statute of limitations is extended from three to six years for Trafficking in Stolen Property (in the first and second degree) where the stolen property is a motor vehicle or a major component part of a motor vehicle. A prosecution may be commenced up to six years after commission of the offense or after discovery of the offense, whichever is later.

Votes on Final Passage:

House	97	0
Senate	47	0

Effective: June 7, 2012

HB 2356

C 221 L 12

Concerning state capital funding of health and safety improvements at agricultural fairs.

By Representatives Warnick, Dunshee, Haigh, Buys, Van De Wege and Tharinger.

House Committee on Capital Budget
Senate Committee on Agriculture, Water & Rural Economic Development

Background: There are four statutory categories of "agricultural fairs." "Area fairs" are organized to serve an area larger than one county. "County and district fairs" are organized to serve single counties and are under the direct control of county commissioners. "Community fairs" are organized primarily to serve a smaller area than an area or county fair. "Youth shows and fairs" serve three or more counties, educate and train rural youth, and are approved by Washington State University or the Office of the Superintendent of Public Instruction. According to the Washington State Department of Agriculture (WSDA),

there are 33 county fairs, four area fairs, 17 community fairs, and 12 youth fairs.

Counties that own or lease government property and provide it for area, county, and district agricultural fairs may apply to the WSDA for "special assistance" in carrying out capital improvements on these properties. Entities other than counties are not eligible to apply, and making capital improvements to properties for community or youth fairs is not an eligible purpose of this "special assistance" funding.

From 2003-2011, $2.2 million was appropriated through biennial capital budgets to the WSDA for fair improvement grants. The WSDA used the appropriations to award grants to counties for projects such as replacing electrical wiring to comply with current codes, renovating restrooms to meet Americans with Disabilities Act requirements, demolishing and replacing an exhibit barn because of dry rot, installing parking lot lighting, and replacing wooden bleachers with aluminum bleachers.

Section 13 of the 2011-13 Capital Budget appropriates $1 million from state bonds to the WSDA for grants to support health and safety projects at county fairs.

Summary: An "agricultural fair" is defined as a fair or exhibition to promote agriculture that includes a balanced variety of livestock and agricultural product exhibits, related arts and manufactures, farm home products, and educational components.

Subject to specific appropriations, the WSDA may provide capital funding to local governments and nonprofit organizations for capital projects that make health or safety improvements to agricultural fairgrounds or fair facilities in order to benefit participants and the fair-going public.

The WSDA must provide the capital funding on a competitive basis, develop and manage contracts with the selected applicants, monitor grantee expenditures and performance, report information, and exercise due diligence.

Contract provisions must require that capital improvements be held by the grantee for a specified time period and be used for the purpose of the grant. Non-compliance with these provisions will require the grantee to repay the State General Fund the principal amount of the grant plus interest.

Votes on Final Passage:

House	97	0
Senate	47	0

Effective: June 7, 2012

SHB 2357

C 180 L 12

Concerning sales and use tax for chemical dependency, mental health treatment, and therapeutic courts.

By House Committee on Ways & Means (originally sponsored by Representatives Darneille, Kirby, Ladenburg, Green, Jinkins, Kagi and Tharinger).

House Committee on Ways & Means

Background: Retail sales and use taxes are imposed by the state, most cities, and all counties. Retail sales taxes are imposed on retail sales of most articles of tangible personal property, digital products, and some services. A retail sale is a sale to the final consumer or end user of the property, digital product, or service. If retail sales taxes were not collected when the property, digital products, or services were acquired by the user, then use taxes apply to the value of most tangible personal property, digital products, and some services when used in this state. The state sales and use tax rate is 6.5 percent. Local tax rates vary from 0.5 percent to 3 percent, depending on the location. The average local tax rate is 2 percent, for an average combined state and local tax rate of 8.5 percent.

A county mental health/chemical dependency sales and use tax of 0.1 percent was authorized in 2005. In 2010 cities within a county of more than 800,000 were also authorized to impose the tax if the county was not imposing the tax by January 1, 2011. The proceeds of the tax must be devoted to county mental health treatment, chemical dependency, and therapeutic court programs and services. This sales and use tax has been imposed in 15 counties: Clallam, Clark, Ferry, Grays Harbor, Island, Jefferson, King, Okanogan, San Juan, Skagit, Snohomish, Spokane, Thurston, Wahkiakum, and Whatcom. Total tax collections in 2010 for all counties imposing the mental health/chemical dependency sales and use tax were approximately $74 million.

Until calendar 2010, tax receipts could not supplant (replace) existing funds being used for these programs and services. This non-supplant restriction was temporarily suspended in 2010, allowing counties and cities to redirect an amount equal to 50 percent of the tax to other uses in calendar year 2010. The amount allowed to be redirected was then reduced by 10 percent for the following four years.

In 2011 the non-supplant restriction was again extended and modified as follows:

Year	Amount of Revenue That May Be Supplanted	
	Counties with population > 25,000 and cities with population > 30,000	Counties with population < 25,000
2011	Up to 50%	Up to 80%
2012	Up to 50%	Up to 80%
2013	Up to 40%	Up to 60%
2014	Up to 30%	Up to 40%
2015	Up to 20%	Up to 20%
2016	Up to 10%	Up to 10%

Also in 2011, revenues used to support the cost of a judicial officer and support staff of a therapeutic court were exempted from supplant restrictions.

Summary: A county with a population larger than 25,000 and a city with a population over 30,000 may use up to 50 percent of the mental health/chemical dependency sales and use tax to supplant existing funds in the first three calendar years in which the tax is imposed. Up to 25 percent may be used to supplant existing funds in the fourth and fifth years in which the tax is imposed. This new supplant timeline applies to jurisdictions imposing the tax after December 31, 2011.

Votes on Final Passage:

House 76 22
Senate 41 8

Effective: June 7, 2012

SHB 2360

C 206 L 12

Concerning deposit and investment provisions for the prearrangement trust funds of cemetery authorities and funeral establishments.

By House Committee on Business & Financial Services (originally sponsored by Representatives Stanford, Rivers and Ryu).

House Committee on Business & Financial Services
Senate Committee on Government Operations, Tribal Relations & Elections

Background: Cemetery Authorities' and Funeral Establishments' Prearrangement Contracts. The Department of Licensing (Department), through the Funeral and Cemetery Board (Board), is responsible for issuing certificates of authority to cemetery authorities, licensing funeral establishments, examining and auditing prearrangement trust fund records, and enforcing laws related to the funeral and cemetery industries.

A prearrangement contract is a contract for the purchase of cemetery or funeral merchandise or services or an undeveloped grave to be provided at a future date. To enter into prearrangement contracts, a funeral establishment must obtain a certificate of registration, and a cemetery authority must obtain a prearrangement sales license from the Board.

Cemetery authorities and funeral establishments that enter into prearrangement contracts must maintain a prearrangement trust fund for the benefit of contract beneficiaries. Funeral establishments may join together in a "master trust fund." For each prearrangement contract, a funeral establishment must deposit at least 90 percent of the contract price in the trust fund, and a cemetery authority must deposit 50 percent of the contract price. Cemetery authorities and funeral establishments must file a financial report regarding the prearrangement trust fund with the Board on an annual basis. The Board examines prearrangement trust funds at least once every three years.

Cemetery authorities and funeral establishments must deposit prearrangement trust funds in a public depository or in a state- or federal-chartered credit union or invest them in instruments issued or insured by the federal government. For funeral establishments, the account must be insured. Prearrangement trust funds must be named as such and may not be used as an asset.

Prudent Investor Rule. Washington's prudent investor rule requires a fiduciary investing property for the benefit of another to exercise the judgment and care under the circumstances that persons of prudence, discretion, and intelligence exercise in the management of their own affairs. The fiduciary must apply the total asset management approach, taking into consideration certain factors specified in statute. Within these limits, a fiduciary is authorized to acquire every kind of property and investment that persons of prudence, discretion, and intelligence acquire for themselves.

Summary: Prearrangement trust funds for cemetery authorities and funeral establishments must be deposited in a federal- or state-chartered commercial bank, trust company, mutual savings bank, savings and loan association, or credit union. The trust moneys must be invested in accordance with the prudent investor rule, subject to the following restrictions:

- no officer, director, trustee, or relative of an officer, director, or trustee may borrow the funds;
- no funds may be loaned to the cemetery authority or funeral establishment or their agents or employees; and

- no funds may be invested with people or business entities operating in a business field directly related to cemeteries or funeral homes.

Votes on Final Passage:

House	96	0
Senate	48	0

Effective: June 7, 2012

ESHB 2361

C 222 L 12

Concerning usage-based automobile insurance.

By House Committee on Business & Financial Services (originally sponsored by Representatives Kirby, Bailey, Kelley, Parker, Rivers, Buys, Blake, Hurst, Condotta and Pollet).

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

Background: Every person in Washington who operates a motor vehicle must be insured under an insurance liability policy, a liability bond, or a certificate of deposit or be self-insured. There are minimum amounts of liability coverage required by the financial responsibility statutes.

The Insurance Commissioner (Commissioner) oversees the business of insurance in this state. This includes the regulation of insurance rates and policies. Automobile insurance rates and forms are filed with the Commissioner and must be approved by the Commissioner prior to use by an insurer. If the Commissioner determines that filed rates are not excessive, inadequate, or unfairly discriminatory, then the Commissioner must approve them.

Automobile rates may be adjusted for any factor that is not prohibited by law. Rates are often adjusted according to factors including the driver's age, sex, marital status, miles driven, claims history, geographical area, credit history, and the make, model, and year of a vehicle. The Insurance Code (Code) requires that certain safety features and anti-theft devices must receive due consideration in a rate filing by an insurer. A senior who takes a motor vehicle accident prevention course must receive a premium reduction in a rate filing by an insurer.

The Code has provisions exempting certain information, including information filed in support of rate filings, from public inspection. Other provisions of the Code provide an exception to the exemption from public inspection for supporting information for automobile insurance rate filings. The supporting information is available for public inspection after a rate is approved and the filing becomes effective.

One area where the supporting information does not become public is when an "insurance score" or "credit score" model is used. A model that utilizes credit history as a rating factor must be filed for approval of the Commissioner but, by law, is not subject to public disclosure. There are specific disclosure requirements for actions taken by an insurer based on credit history.

"Usage-based insurance" is not defined in the Code. The phrase is sometimes used to refer to a product where an insurer rates a policyholder based on how a vehicle was driven. This may include the amount of miles, location of the driving, time the miles are driven, speed, and other driving characteristics. Generally, some type of recorder is required to supply the insurer with the information used in rating. The insurer may apply penalties or rewards based on that information which can lead to a higher or lower rate.

Event Data Recorders. In 2009 a law was enacted that regulated event data recorders (EDR law) in automobiles. A recording device is defined as an electronic system in a vehicle that preserves or records data collected by sensors or provided by other systems in the vehicle. Data on a recording device may not be accessed by anyone other than the owner of the vehicle except in the following situations:

- upon a court order for the data or pursuant to discovery;
- when consent is given by the owner or someone who would reasonably be assumed to have the consent of the owner;
- for research to improve vehicle safety as long as the owner and the vehicle remain anonymous;
- to respond to a medical emergency; and
- when the data is being used to fulfill a subscription services agreement.

Violations of the EDR law are per se violations of the Consumer Protection Act. It is a misdemeanor to improperly access data or to the sell any data from a recording device to a third party without the explicit permission of the owner.

Summary: "Usage-based insurance" is private passenger automobile coverage that uses data from any recording device or a system or business method that records and preserves data arising from the actual usage of a motor vehicle to determine rates or premiums.

Information regarding the usage-based component in a filing of usage-based insurance is confidential and must be withheld from public inspection.

Location based data may not be collected by an insurer without:

- disclosure to the insured that such information is being collected; and
- the insured's consent.

Individually identifiable usage information retrieved from a recording device may only be used or retained:

- for purposes of determining premium; or
- as allowed by the EDR law.

Individually identifiable usage information retrieved from a recording device may not be disclosed to any third party except as allowed by the EDR law.

Votes on Final Passage:

House	73	23	
Senate	38	10	(Senate amended)
House			(House refused to concur)
Senate	36	12	(Senate receded)

Effective: June 7, 2012

HB 2362

C 106 L 12

Regarding wine producer liens.

By Representatives Haler, Blake and Chandler.

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

Background: In a bankruptcy proceeding, secured claims of creditors generally have priority over unsecured claims. That is, creditors with secured claims properly filed with the bankruptcy court are paid first, reducing the amount of the debtor's assets available for satisfying the claims of creditors with unsecured interests. A secured interest may be derived from a judicial lien obtained by judgment or other equitable process, a lien created by statute, or a lien created by a contractual agreement with the debtor.

Agricultural producers and commercial fishermen can claim a lien on agricultural products delivered to a processor. These liens are first priority statutory liens called "processor liens" and are for the contract price or the fair market value of the products delivered.

A processor lien attaches to the agricultural products or fish, the processor's inventory, and the accounts receivable. The lien attaches on the date of delivery and continues without filing until 20 days after payment is due. The payment due date is deemed to be the date specified in the contract or 30 days after delivery.

A producer of grain, hay, or straw has a first priority statutory lien, called a "preparer lien," on these types of agricultural products from the date of delivery to a preparer until 20 days after payment is due. The preparer lien is for the contract price or fair market value of the product. The preparer lien attaches to both the agricultural products and the preparer's accounts receivable.

A producer or commercial fisherman claiming a processor or preparer lien may file a statement with the Department of Licensing evidencing that the lien is due and remains unpaid. In addition to other required information, the statement must include a true statement of the amount due after deductions are made for credits and offsets. If the statement is filed within 20 days of the payment due date, the lien has priority over all other liens or security interests except liens for taxes or labor perfected before the processor or preparer lien is filed. If not filed within the 20-day period, the processor or preparer lien is subordinate to a previously attached lien and to a perfected security interest.

A processor lien terminates six months after the attachment of the lien or the filing of the statement. A preparer lien terminates 50 days after the date of attachment or filing. These dates do not apply if a suit has been filed to foreclose the lien according to statutory requirements.

Vinifera grapes form the basis of most wines produced around the world. Native to Europe, the *Vinifera* variety is now grown on all continents other than Antarctica and in all major wine growing regions.

Summary: A new statutory lien, known as the wine producer lien, is created. This lien gives the grower of *Vinifera* grapes a first priority lien against the delivered grapes, the inventory of the receiving wine producer, and the wine producer's accounts receivable. The wine producer lien is established on the day that the grapes are delivered and continues, without the grape provider having to file a notice of lien, for 60 days or until the wine producer makes all due payments. The value of the lien equals either the agreed-to price in a contract, or in absence of a contract, the fair market value of the grapes delivered.

The grape producer may choose to file notice of the lien with the Department of Licensing (DOL). If notice is filed with the DOL within 60 days of grape delivery, then the lien continues in priority over all other liens or security interests other than liens for taxes and labor. If the grape producer chooses not to file notice with the DOL, then after 60 days the wine producer lien becomes subordinate to any liens attached prior to the initiation of the 60-day wine producer lien and any other perfected security interest.

Votes on Final Passage:

House	96	0
Senate	46	0

Effective: June 7, 2012

ESHB 2363

C 223 L 12

Protecting victims of domestic violence and harassment.

By House Committee on Judiciary (originally sponsored by Representatives Goodman, Kenney, Orwall, Darneille, Ryu, Roberts, Appleton, Dickerson, Ladenburg, Reykdal, Jinkins, Santos and Kagi).

House Committee on Judiciary
Senate Committee on Human Services & Corrections

Background: Confidentiality in Court Proceedings Involving Domestic Violence. *Address Confidentiality Program.* The address confidentiality program allows

people meeting certain criteria to apply to the Secretary of State for a separate address designated as the person's public address in order to keep his or her actual address confidential. Addresses may be designated for people who have good reason to believe that they are victims of domestic violence, sexual assault, trafficking, or stalking, and are in fear for their safety. People may apply on their own behalf or on behalf of a minor or incapacitated person meeting these criteria. Addresses may also be designated for applicants who are targets of threats or harassment because of their involvement in the criminal justice system.

A court order for disclosure of address confidentiality program participant information may only be issued upon a finding of probable cause that release is necessary for a criminal investigation or to prevent immediate risk to a minor.

Family Law Proceedings. In cases involving domestic violence or child abuse, if residential time is ordered, the court may order the exchange of the child to occur in a protected setting. In extreme cases, the court may order the use of supervised visitation or safe exchange centers. If a parent who is seeking to relocate a child is an address confidentiality program participant, the notice of intended relocation need not contain protected information.

Criminal No-Contact and Civil Protection Orders. There are several kinds of orders that limit respondents' contact with victims. No-contact orders are commonly issued as part of criminal proceedings, and civil protection orders are available regardless of whether a criminal case is pending. With some limited exceptions, orders must be entered into a computer-based criminal intelligence system to notify law enforcement of the existence of the order. Generally, violation of a protection order or no-contact order is a gross misdemeanor. Violation of some orders is a class C felony if the restrained person has two prior convictions for violations or the violation involves Reckless Endangerment or Assault.

Domestic Violence. Civil domestic violence protection orders are available to those who have suffered physical harm, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking by a family or household member. In addition to restraining further acts of domestic violence, an order may prohibit a perpetrator from contacting his or her victim or knowingly coming within a specified distance of a location.

Additionally, no-contact orders may be issued in criminal cases involving domestic violence. They may be issued before, after, or concurrently with civil protection orders. No-contact orders automatically expire at arraignment (unless extended or reissued), upon dismissal or acquittal, or upon termination of the sentence or elimination of that condition of the sentence. These orders may also be entered telephonically and reduced to writing soon thereafter if there is no outstanding restraining or protective order already in place.

Harassment. Civil antiharassment protection orders are available to those who have been seriously alarmed, annoyed, or harassed by a course of conduct which serves no legitimate or lawful purpose. The petitioner does not need to establish that he or she had any sort of special relationship with the respondent. In order to prevent irreparable injury, the court may issue an ex parte temporary antiharassment order that will last for a fixed period not to exceed 14 days, or 24 days if the court has permitted service by publication. Upon a hearing, the court may order a full civil antiharassment protection order. These orders last for one year unless the court deems that it is likely that the harassment will resume when the order expires, in which case the order may last for a fixed time longer than one year or be permanent. Willful violation of an antiharassment protection order is a gross misdemeanor.

No-contact orders in criminal proceedings for harassment are ordered in much the same way as domestic violence no-contact orders. An intentional violation of such a court order is a misdemeanor. Willful violation of a harassment-based post-conviction no-contact order is also a misdemeanor.

Confidentiality Standards for Domestic Violence Fatality Review Panels. The Domestic Violence Fatality Review (DVFR) was formed in 1997, and began reviewing domestic violence fatality cases in 1998. In 2000 legislation was enacted to establish the fatality review process in statute. The Department of Social and Health Services (DSHS) contracts with the Washington State Coalition Against Domestic Violence to coordinate the review of domestic violence fatalities.

Oral and written communication and documents shared within or produced by a regional domestic violence fatality review panel are confidential and not subject to disclosure or discovery by a third party. The representatives on a regional domestic violence fatality review panel are immune from civil liability for any activity related to reviews of particular fatalities as a result of good faith actions within established parameters and protocols.

As of 2011, in addition to the existing authority to convene regional domestic violence fatality review panels, the DVFR is authorized to convene statewide issue-specific review panels, gather information for use in those panels, and to provide training and technical assistance to the issue-specific panels.

Domestic Violence Perpetrator Treatment. Washington law provides that a court may order a defendant (or respondent) to participate in a domestic violence perpetrator treatment program when he or she is convicted of a domestic violence offense or is found to have committed domestic violence for the purposes of a domestic violence protection order. State law provides minimum requirements for the goals and curriculum of domestic violence treatment programs and directs the DSHS to adopt rules for the certification and regulation of individual programs. Certified domestic violence

perpetrator treatment programs are provided by private organizations.

Summary: Confidentiality in Court Proceedings Involving Domestic Violence. *Non-disclosure of Victim Location Information in Dissolution Proceedings.* At the initial hearing in a dissolution action in which the court has made a finding of domestic violence or child abuse, the court may not require a victim of domestic violence or the custodial parent of a victim of child abuse to disclose to the other party information that would reasonably be expected to enable the perpetrator to obtain previously undisclosed information about the victim's residence, employer, or school. In subsequent hearings, the court must carefully weigh the safety interests of the victim before issuing an order that would require disclosure.

In cases in which domestic violence or child abuse has been alleged but the court has not made a finding regarding the allegations, the court must give the alleging party the opportunity to prove the allegations before ordering the disclosure.

Confidentiality of Domestic Violence Program Information. No court or administrative body is permitted to compel a person to disclose the name, address, or location of a domestic violence program absent a finding by clear and convincing evidence that disclosure is necessary for the implementation of justice. In considering whether disclosure is necessary, the court must first consider the safety and confidentiality concerns of the parties and other residents of the domestic violence program, and other alternatives to disclosure that would protect the parties' interests. The domestic violence program must be provided with notice of the request for disclosure and an opportunity to respond. If disclosure is ordered, the court must additionally prohibit further dissemination and must seal the records containing the information.

It is a gross misdemeanor to obtain access to and willfully and maliciously release confidential information regarding the location of a domestic violence program for any purpose other than as required by a court proceeding.

Address Confidentiality Program and Family Law Proceedings. Family courts must comply with the requirements of the address confidentiality program in the course of all proceedings.

Antiharassment Protection Orders and No-Contact Orders. A defendant arrested for violating any civil antiharassment protection order must appear in person within one judicial day of arrest, at which time the court will determine the necessity of imposing a no-contact order or conditions on pretrial release. A defendant who is charged by citation, complaint, or information and not arrested must appear in court for arraignment within 14 days.

An out of custody defendant who is subject to a no-contact order pursuant to a pending criminal charge for harassment violates court ordered restrictions on contact with the victim if the violation is "willful" rather than "intentional."

The penalty for violation of a no-contact order pursuant to final disposition of a harassment case is raised from a misdemeanor to a gross misdemeanor.

Domestic Violence No-Contact Orders. A no-contact order in a criminal case involving domestic violence may be issued or extended even when the defendant fails to appear at arraignment as long as the court finds probable cause.

No-contact orders that are issued prior to charging and expire at arraignment, or within 72 hours in absence of charging, no longer qualify for exemption from entry into the criminal intelligence information system.

Domestic Violence Fatality Review Panels. Statewide review panels are subject to the same confidentiality standards and are allowed the same immunity as regional review panels.

Washington State Institute of Public Policy Study. The Washington State Institute of Public Policy must conduct a study to assess recidivism by domestic violence offenders and assess domestic violence perpetrator treatment. A report of the results is due to the Legislature by January 1, 2013.

The study provision is null and void unless funded in the budget.

Votes on Final Passage:

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

Effective: June 7, 2012

ESHB 2366

C 181 L 12

Requiring certain health professionals to complete education in suicide assessment, treatment, and management.

By House Committee on Health Care & Wellness (originally sponsored by Representatives Orwall, Bailey, McCune, Jinkins, Upthegrove, Maxwell, Ladenburg, Kenney, Van De Wege and Darneille).

House Committee on Health Care & Wellness
House Committee on Ways & Means
Senate Committee on Health & Long-Term Care

Background: Suicide Assessment, Treatment, and Management Training Programs. According to the United States Centers for Disease Control and Prevention, suicide is the tenth leading cause of death nationally. Suicide assessment, treatment, and management training programs help participants identify individuals at risk of suicide and perform prevention-related services. The American Foundation for Suicide Prevention (AFSP) and the Suicide

Prevention Resource Center (SPRC) jointly created a best practices registry that contains programs rated on accuracy of content, likelihood of meeting objectives, programmatic guidelines, and messaging guidelines. Programs listed on the best practices registry are not necessarily endorsed or recommended by the AFSP or the SPRC, but are intended to be used as an information source as part of a prevention planning process.

Continuing Education Requirements for Certain Mental Health Professionals. All health professions are subject to at least four hours of Acquired Immune Deficiency Syndrome (AIDS) education prior to licensure and have varying requirements for continuing education.

- Certified counselors and certified advisors must complete at least 36 hours of continuing education every two years.
- Certified chemical dependency professionals must complete at least 28 hours of continuing education every two years.
- Licensed marriage and family therapists, mental health counselors, and social workers must complete at least 36 hours of continuing education every two years.
- Licensed occupational therapy practitioners (includes both occupational therapists and occupational therapist assistants) must complete at least 30 hours of continuing education every two years.
- Licensed psychologists must complete at least 60 hours of continuing education every three years.

Summary: Beginning January 1, 2014, the following health professions must complete training in suicide assessment, treatment, and management every six years as part of their continuing education requirements:

- certified counselors and certified advisors;
- certified chemical dependency professionals;
- licensed marriage and family therapists, mental health counselors, and social workers;
- licensed occupational therapy practitioners;
- licensed psychologists; and
- persons holding a retired active license in any of the affected professions.

The first training must be completed during the first full renewal period after initial licensure or the effective date of the act, whichever is later. A person is exempt from the first training if he or she can demonstrate completion, no more than six years prior to initial licensure, of a six-hour training program in suicide assessment, treatment, and management on the best practices registry of the AFSP and the SPRC.

The training must be approved by the relevant disciplining authority and must include the following elements: suicide assessment, including screening and referral, suicide treatment, and suicide management. A disciplining authority may approve a training program that does not include all of the elements if the element is inappropriate for the profession in question based on the profession's scope of practice. A training program that includes only screening and referral must be at least three hours in length. All other training programs must be at least six hours in length.

A disciplining authority may specify minimum training and experience necessary to exempt a practitioner from the training requirement. The Board of Occupational Therapy may exempt its licensees from the requirements by specialty if the specialty in question does not practice primary care and has only brief or limited patient contact. A state or local government employee, or an employee of a community mental health agency or a chemical dependency program, is exempt from the training requirements if he or she has at least six hours of training in suicide assessment, treatment, and management from his or her employer; the training may be provided in one six-hour block or in shorter segments at the employer's discretion.

The relevant disciplining authorities must work collaboratively to develop a model list of training programs to be reported to the Legislature by December 15, 2013. When developing the list, the disciplining authorities must:

- consider suicide assessment, treatment, and management training programs on the best practices registry of the American Foundation for Suicide Prevention and the Suicide Prevention Resource Center; and
- consult with public and private institutions of higher education, experts on suicide assessment, treatment, and management, and affected professional associations.

The Secretary of Health must conduct a study evaluating the effect of evidence-based suicide assessment, treatment, and management training on the ability of a licensed health care professional to identify, refer, treat, and manage patients with suicidal ideation. The study must, at a minimum:

- review available research and literature regarding the relationship between completion of the training and patient suicide rates;
- assess which licensed health care professionals are best situated to positively influence the mental health behavior of individuals with suicidal ideation;
- evaluate the impact of suicide assessment, treatment, and management training on veterans with suicidal ideation; and
- review curricula of health profession programs offered at state educational institutions regarding suicide prevention.

In conducting the study, the Secretary of Health may collaborate with other health profession disciplinary boards and commissions, professional associations, and

other interested parties. A summary of the findings of the study must be reported to the Legislature no later than December 15, 2013.

The act may be known and cited as the Matt Adler Suicide Assessment, Treatment, and Management Training Act of 2012.

Votes on Final Passage:

House	92	5	
Senate	48	0	(Senate amended)
House	96	0	(House concurred)

Effective: June 7, 2012

SHB 2367

C 107 L 12

Regarding the dairy products commission.

By House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Buys, Lytton, Chandler, Blake, Fagan, Wilcox and Overstreet).

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

Background: The Dairy Products Commission (Commission) is an agricultural commodity commission that exists to enhance the reputation and image of Washington's agriculture industry, increase the sale and use of Washington's dairy products in local, domestic, and foreign markets, protect the public by educating in reference to the quality, care, and methods used in the production of Washington's dairy products, increase the knowledge of the health-giving qualities and dietetic value of dairy products, and support and engage in programs or activities that benefit the production, handling, processing, marketing, and uses of dairy products produced in Washington.

The Commission is composed of up to nine members. Seven members must be producers of dairy products and represent a geographical district in the state. The two additional members are a dairy products dealer and the Director of the Department of Agriculture (Director). The Director is responsible for making all appointments to the Commission from candidates who are nominated from local dairy producers. A candidate must forward a letter to the Director outlining his or her interest in serving on the Commission. If more than two candidates are nominated, then the Director must hold an advisory vote that solicits the opinion of the dairy producers in the district where the vacancy has occurred. The Director may select one of the nominated candidates or refuse to appoint all of the candidates and request a new round of nominations and advisory groups.

Each dairy producer member of the Commission must be a citizen and resident of this state and the district which he or she represents and have been actually engaged as an owner or shareholder in producing dairy products within this state for the five years preceding his or her election. The dealer member must be actively engaged as a dealer in dairy products or employed in a dealer capacity as an officer or employee at management level in a dairy products organization.

The Commission has the administrative authority to determine the geographic districts of the state. The boundaries of the Commission districts must, with some exception, assure that each producer has representation on the Commission which is reasonably equal with the representation afforded all other producers by their commission members. The Commission currently has seven districts:

1. Eastern Washington;
2. Central Washington;
3. Northern Whatcom County;
4. Southern Whatcom/Northern Skagit counties;
5. Southern Puget Sound and the Olympia Peninsula;
6. Northern Puget Sound; and
7. Southeast Washington.

Summary: Administrative changes to the composition of the Dairy Products Commission (Commission) and the commissioner nomination process are made. The administratively determined existing seven regions are changed to four statutorily created regions. In addition to the four Commission members representing geographic districts, the Commission is served by one member serving at-large from western Washington, one at-large member from eastern Washington, and a final member that serves at-large from the entire state. The Commission maintains the authority to adjust the statutorily created districts. A review of the district boundaries and areas must be completed every five years.

A timeline and process for making appointments to the redistricted Commission are provided. The re-appointment process provides new, staggered term expiration dates to ensure minimal annual disruption among Commission members. All existing members of the Commission are retained and assigned to either one of the district-specific positions or one of the at-large positions. All future nominees must actually have part of their professional activities occur in Washington.

In addition to the nine required Commission members, the Commission may also allow for the appointment of additional dealer members and up to three non-voting Commission members. The non-voting members must bring the Commission an expertise in marketing, operations, or other subjects relevant to the work of the Commission. Non-voting members serve one-year renewable terms.

In making nominations, the Director of the Department of Agriculture (Director) is not required to conduct an advisory vote if there are only two nominees. The Director also has the discretion to waive the requirement that all nominees submit a letter of interest. The

options for the Director regarding nominees remain the same. However, if the Director rejects all nominees, and no new candidates are nominated within 30 days of a request for new nominees, the Director may directly nominate candidates for an advisory vote.

Votes on Final Passage:

House	96	0
Senate	47	0

Effective: June 7, 2012

E2SHB 2373

C 261 L 12

Concerning the state's management of its recreational resources.

By House Committee on Ways & Means (originally sponsored by Representatives Van De Wege and Tharinger).

House Committee on General Government Appropriations & Oversight
House Committee on Ways & Means

Background: The Washington State Parks system, the fourth oldest in the nation, includes 116 developed parks on over 100,000 total acres. The system sees well over 40 million visitors each year, with many using one of the thousands of modern camping sites or other overnight accommodation options, holding events with use of group facilities, or using the parks for day-use recreating purposes.

The Washington Department of Fish and Wildlife (WDFW), the Washington State Department of Natural Resources (DNR), and the Washington State Parks and Recreation Commission (State Parks) are charged with managing the public lands of the state. The WDFW owns or manages nearly one million acres of public land for fish and wildlife, habitat conservation, and wildlife-related recreation. The DNR protects and manages 5.6 million acres of state-owned land.

Until July 1, 2011, there was no charge to the public for access to both the DNR or the State Parks land and recreation sites. The WDFW charged $10 for the annual fish and wildlife lands vehicle use permit, or the permit was provided free of charge with all hunting and fishing licenses.

The State Parks have historically been funded at varying levels from the State General Fund. In response to reductions in State General Fund support and in an effort to make the State Parks self-supporting, agency request and subsequently enacted legislation in 2011 created the Discover Pass permit as a way to increase contributions from users. In 2009 legislation was enacted creating the opt-out donation program, a $5 option made at the time an owner registers a vehicle with the Department of Licensing (DOL), and used to support the maintenance and operation of the State Parks.

Discover Pass Permit. The Discover Pass allows for vehicle access in designated recreational areas located on much of the state lands owned or managed by the DNR, the WDFW, and the State Parks. The Discover Pass is the only pass needed to access recreational sites such as trailheads, parking areas, winter recreation areas, boat launches, and water trails. Visitors wishing to park on state recreational lands must obtain an annual Discover Pass or a day-use permit allowing vehicle access.

The Discover Pass permit is valid for one vehicle for 12 months from the point of purchase at a cost of $30, while a day-use permit costs $10. Every four years, the Office of Financial Management must review the cost of the permits and recommend to the Legislature any adjustment to account for inflation.

A Discover Pass permit can be purchased through the DOL at the time of vehicle registration, through the WDFW's automated licensing system, over the telephone, at nearly 600 retail sporting goods and recreational license dealers, at agency headquarters in Olympia, or at the actual park. Dealer and transaction fees apply in an effort to recover costs of marketing and processing permits at their full cost.

A Discover Pass or day-use permit must be visible in a vehicle. Failure to display the Discover Pass or the day-use permit is a natural resource infraction with a penalty of $99. If an annual Discover Pass is purchased within 15 days after notice of an infraction, the penalty is reduced to $59. The agencies are authorized to delegate and accept enforcement authority under the Interlocal Cooperation Act.

Exemptions. A Discover Pass or day-use permit is not required in the following circumstances:

- when camping at a state park;
- when parked in a designated 30-minute short-term parking area;
- for holders of certain hunting and fishing licenses on the WDFW recreation lands and water-access sites. For those individuals, a "vehicle access pass" is required for vehicle access to the WDFW lands and boat launches;
- portions of the DNR land considered not to be for recreational purposes; and
- persons or entities who use, possess, or enter lands owned or managed by the WDFW, the DNR, and the State Parks for purposes consistent with a written authorization from the respected agency, including but not limited to leases, contracts, and easements.

State parks may be made available for access without a Discover Pass or day-use permit for up to 12 days a year.

A complimentary Discover Pass must be provided to a volunteer who performs 24 hours of service on agency-sanctioned volunteer projects in a year.

The Annual Natural Investment Permit is allowed in lieu of the Discover Pass or day-use permit at the State

Parks' designated boat launch sites. Similarly, the Sno-Park Seasonal permit is allowed in lieu of the Discover Pass or day-use permit at designated Sno-Parks between November 1 and March 31 of each year.

Proceeds from Discover Pass. Revenue from the Discover Pass and day-use permits is deposited into the Recreation Access Pass Account. The first $71 million in revenue is distributed as follows:

- 8 percent is deposited into the State Wildlife Account (WDFW);
- 8 percent is deposited into the Park Land Trust Revolving Account (DNR); and
- 84 percent is deposited into the State Parks Renewal and Stewardship Account.

Revenue to the State Parks is intended to recover the loss of State General Fund support. Each agency is allowed broad uses for its portion of the overall revenue, with proceeds generally directed towards the maintenance and operations of its respective lands.

All revenues exceeding $71 million each fiscal biennium are distributed equally amongst the agencies.

The Discover Pass and day-use permit are not considered a fee under the Recreational Immunity Statute for purposes of liability.

Summary: The definition of what is considered recreation land is expanded to specifically include all state land and state forest lands, other than aquatic, managed by the Washington State Department of Natural Resources (DNR).

A Family Discover Pass is made available for $50 and may be transferred to any vehicle.

The Discover Pass becomes valid for 12 months upon marking for activation, which may differ from when the Discover Pass is purchased. Each Discover Pass, in addition to a Vehicle Access Pass, is required to contain space for two vehicle license plate numbers to be written on the pass. No agency is permitted to refund money for either pass prior to the effective date.

Locations in which the Discover Pass and day-use permit are or may be currently available are codified, in addition to the Department of Licensing (DOL) service centers, county auditors, or other agents and subagents of the DOL. The State Parks is authorized to use unstaffed collection stations for fee collection. The DNR, the Washington Department of Fish and Wildlife (WDFW), and the State Parks have responsibility for delivering the Discover Pass to the purchaser.

The State Parks is required to provide 12 free access days each year and, when practicable, coordinate those days with National Park Service free days.

Several exemptions to the requirement for a Discover Pass or day-use permit are added, and include any person who has secured the authority to access specific recreation land through payment to the WDFW, the DNR, or the State Parks.

The $5 opt-out donation to the State Parks included with annual vehicle registrations is expanded to include the following vehicle types: mopeds, off-road vehicles, private use single-axle trailers, snowmobiles, and on trucks, buses, and for-hire vehicles with a gross weight of less than 12,000 pounds.

Votes on Final Passage:

House	54	44	
Senate	30	17	(Senate amended)
House	60	37	(House concurred)

Effective: March 30, 2012

ESHB 2384

C 108 L 12

Regulating personal vehicle sharing programs.

By House Committee on Business & Financial Services (originally sponsored by Representatives Hudgins, Bailey, Kirby, Condotta, Pedersen, Ryu, Fitzgibbon, Moscoso, Stanford, Upthegrove, Billig, Liias and Ladenburg).

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

Background: Every person in Washington who operates a private passenger motor vehicle must be insured under an insurance liability policy, a liability bond, or a certificate of deposit or be self-insured. The minimum amounts of liability coverage required by the financial responsibility statutes are:

- $10,000 in coverage for damage to another's property;
- $25,000 in coverage for injuries to any one other person; and
- $50,000 in aggregate coverage for injuries to all other persons involved.

There are mandatory offerings of personal injury protection coverage and underinsured automobile coverage. There are a number of other types of coverage that can be offered by an automobile insurer. Insurers may offer any type of coverage in any amount that is filed with and approved by the Insurance Commissioner (Commissioner). Automobile insurance rates and forms are filed with the Commissioner and must be approved by the Commissioner prior to use by an insurer. If the Commissioner determines that filed rates are not excessive, inadequate, or unfairly discriminatory, then the Commissioner must approve them.

Automobile rates may be adjusted for any factor that is not prohibited by law. Rates are often adjusted according to factors including the driver's age, sex, marital status, miles driven, claims history, geographical area, credit history, and the make, model, and year of a vehicle.

An insurer may refuse to insure, cancel, or non-renew an insurance policy for any reason that is not prohibited by law.

Summary: Definitions. An "owner's insurance policy" is an automobile liability insurance policy that includes all coverage necessary to comply with statutory requirements and any optional coverage selected by the registered owner, including personal injury protection coverage, underinsured coverage, comprehensive property damage coverage, and collision property damage.

"Personal vehicle sharing" is the use of a private passenger motor vehicle by persons other than the vehicle's registered owner in connection with a personal vehicle sharing program.

"Personal vehicle sharing program" (program) is a legal entity qualified to do business in this state that facilitates the sharing of private passenger motor vehicles for noncommercial use by individuals within this state.

Insurance Requirements. For each vehicle used in personal vehicle sharing, a program must provide insurance coverage for the vehicle and all persons who, with the consent of the program, use the motor vehicle. The limits for coverage must be not less than three times the minimum statutorily required limits. A program may not provide collision or comprehensive coverage that is less than the actual cash value of the vehicle. The owner must be given the option to buy underinsured motorist coverage and personal injury protection coverage.

Personal Vehicle Sharing Program Requirements. A program must:

- provide the vehicle's registered owner with a proof of compliance with all insurance requirements that includes the choices the owner made regarding optional coverages;
- not knowingly permit the vehicle to be operated as a commercial vehicle by a personal vehicle sharing user while engaged in personal vehicle sharing;
- ensure that the vehicle is a private passenger motor vehicle;
- facilitate the installation, operation, and maintenance of its own signage and any computer hardware and software requested by the owner that is necessary for the vehicle to be used in the program; and
- indemnify and hold harmless the vehicle's registered owner for the cost of damage or theft of equipment installed by the program and any damage caused to the vehicle by the installation, operation, or maintenance of the equipment.

Disclosure. A program must provide a vehicle's registered owner and any person operating the vehicle in a program with a notice that discloses:

- the legal requirements for a program;
- the coverages and coverage limits provided under the program's insurance policy;
- that the vehicle owner's insurer has no duty to defend or indemnify for any loss that occurs during use of the vehicle under the program; and
- that the vehicle owner or a person operating the vehicle under the program may have liability for claims that exceed the limits of the program insurance policy.

Recordkeeping. A program must collect and maintain records:

- when the vehicle is under the control of a person other than the vehicle's registered owner under the program. There are additional requirements if those records are electronic records; and
- when an insurance claim has been filed, any and all information concerning accidents, damages, or injuries arising out of personal vehicle sharing under the program.

These records must be made available to the vehicle's registered owner, the vehicle's registered owner's primary automobile liability insurer, and any government agency as required by law.

Liability. Notwithstanding an owner's insurance policy or the financial responsibility laws, a program assumes all liability of the vehicle owner for any loss or injury that occurs when the vehicle is under a program and is considered the vehicle owner for all purposes.

The provisions of the act do not limit:

- the liability of a program for any acts or omissions by the program that result in injury to any persons as a result of the use or operation of the program; or
- the ability of the program to, by contract, seek indemnification from the vehicle's registered owner for any claims paid by the program for any loss or injury resulting from fraud or material intentional misrepresentation in the maintenance of the vehicle by the vehicle's registered owner except in specific circumstances.

A program continues to be liable until:

- the vehicle is returned to a location designated by the program; and
- (1) the time period established for the vehicle sharing expires; (2) the intent to terminate the use of the vehicle in the program is verifiably communicated to the program; or (3) the vehicle's registered owner takes possession and control of the vehicle.

A program must assume liability for a claim in which a dispute exists as to who was in control of a private passenger motor vehicle when the loss giving rise to the claim occurred.

If a vehicle's registered owner was in control of the vehicle at the time of the loss, the insurer of the vehicle must indemnify the program to the extent of the insurer's obligation under the owner's insurance policy.

If a private passenger motor vehicle's registered owner is named as a defendant in a civil action for any loss or injury that occurs at any time when the vehicle is under the operation or control of a person, other than the vehicle's registered owner, pursuant to a program, or is otherwise under the control of a program, the program has the duty to defend and indemnify the vehicle's registered owner.

Notwithstanding any provision in the owner's insurance policy, while the vehicle is under the operation or control of a person, other than the vehicle's registered owner, under a program, or is otherwise under the control of a program:

- the insurer providing coverage to the owner of a private passenger motor vehicle may exclude coverage afforded under the owner's insurance policy; and
- a primary or excess insurer of the owners, operators, or maintainers of the vehicle may notify an insured that the insurer has no duty to defend or indemnify any person or organization for liability for any loss that occurs during use of the vehicle pursuant to a program.

Provisions Impacting the Owner and the Owner's Insurer. An owner's insurance policy may not be canceled, rescinded, or non-renewed solely because an owner's vehicle has been in a program.

A private passenger motor vehicle may not be classified by an insurer as a commercial or a for-hire motor vehicle solely because the vehicle's registered owner allows the vehicle to be used for personal vehicle sharing if:

- the personal vehicle sharing is conducted under a program; and
- the annual revenue received by the vehicle's registered owner generated by the personal vehicle sharing does not exceed the annual cost of owning and operating the vehicle.

The provisions of the act apply to automobile liability insurance policies issued or renewed on or after January 1, 2013.

Votes on Final Passage:

House	73	23
Senate	44	4

Effective: June 7, 2012

SHB 2389

C 182 L 12

Modifying the submission dates for economic and revenue forecasts.

By House Committee on Ways & Means (originally sponsored by Representative Orcutt).

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

Background: The Economic and Revenue Forecast Council (ERFC) is an independent agency responsible for providing the state economic and revenue forecasts. Four times each year the ERFC must prepare an official state economic and revenue forecast. The forecasts are submitted to the Governor and Legislature on or before November 20, February 20 in even numbered years, March 20 in odd numbered years, June 20 and September 20.

Summary: The submittal dates for the June and September economic and revenue forecasts are moved from the twentieth to the twenty-seventh day of the month.

Votes on Final Passage:

House	96	0
Senate	46	0

Effective: October 1, 2012

HB 2393

C 109 L 12

Concerning employer reporting to the state support registry.

By Representatives Rodne, Pedersen, Moscoso and Condotta; by request of Department of Social and Health Services.

House Committee on Judiciary
House Committee on Health & Human Services Appropriations & Oversight
Senate Committee on Human Services & Corrections

Background: As a condition of receiving federal funds for Temporary Assistance for Needy Families and the state's child support enforcement program, states must comply with federal requirements regarding child support laws.

For the purposes of enforcing child support obligations, states must have employer "new hire reporting" requirements. The new hire reporting requirements have been in effect since the 1990s.

All employers doing business in Washington must report to the state support registry (registry) the hiring of any new employee and the rehiring of any employee who was laid off, furloughed, separated, granted a leave without pay, or terminated from employment. The employer must provide the employee's name, Social Security number, and date of birth. Employers may report by mailing a copy of the employee's W-4 form or by other means authorized by the registry, including electronically.

The registry retains information on an employee only if the registry is responsible for establishing, enforcing, or collecting a support debt of the employee. The registry may keep information on an employee for as long as may be necessary to share the information with the national directory of new hires as required under federal law or to provide the information to other state agencies for

comparison with records possessed by those agencies. For example, the Employment Security Department obtains information in the new hire registry to help monitor the unlawful collection of unemployment benefits. Information that is not permitted to be retained is destroyed.

In 2011 federal legislation was enacted requiring states to amend their new hire reporting registry laws in two ways: (1) employers must report the employee's hire date; and (2) states must use the federal law's definition of "newly-hired employee."

Summary: Employers must report to the state support registry (registry) the hiring of any person who has not previously been employed by the employer or who was previously employed by the employer but has been separated from that employment for at least 60 consecutive days. Employers must report the date the employee first performed services for pay.

Employers must report, to the extent practicable, by W-4 form, or at the option of the employer, an equivalent form, and may mail the form, or may transmit it electronically, or by other means authorized by the registry.

Votes on Final Passage:

House	97	0
Senate	49	0

Effective: June 7, 2012

HB 2420

C 207 L 12

Repealing the requirement for a study and report concerning direct practices that the office of the insurance commissioner must provide to the legislature.

By Representatives Cody, Roberts and Upthegrove; by request of Insurance Commissioner.

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

Background: A direct patient-provider primary care practice (direct practice) is a health care provider or a group of health care providers that furnishes primary care services through a direct agreement with a patient. Under the direct agreement, the direct practice charges a monthly fee in exchange for being available to provide primary care services to the patient. While direct practices are not insurance carriers, they are required to register annually with the Office of the Insurance Commissioner (OIC).

The Insurance Commissioner (Commissioner) reports annually to the Legislature on direct practices including participation trends, complaints received, voluntary data reported by the direct practices, and any necessary modifications to the law on direct practices.

In addition to the annual reports, the Commissioner is required to submit to the Legislature, by December 1, 2012, a study of direct practices. This study must include an analysis of the extent to which direct practices:

- improve or reduce access to primary health care services;
- provide adequate protection for consumers;
- increase premium costs for individuals covered through traditional health insurance;
- impact a health carrier's ability to meet network adequacy standards; and
- cover a population different from that covered through traditional health insurance.

The study must also examine the extent to which participation in a direct practice maintains health coverage for conditions not covered by the direct practice. The Commissioner must make recommendations to the Legislature on whether direct practice authority should be continued, modified, or repealed.

Summary: The requirement is repealed for the Commissioner to submit a 2012 study on direct practices to the Legislature.

Votes on Final Passage:

House	98	0
Senate	49	0

Effective: June 7, 2012

SHB 2422

C 63 L 12

Supporting the development of aviation biofuels production.

By House Committee on Technology, Energy & Communications (originally sponsored by Representatives Billig, Haler, Stanford, McCoy, Maxwell, Eddy, Nealey, Crouse, Probst, Liias, Parker, Van De Wege, Upthegrove, Ormsby, Kenney, Morris and Moscoso).

House Committee on Technology, Energy & Communications
House Committee on Capital Budget
Senate Committee on Energy, Natural Resources & Marine Waters

Background: Sustainable Aviation Fuels Northwest. Sustainable Aviation Fuels Northwest (SAFN) is the regional stakeholder effort to explore the opportunities and challenges surrounding the production of sustainable aviation fuels. Led by Alaska Airlines, the Boeing Company, the Ports of Seattle, Portland, and Spokane, and the Washington State University, the SAFN includes more than 40 organizations ranging across aviation, biofuels production, environmental advocacy, agriculture, forestry, federal and state government agencies, academic research, and technical consultancies. In May 2011 the SAFN released a report which concluded, among other things, that the Northwest offers significant assets to meet a

portion of jet fuel demands from sustainable regional feedstocks.

State Energy Strategy. The 2012 State Energy Strategy, prepared by the Department of Commerce (Department), is designed to promote a clean energy economy, competitive energy prices, and lower greenhouse gas emissions. Among other things, the strategy highlights Washington's unique opportunity to become a hub for the production and use of sustainable biofuels for aviation.

Project of Statewide Significance. Since 1997 a statutory process has existed to expedite completion of projects of statewide significance. These projects include: (1) border crossings that involve private and public investments in conjunction with adjacent states or provinces; (2) development projects with net environmental benefits; (3) development projects furthering commercialization of innovations; and (4) private industrial development with investment in manufacturing or research and development.

To be designated by the Department as a project of statewide significance, the project must meet certain criteria, including requirements related to capital investment, job creation, or merit because of impacts on the economic circumstances of a county, innovation activities, or the environment. In rural counties, the projected number of full-time jobs to be created must be 50 or more. In non-rural counties, the projected number of full-time jobs must be 100 or more.

To apply for designation, a project proponent's application must be accompanied by a letter of approval from the local jurisdiction. The letter of approval must state that the local jurisdiction joins in the request and has or will hire the staff required to expedite the process. Local officials must enter in an agreement with the Office of Regulatory Assistance (ORA) that includes provisions for expedited permit processing, expedited environmental review, and local participation on the team assembled by the ORA.

Washington State Housing Finance Commission. The Washington State Housing Finance Commission (HFC) was created by the Legislature to assist in making affordable and decent housing available throughout the state. Federal law authorizes state housing finance agencies to issue tax-exempt revenue bonds to fund low-cost housing assistance. The HFC does not use public funds, nor does it lend the credit of the state. The HFC has a $6 billion statutory debt limit and currently has $3.8 billion in outstanding indebtedness. In 2009 legislation authorized the HFC, if economically feasible, to issue bonds that may be used to provide financing for energy efficiency and renewable energy improvement projects.

Summary: Projects of Statewide Significance. Aviation biofuels production facilities are added to the definition of "project of statewide significance." However, aviation biofuels production facilities are exempted from meeting project of statewide significance qualification requirements relating to the amount of capital investment, the level of post-construction employment, or the designation of the facility by the Department as a project of statewide significance.

Washington State Housing Finance Commission. The HFC is authorized to issue bonds, make or purchase loans, or enter into financing documents for the purpose of financing facilities that are primarily for the production, processing, or handling of aviation biofuels or the nonfossil biogenic feedstocks of such fuels. Financing documents are defined as a lease, sublease, installment sale agreement, conditional sale agreement, loan agreement, mortgage, deed of trust guaranty agreement, or other agreement for the purpose of providing funds to pay or secure debt service on bonds.

Innovate Washington. Innovate Washington is directed to convene a Sustainable Aviation Biofuels Work Group (Work Group). The purpose of the Work Group is to: (1) further the development of sustainable aviation fuel as a productive industry in Washington, using as a foundation the regional assessment prepared by the collaborative known as the SAFN; (2) facilitate communication and coordination among aviation biofuels stakeholders; (3) provide a forum for discussion and problem solving regarding potential and current barriers related to technology development, production, distribution, supply chain development, and commercialization of aviation biofuels; and (4) provide recommendations to the Legislature on potential legislation that will facilitate the technology development, production, distribution, and commercialization of aviation biofuels.

The Work Group must provide an annual update of its findings and recommendations to the Governor and the appropriate committees of the Legislature by December 1 of each year through 2014. The Work Group expires June 30, 2015.

Votes on Final Passage:

House	86	11
Senate	45	4

Effective: June 7, 2012

HB 2440
C 38 L 12

Authorizing the department of natural resources to provide wildfire protection services for public lands managed by state agencies.

By Representatives Wilcox, Blake, Chandler, Van De Wege, Warnick, McCune, Johnson, Stanford, Hurst, Hinkle and Moscoso; by request of Commissioner of Public Lands.

House Committee on Agriculture & Natural Resources
Senate Committee on Energy, Natural Resources & Marine Waters

Background: The Department of Natural Resources (DNR) is the agency of the state with the direct charge and responsibility over all matters pertaining to forest fire services in the state. This responsibility is fulfilled through a combination of required duties and additional discretionary duties.

The forest fire-related mandatory duties of the DNR include enforcing all forest fire related laws, investigating the cause of forest fires, and accepting the empowerment to direct all fire suppression efforts. The discretionary fire-related duties of the DNR include authorizing expenditures for fire suppression, adopting rules related to forest fire control and suppression, and making inquiries as to the extent of fire damage on forest lands.

The DNR has the authority to designate any of its employees as wardens. The wardens have set responsibilities related to fire suppression, including patrolling areas at risk, conducting outreach with the users of public lands regarding fire-safe behavior, and assisting with the actual fighting of forest fires. In addition, the DNR may employ individuals exclusively for fire suppression efforts.

The DNR has the authority to enter into cooperative agreements with local governments, other state agencies, and the federal government to provide fire services on land managed by other agencies. The agreement must provide either cash payments to the DNR or comparable in-kind services or other consideration from the party to the agreement.

Summary: The Department of Natural Resources (DNR) is provided with the discretionary authority to provide various fire services on nonforested public lands managed either by the DNR or other state agencies. These services can include fire detection, prevention, presuppression, or fire suppression.

The DNR may only provide fire services on nonforested public lands if doing so will not detract from other mandatory fire-related duties of the agency. If the fire services are being provided on land managed by an agency other than the DNR, then a cooperative agreement must be in place between the managing agency and the DNR that provides full reimbursement to the DNR for its services.

Votes on Final Passage:

House	96	0
Senate	48	0

Effective: June 7, 2012

2SHB 2443
C 183 L 12

Increasing accountability of persons who drive impaired.

By House Committee on Transportation (originally sponsored by Representatives Goodman, Pedersen, Hurst, Kelley, Blake, Fitzgibbon, Ormsby, Hasegawa and Miloscia).

House Committee on Judiciary
House Committee on Transportation
Senate Committee on Judiciary
Senate Committee on Transportation

Background: Driving Under the Influence. A person commits driving or being in physical control of a motor vehicle under the influence of intoxicating liquor or any drug (DUI) if the person drives with a blood or breath alcohol concentration (BAC) of .08 or higher or is under the influence of or affected by liquor or any drug. A DUI is a gross misdemeanor, but becomes a class C felony if the person has four or more "prior offenses" within 10 years or has other previous criminal history.

The mandatory minimum penalties for DUI vary depending on the person's BAC and "prior offenses." The term "prior offense" is defined and generally includes convictions for alcohol and drug-related driving offenses, such as negligent driving in the first degree, reckless driving if the original charge was DUI, and any deferred prosecution for similar alcohol-related driving offenses.

The mandatory minimum penalties for a DUI conviction include electronic home monitoring (EHM). The court may waive EHM under certain circumstances, but must impose an alternative sentence that may include jail time. The statute does not specify how much jail time the court should impose in lieu of EHM.

Penalties also include suspension of the person's driver's license by the Department of Licensing (DOL). A person's license may be suspended based on the criminal conviction or an administrative suspension based on, among other things, the person's refusal to submit to a BAC test.

Superior Court Jurisdiction. The superior court may suspend a defendant's sentence and impose conditions of probation for up to the maximum term of the sentence or two years, whichever is longer. In district court, a defendant in a deferred prosecution for DUI remains under the district court's jurisdiction for five years.

Ignition Interlock License. An ignition interlock license (IIL) authorizes a person to drive a noncommercial vehicle with an ignition interlock device (IID) while his or

her regular driver's license is suspended. When a person is convicted of DUI, the court must order the person to apply for an IIL. The court must also order the person to submit to alcohol monitoring if the court orders the person to refrain from using alcohol.

Ignition Interlock Device Requirements. After a person's regular license is reinstated, the person must drive with an IID for one year, five years, or 10 years, depending on whether the person was previously restricted. This requirement is not related to the IIL.

An IID is not required on cars owned by the person's employer and driven as a requirement of employment during working hours.

Vacating Records of Convictions. Records of certain misdemeanor, gross misdemeanor, and felony convictions may be vacated if the person has completed all the terms of the sentence and meets the statutory criteria. Records of conviction for gross misdemeanor DUI may not be vacated. Felony DUI convictions may be vacated if at least 10 years have passed since the applicant completed all the terms of the sentence.

Implied Consent. Under the implied consent laws, a driver is presumed to have given consent to a BAC test if the driver is arrested for DUI. If the driver refuses the test, the person's driver's license will be suspended regardless of whether there is a criminal conviction. A BAC test may be administered without the driver's consent under certain circumstances, such as if the person is arrested for vehicular homicide or vehicular assault.

Emergency Response Costs. A person convicted of DUI and other alcohol-related offenses whose intoxication caused an incident resulting in an emergency response by a public agency is liable for the costs of the emergency response, up to $1,000. The superior court may, as a condition of a suspended sentence, order the defendant to pay restitution to the public agency for its emergency response costs.

Summary: Definition of Drug for Driving Related Offenses. The term "drug" is amended to include any chemical inhaled or ingested for its intoxicating or hallucinatory effects. Thus, a person may commit DUI or negligent driving in the first degree if the person is under the influence of a chemical inhaled or ingested for its intoxicating or hallucinatory effects.

Superior Court Jurisdiction. Superior courts have jurisdiction for up to five years over a defendant convicted of DUI whose sentence has been suspended. A defendant who has a suspended sentence and who fails to appear for any hearing to address the defendant's compliance with the terms of probation will have the term of probation tolled until the defendant makes his or her presence known to the court.

Ignition Interlock Licenses and Requirements. Courts must require a DUI defendant to comply with the rules and requirements of the DOL regarding the installation of an IID, rather than requiring the defendant to apply for an IIL. Courts are given discretion to order the defendant to submit to alcohol monitoring.

A person convicted of reckless driving, when the original charge was DUI, may apply for an IIL. The DOL must grant the person credit on a day-for-day basis for any portion of a suspension already served under an administrative action arising out of the same incident.

A person who has never been licensed by the DOL, but who would otherwise be eligible to apply for an IIL, may apply for an IIL. The DOL may require the person to take any driver's license exam and may also require the person to apply for a temporary restricted license.

A person required to have an IID installed after reinstatement of his or her driver's license must pay an additional fee of $20 per month to be deposited into the Ignition Interlock Device Revolving Account. The Washington State Patrol (WSP) must create a fee schedule by rule and collect fees from IID manufacturers, technicians, providers, and users. Fees must be set at a level to support the effective operation of the Ignition Interlock Device Program, and the WSP must report back to the Transportation committees and the Office of Financial Management annually on the fees adopted. Fees are to be deposited into the Highway Safety Account.

When reasonably available in the area, IIDs must include technology capable of taking a photo identification of the person giving the breath sample.

Vacating Records of Convictions. A record of conviction for felony DUI may not be vacated. A record of conviction for a gross misdemeanor that is a "prior offense" may not be vacated if the person has had a subsequent alcohol or drug violation within 10 years of the date of arrest for the prior offense.

Consent for Breath or Blood Test. When a person is arrested for felony DUI, a breath or blood test may be administered without the person's consent.

Emergency Response Costs. The limit on a defendant's liability for the cost of an agency's emergency response is increased from $1,000 to $2,500. Prior to sentencing, the prosecutor may present the court with information regarding the expenses incurred by the public agency. If the court finds the expenses reasonable, it must order the defendant to reimburse the agency and include the reimbursement in the sentencing order.

Other Changes. Other changes are made, including:

- specifying that courts may impose jail time in lieu of mandatory EHM at a ratio of no less than one day in jail for 15 days of EHM;
- providing that plea agreements and sentences for felony DUI must be kept as public records;
- providing that a deferred prosecution for DUI granted in another state is a "prior offense" if the out-of-state deferred prosecution is equivalent to Washington's deferred prosecution;

- specifying that the employer exception does not apply if the employer's vehicle is used exclusively by the defendant solely for commuting to and from work; and
- allowing municipalities to enter into cooperative agreements with counties that have DUI courts to provide DUI court services.

Votes on Final Passage:

House	98	0	
Senate	49	0	(Senate amended)
House	98	0	(House concurred)

Effective: August 1, 2012

2SHB 2452

C 224 L 12

Centralizing the authority and responsibility for the development, process, and oversight of state procurement of goods and services.

By House Committee on Ways & Means (originally sponsored by Representatives Wylie, Alexander, Kenney, Haigh, Hunt, Hudgins, Harris, McCoy, Ryu, Hasegawa, Springer, Billig, Maxwell, Upthegrove and Ormsby; by request of Department of Enterprise Services).

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

Background: In 2011 laws were enacted consolidating procurement functions of the Department of General Administration, the Department of Information Services, and the Office of Financial Management into the newly created Department of Enterprise Services (DES). The DES was tasked with effecting the reform and consolidation of state procurement practices and providing a report to the Governor with procurement reform recommendations by December 31, 2011. In doing so, the DES was directed to review national best practices and procedures used in other states and by the federal government.

Summary: Laws relating to the procurement of goods and services are reorganized and recodified into a new chapter in Title 39 RCW. The processes for procurement of personal services contracts, or services, are combined with the processes for procurement of goods.

Definitions. In addition to those in current use, definitions are clarified, and new definitions are added, as follows:

- "Bid" means an offer, proposal, or quote for goods or services in response to a solicitation.
- "Bidder" means an individual or entity who submits a bid, quotation, or proposal in response to a solicitation.
- "Contractor" means an individual or entity awarded a contract with an agency to perform a service or provide goods.
- "Debar" means to prohibit a contractor, individual, or other entity from submitting a bid, having a bid considered, or entering into a state contract during a specified period of time.
- "Goods" means products, materials, supplies, or equipment provided by a contractor.
- "Master contract" means a contract for specific goods or services, or both, that is solicited and established by the DES in accordance with procurement laws and rules on behalf of and for general use by agencies.
- "Microbusiness" means any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that: (a) is owned and operated independently from all other businesses; and (b) has a gross revenue of less than $1 million annually as reported on its federal tax return or on its return filed with the Department of Revenue.
- "Minibusiness" means any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that: (a) is owned and operated independently from all other businesses; and (b) has a gross revenue of less than $3 million, but $1 million or more annually as reported on its federal tax return or on its return filed with the Department of Revenue.
- "Services" means labor, work, analysis, or similar activities provided by a contractor to accomplish a specific scope of work.

Director's Authority. The Director of the DES (Director) is responsible for the development and oversight of policy for the procurement of goods and services by all state agencies including standards for: the use of credit cards; purchase of goods and services from Washington small businesses; microbusinesses and minibusineses; food procurement and food contracts; criteria for vehicle purchases; and implementation of an enterprise system for electronic procurement. The Director has the sole authority to enter into master contracts on behalf of the state. The Director also has the authority to delegate authorization to purchases goods and services to agencies. Such authorization must specify restrictions as to dollar amount or specific types of goods and services, based on a risk assessment process, and does not exempt the agency from conformance with the policies established by the Director.

Training. The DES must provide expertise and training on best practices for state procurement. Training or certification programs, or both, must be established and state agency employees responsible for procurement must complete the training or certification programs beginning July 1, 2013. By July 1, 2015, no agency employee may

execute or manage contracts unless the training and certification requirements have been met.

Competitive Solicitation. All contracts for purchases of goods and services must continue to be based on a competitive solicitation process, which may include electronic or web-based solicitations, bids, and signatures. Exemptions from competitive solicitation, such as emergency contracts, sole source contracts, and direct buy purchases, are continued and new exemptions are allowed, including: purchases from master contracts; contracts determined by the Director as not appropriate or cost-effective for competitive solicitation; intergovernmental agreements awarded to any governmental entity; and contracts for services necessary to the conduct of collaborative research if it is a condition of granting funds.

Protests and Complaints. Agencies with procurement authority must develop clear and transparent complaint and protest processes. A complaint process allows for the complaint to be submitted and a response provided before the deadline for bid submissions. A protest process must include a protest period after the apparent successful bidder is announced but before the contract is signed. The Director may grant authority for an agency to sign a contract before the protest process is completed under exigent circumstances.

Procurement Management. The DES must adopt uniform policies and procedures for the effective and efficient management of contracts by all state agencies. At a minimum, the policies and procedures must include:

- pre-contract procedures for selecting potential contractors based on their qualifications and ability to perform;
- model complaint and protest procedures;
- alternative dispute resolution processes;
- incorporation of performance measures and measurable benchmarks in contracts;
- model contract terms to ensure contract performance and compliance with standards;
- executing contracts using electronic signatures;
- criteria for contract amendments;
- post-contract procedures; and
- procedures and criteria for terminating contracts for cause or otherwise.

Agencies may not enter into a contract under which the contractor may charge additional costs for access to data generated under the contract. A contractor must provide access to data generated under the contract to the agency. "Data" includes all information that supports the findings, conclusions, and recommendations of the contractor's reports, including computer models and the methodology for those models.

Disclosure of Bid Documents. Records related to state procurements are public records. Bid submissions and bid evaluations are exempt from disclosure until the announcement of the apparent successful bidder.

Performance-Based Contracts. Agencies, to the extent practicable, should enter into performance-based contracts that identify expected deliverables and performance measures or outcomes. Performance-based contracts may include, but are not limited to, either consequences or incentives or both to ensure that the agreed upon value to the state is received. Payment for goods and services under performance-based contracts should be contingent on the customer achieving performance outcomes.

Convenience Contracts. The DES may, in accordance with procurement laws and rules, establish a convenience contract for specific goods or services on behalf of and for use by a specific agency or group of agencies.

Bonds. Once a bid has been accepted, an agency may require the successful bidder to submit a bond to the agency in an amount and with surety or sureties determined by the agency. Bidders who regularly do business with the state are permitted to file an annual bid bond in an amount established by the agency. An annual bid bond is acceptable as surety in lieu of furnishing surety with individual bids. Agencies also may require performance bonds, protest bonds, or other bonds deemed necessary.

Debarment. The Director of the DES has the authority to debar any contractor based on a finding of one or more of the following causes:

- conviction of a criminal offense as an incident to obtaining a public or private contract or subcontract, or in the performance of such contract;
- conviction under state or federal law for embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty;
- conviction under state or federal antitrust laws arising out of the submission of bids or proposals;
- two or more violations within the previous five years of the Federal Labor Relations Act;
- violation of contract provisions of a character regarded by the Director to justify debarment action, including deliberate failure without good cause to perform the contract, or a recent record of failure to perform or of unsatisfactory performance with the terms of one or more contracts;
- violation of ethical standards; or
- any other serious or compelling cause to affect responsibility as a state contractor, including debarment by another governmental entity.

A decision to debar must be issued by the Director in writing, must state the reasons for the action taken, and must inform the debarred contractor of his or her rights to judicial or administrative review.

Ethics. The ethics laws that apply to all state officers and employees relating to limitations on gifts also apply to

contractors who provide goods and services for, or on behalf of, the state. Any person or entity who seeks or may seek a contract with a state agency may not give, loan, transfer, or deliver to any person something of economic value that would cause a state officer or employee to be in violation of ethics laws pertaining to assisting in transactions, compensation for official duties or nonperformance, compensation for outside duties, gifts, or limitation on gifts.

Transparency. Agencies must provide on an annual basis a list of all contracts that the agency has entered into or renewed. The DES must maintain a list of all contracts entered into by agencies.

Votes on Final Passage:

House	55	40	
Senate	39	10	(Senate amended)
House	60	37	(House concurred)

Effective: January 1, 2013

HB 2456

C 168 L 12

Regarding disclosure of information relating to agriculture and livestock.

By Representatives Chandler, Blake and Fagan.

House Committee on State Government & Tribal Affairs
Senate Committee on Agriculture, Water & Rural Economic Development

Background: The Public Records Act (PRA) requires that state and local government agencies make all public records available for public inspection and copying unless the records fall within certain statutory exemptions. The provisions requiring public records disclosure must be interpreted liberally, and the exemptions narrowly, in order to effectuate a general policy favoring disclosure.

The Washington State Department of Agriculture (AGR) administers the Animal Disease Control Program and the Livestock Identification Program. The purpose of the Animal Disease Control Program is to prevent the spread of infectious, communicable, or otherwise dangerous diseases within the state and from other states and provinces. In this regard, the AGR has powers and duties that include: establishing quarantines, inspecting and testing of animals, inspecting vehicles transporting animals, and requiring certificates of veterinary inspection. The AGR is authorized to enter property to conduct tests or inspections of animals.

The Livestock Identification Program provides a means to determine ownership of livestock. It has the ancillary benefit of aiding animal disease traceability. The AGR works with the industry on improving the system to trace the origin of animal diseases and to identify other animals with which the infected animal may have come into contact.

In the process of administering animal disease and identification programs, the AGR collects information, considered to be proprietary, pertaining to numbers of animals, locations, purchase and sale information, and information related to livestock diseases or injury.

There is an existing exemption from the PRA disclosure requirements for information submitted to the AGR as part of the National Animal Identification System (NAIS). The United States Department of Agriculture (USDA) has since discontinued the NAIS, which was intended to provide a national system of animal disease tracking capability. This exemption did not prevent disclosure of information to local, state, or federal officials, or the disclosure of information used in reportable animal health investigations.

Summary: References to the NAIS are eliminated with respect to agricultural information exempted from disclosure under the PRA. Instead, specified information submitted by an individual or business to the AGR for the purpose of herd inventory management for animal disease traceability is exempted. This exempted information includes:

- animal ownership;
- numbers of animals;
- locations;
- contact information;
- movements of livestock;
- financial information;
- purchase and sale information;
- account numbers or unique identifiers issued by government to private entities; and
- information related to livestock diseases that would identify a specific animal, person, or location.

Records of international livestock importation received from the United States Department of Homeland Security or the USDA that identify a particular animal, business, or individual, and which are not disclosable by the federal agency under the federal Freedom of Information Act (FOIA), are exempt from PRA disclosure requirements.

Records received from the Department of Homeland Security or the USDA related to the entry of prohibited agricultural products for importation into the state, and which are not disclosable by the federal agency under the federal FOIA, are exempt from PRA disclosure requirements.

Votes on Final Passage:

House	97	0
Senate	48	0

Effective: June 7, 2012

HB 2459
C 70 L 12

Authorizing the Washington state patrol to confiscate license plates from a motor carrier who operates a commercial motor vehicle with a revoked registration.

By Representatives Kagi, Armstrong and Johnson.

House Committee on Transportation
Senate Committee on Transportation

Background: Motor carriers may operate commercial vehicles solely within the State of Washington (intrastate), while other motor carriers may operate in multiple states (interstate). The Federal Motor Carrier Safety Administration (FMCSA) regulates interstate motor carriers and requires interstate motor carriers to have United States Department of Transportation (USDOT) numbers that enable FMCSA and the Washington State Patrol (WSP) to maintain safety records for those carriers.

Certain intrastate motor carriers that are operating a commercial vehicle that has a gross vehicle weight rating of 16,001 or more are required by state law to obtain USDOT numbers. The USDOT number enables the WSP to maintain safety records for intrastate carriers as the agency does for interstate carriers.

A motor carrier that violates any federal or state vehicle safety requirement or any WSP rule is subject to various penalties. Each violation is a separate and distinct offense and, in the case of a continuing violation, every day's continuance is a separate and distinct violation. If a carrier is determined by the WSP to be a high-risk carrier, the carrier is liable for double the amount of the penalty of a prior violation if the high-risk carrier repeats the same violation during a follow-up compliance review. A motor carrier's USDOT number and vehicle registration may be revoked for certain violations or for nonpayment of penalties.

Any motor carrier who incurs a penalty has a right to an administrative hearing to contest the violation or/and the penalty imposed. Any request for an administrative hearing must be made in writing and must be received by the WSP within 20 days of the receipt of the notice proposing the penalty, or disposition of a request for mitigation, whichever is later, or the right to a hearing is waived.

Summary: The WSP or other law enforcement agency must confiscate and may recycle or destroy the license plates from a motor carrier who operates a commercial motor vehicle while the vehicle's registration is revoked, suspended, or cancelled. The confiscation of the license plates only applies to trucks, truck tractors, and tractors.

Votes on Final Passage:

House	97	0
Senate	49	0

Effective: June 7, 2012

EHB 2469
C 169 L 12

Regarding boatyard storm water treatment systems.

By Representatives Upthegrove, Angel, Takko and Asay.

House Committee on Local Government
Senate Committee on Environment

Background: Shoreline Management Act. The Shoreline Management Act of 1971 (SMA) governs uses of state shorelines and involves a cooperative regulatory approach between local governments and the state. At the local level, the SMA regulations are developed in city and county shoreline master programs (master programs) that regulate land use activities in shoreline areas of the state. At the state level, the Department of Ecology (DOE) is charged with reviewing the locally-adopted master programs and approving those that comply with statutory provisions and agency guidelines governing their adoption.

Development may not be undertaken on shorelines of the state unless it is consistent with the SMA, applicable rules, and the pertinent master program. Persons seeking to undertake a substantial development on the shoreline generally must obtain a permit from the applicable local government. While the SMA specifies standards for cities and counties to review and approve permit applications, the administration of the permit system is performed exclusively by the local government. Local governments, however, must notify the DOE of all SMA permit decisions, and permit requests for variances and conditional uses must be submitted to, and determined by, the DOE.

The SMA exempts certain remedial actions under the Model Toxics Control Act (MTCA) by the DOE and others from the procedural requirements of the SMA. The exemption requirements, however, obligate the DOE to ensure that the remedial actions comply with the SMA's substantive requirements. While neither "procedural" nor "substantive" is defined in the SMA, the DOE has indicated that it considers 'procedural requirements' to be actions necessary to implement the SMA and 'substantive requirements' to be regulations and standards adopted in master programs.

Model Toxics Control Act. The MTCA defines and supports hazardous waste site cleanup activities and toxics control programs in Washington. As stated in the MTCA, its two-fold primary purpose is to raise sufficient funds to clean up all hazardous waste sites, and to prevent the creation of future hazards resulting from the improper disposal of toxic substances into the state's land and waters. The MTCA, which is administered and enforced by the DOE, requires liable parties to clean up sites contaminated with hazardous materials.

National Pollutant Discharge Elimination System Permits. The federal Clean Water Act (CWA) sets effluent limitations for discharges of pollutants. "Pollutant" is defined in the CWA to include a variety of materials that

may be discharged into water through human activities, construction or industrial processes, or other methods. The DOE is delegated authority under the CWA by the United States Environmental Protection Agency and is responsible for implementing all federal and state water pollution control laws and regulations.

The CWA establishes the National Pollutant Discharge Elimination System (NPDES) permit system to regulate wastewater discharges from point sources to surface waters. "Point sources" are defined generally as discernible, discrete, and confined conveyances from which pollutant discharges can or do occur. The NPDES permits are required for anyone who discharges wastewater to surface waters or who has a significant potential to impact surface waters. The NPDES permits also are required for storm water discharges from certain industries, construction sites of specified sizes, and municipalities operating municipal separate storm sewer systems that meet specified criteria.

In state and NPDES permit programs, the DOE issues both individual permits (covering single, specific activities or facilities) and general permits (covering a category of similar dischargers). These permits include limits on the quantity and concentrations of contaminants that may be discharged. These permits also may require wastewater treatment or impose operating or other conditions.

Summary: Remedial actions conducted at a facility or by the DOE pursuant to the MTCA are exempt from requirements to obtain a substantial development permit, conditional use permit, or a variance, rather than being exempt from the procedural requirements of the SMA.

The installation of site improvements for storm water treatment in an existing boatyard facility to comply with a NPDES storm water general permit is exempt from requirements to obtain a substantial development permit, conditional use permit, or a variance under the SMA. The DOE is obligated to ensure that the installation of the site improvements complies with the substantive requirements of the SMA through the review of engineering reports, site plans, and other installation-related documents.

Votes on Final Passage:

House	97	0	
Senate	49	0	(Senate amended)
House	96	0	(House concurred)

Effective: June 7, 2012

ESHB 2473

C 208 L 12

Creating a medication assistant endorsement for certified nursing assistants who work in nursing homes.

By House Committee on Health Care & Wellness (originally sponsored by Representatives Green, Hinkle, Johnson, Van De Wege, Ryu and Roberts).

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

Background: The Department of Health registers nursing assistants and certifies those who complete required education and training as determined by the state Nursing Care Quality Assurance Commission (Nursing Commission). Nursing assistants may assist in providing care to individuals under the direction and supervision of a licensed or registered nurse. Nursing assistants work in various health care facilities, such as hospitals, nursing homes, hospices, and other entities delivering health care services.

A registered nurse may delegate nursing care tasks that are within the nurse's scope of practice to other individuals where the nurse finds it to be in the patient's best interest. Before delegating a nursing care task, the registered nurse must determine the competency level of the person to perform the delegated task, evaluate the appropriateness of the delegation, and supervise the person performing the delegated task. With some exceptions, registered nurses may not delegate tasks requiring nursing judgment, substantial skill, the administration of medications, or the piercing or severing of tissues.

Summary: A program is established to allow certified nursing assistants (CNA) to receive a medication assistant endorsement to administer, under registered nurse supervision, certain medications and treatments in a nursing home.

Medication Assistant Endorsement. Beginning July 1, 2013, a CNA may seek a medication assistant endorsement from the Department of Health. To be issued the endorsement, a CNA must:

- maintain his or her nursing assistant certification in good standing;
- complete the hours of documented work as a CNA that are required by the Nursing Commission;
- successfully complete an education and training program approved by the Nursing Commission;
- pass an examination approved by the Nursing Commission; and
- complete continuing competency requirements as defined by the Nursing Commission.

Permitted Additional Tasks. A CNA with a medical assistant endorsement may perform and document the following additional tasks:

- the administration of medications orally, topically, and through inhalation; and
- the performance of simple prescriber-ordered treatments, as defined by the Nursing Commission, which may include monitoring blood glucose and blood oxygen saturation, changing noncomplex clean dressings, and administering oxygen.

These additional tasks may be performed only (1) in a nursing home, (2) if supervised by a designated registered nurse who is on site and immediately accessible, and (3) if these additional tasks are the primary responsibility of the medication assistant during the time the tasks are performed. The registered nurse must assess the patient and determine whether it is safe for the CNA to administer the medications or treatment.

The Nursing Commission may adopt rules regarding the medication assistant's primary responsibilities and limiting the duties that a CNA may perform while functioning as a medication assistant.

Prohibited Tasks. A medication assistant may not:

- accept telephone or verbal orders from a prescriber;
- calculate medication dosages;
- inject any medications;
- perform any sterile task;
- administer medications through a tube;
- administer Schedule I, II, or III controlled substances; or
- perform any task that requires nursing judgment.

A medication assistant's employer may restrict, but not expand, the range of functions permitted for a medication assistant.

Votes on Final Passage:

House	96	0	
Senate	44	4	(Senate amended)
House	96	0	(House concurred)

Effective: June 7, 2012
July 1, 2013 (Sections 2-10)

HB 2482

C 225 L 12

Designating innovation partnership zones.

By Representatives Kenney, Finn, Ryu, Hasegawa and Stanford.

House Committee on Community & Economic Development & Housing
Senate Committee on Economic Development, Trade & Innovation

Background: Innovation Partnership Zones. In 2007 the Legislature directed the Department of Community, Trade and Economic Development (now the Department of Commerce) to design and implement an Innovation Partnership Zone (IPZ) program through which the state would encourage and support research institutions, workforce training organizations, and globally competitive companies working cooperatively in close geographic proximity to create commercially viable products and jobs.

Using specified criteria, the Department of Commerce (Department) with the advice of the Washington Economic Development Commission (Commission) designates the IPZs for a period of four years. There are 14 existing IPZs. The IPZs are eligible for funds as provided by the Legislature or at the discretion of the Governor. An IPZ may be administered by an economic development council, port, workforce development council, city, or county. An IPZ may renew its designation through a reapplication process, and may lose its designation for failure to meet performance standards.

Community Economic Revitalization Board. The Community Economic Revitalization Board (CERB) is a 20-member statutory state board created in 1982 that is charged with funding public infrastructure improvements that encourage new business development and expansion in areas seeking economic growth. The CERB receives administrative support from the Department.

The CERB's focus is on creating and retaining jobs in partnership with local governments, with traditional assistance primarily targeted to rural communities. Through the CERB, local governments may apply for low-interest loans and, occasionally, grants to help finance public facility projects. Public facilities eligible for the CERB financing include: bridges, roads, domestic and industrial water, earth stabilization, sanitary sewer, storm sewer, railroad, telecommunications, electricity, transportation, natural gas, buildings or structures, and port facilities.

Rural County Sales and Use Tax. Rural counties may impose a local option sales and use tax of up to 0.09 percent. For the purposes of the local option tax, rural counties are defined as those with a population density of less than 100 persons per square mile, or smaller than 225 square miles. The tax is deducted from the state's 6.5 percent sales tax.

Revenues from this local option tax may only be used for the purposes of financing public facilities serving economic development purposes and financing personnel in economic development offices. Public facilities must be listed as an officially adopted item in a county's overall economic development plan, the economic development section of the comprehensive plan, or the capital facilities plan.

Summary: The IPZs must be part of an industry cluster, which is defined as a geographic concentration of interconnected companies in a single industry; related businesses in other industries, including suppliers and customers; and associated institutions, including government and education.

A firm's global competitiveness may be signified by evidence of sales in international markets instead of through other recognized evidence of international success.

When designating IPZs, the Department must use criteria it develops in consultation with the Commission, rather than other criteria recommended by the Commission.

An IPZ may be eligible for Local Improvement District (LID) funds if it meets all of the other requirements to obtain the LID funding.

For applicants that do not receive an IPZ designation, the Department is required to:

- identify deficiencies in the proposal and recommend steps to strengthen the proposal;
- provide the applicant with the opportunity to appeal the decision to the Director of the Department; and
- allow the applicant to reapply for an IPZ designation during the following calendar year or any subsequent application cycle.

The required IPZ performance measures must be provided to the Department on an annual basis.

The general objectives of the CERB are expanded to include enhancing job and business growth through facility development and other improvements in IPZs. For the purposes of the CERB financing, the definition of public facilities is expanded to include research, testing, training, and incubation facilities in IPZs.

For the purposes of using rural county sales and use tax proceeds to finance public facilities serving economic development purposes, the definition of public facilities is expanded to include research, testing, training, and incubation facilities in IPZs.

Votes on Final Passage:

House	81	16	
Senate	48	1	(Senate amended)
House	60	38	(House concurred)

Effective: June 7, 2012

E2SHB 2483

PARTIAL VETO

C 229 L 12

Regarding higher education coordination.

By House Committee on Ways & Means (originally sponsored by Representatives Seaquist, Haler, Zeiger and Kelley; by request of Governor Gregoire).

House Committee on Higher Education
House Committee on Ways & Means

Background: The Legislature established a state agency, the Council on Higher Education, to review and recommend higher education policy in 1969. In 1975 this agency became the Council for Postsecondary Education following federal legislation that required states to establish or designate a single state postsecondary education planning agency to qualify for federal planning and other funds. The state agency that currently conducts planning for the higher education system, reports on performance, administers state and federal financial aid programs, and approves private institutions to operate in the state is the Higher Education Coordinating Board (HECB) which was established in 1985.

Legislation enacted in 2011 abolishes the HECB effective July 1, 2012, and replaces it with a Higher Education Council. Under this legislation, a number of HECB functions are eliminated effective July 1, 2012. Functions eliminated include: developing a statewide strategic master plan for higher education; reporting on state support received by students, the costs of higher education, gender equity, costs and benefits of tuition and fee reciprocity with Oregon, Idaho, and British Columbia; and transmitting undergraduate and graduate educational costs to boards of regents. The financial aid office under the administration of the HECB becomes a separate state agency, the Office of Student Financial Assistance, effective July 1, 2012. The 2011 legislation also created a temporary Higher Education Steering Committee to recommend the duties and members of the new Higher Education Council by December 1, 2011.

The Higher Education Steering Committee, chaired by the Governor and comprised of legislators and representation from education and higher education sectors in the state, met four times in 2011 to determine the new duties of a state higher education agency. The recommendations included two different options for an executive branch office and an advisory council, and set out duties for the new Higher Education Council.

Summary: Findings and Intent. The Legislature recognizes that increasing educational attainment is critical to social and economic well-being and creates the Student Achievement Council to provide the focus and set goals for the state's higher education system.

Student Achievement Council. The Student Achievement Council (Council) is created as a state

agency. The Executive Director of the Council is appointed by the Governor who chooses from a list of names provided by the Council. The Governor, with the approval of the Council, may dismiss the Executive Director, or the Council may dismiss the Executive Director. The Executive Director may hire his or her own staff.

The Council comprises voting members as follows:

- five citizen members appointed by the Governor with the consent of the Senate, one of which must be a student; citizen members must represent the diversity of the state and state's geography; four citizen members serve four-year terms and the student serves a one-year term;
- a representative of the public baccalaureate institutions selected by the presidents of public baccalaureate institutions;
- a representative of the community and technical college system, selected by the State Board for Community and Technical Colleges (SBCTC);
- a representative of the K-12 system selected by the Office of the Superintendent of Public Instruction (OSPI) in consultation with the Department of Early Learning and the State Board of Education (SBE); this member must excuse himself or herself from voting on matters pertaining primarily to institutions of higher education; and
- a representative of an independent, nonprofit higher education institution selected by an association of independent nonprofit baccalaureate degree-granting institutions; this member must excuse him or herself from matters that pertain primarily to public institutions.

The Council is permitted to convene ad hoc advisory committees. Any advisory committees addressing secondary to postsecondary transitions and university and college admissions requirements must include K-12 sector representatives including teachers, school directors, principals, administrators, and others.

Purpose and Mission. The Council must make recommendations to the Governor and the Legislature to increase educational attainment. The Council must propose goals, recommend resources, monitor progress, propose improvements and innovations in higher education to adapt to evolving needs, and advocate for the higher education system.

The Council is required to link the work of the OSPI, the SBCTC, the SBE, the Professional Educator Standards Board (PESB), the Workforce Training and Education Coordinating Board (Workforce Board), public baccalaureate institutions, and independent schools and colleges, and take a leading role in higher education research and analysis.

Legislative Oversight and Review. A Joint Committee on Higher Education (Joint Committee) is created, comprising four legislators from each chamber. The Joint Committee is charged to review the work of the Council and create recommendations for higher education policy, including proposed legislation. The Joint Committee must meet twice annually after the close of session.

State Higher Education Goals and Strategic Planning. The Council must propose educational attainment goals and priorities aligned with the state's biennial budget and policy cycles. The goals must address the needs of Washington residents to reach higher levels of educational attainment and Washington's workforce needs for certificates and degrees in particular fields of study. The Council must identify the resources to meet statewide goals and recognize current state economic conditions and resources. In proposing goals, the Council must collaborate with the OSPI, the PESB, the SBE, the SBCTC, the public baccalaureate institutions, independent colleges and degree-granting institutions, certificate-granting institutions, and the Workforce Board.

The Council is required to create a two-year strategic action plan with the first due December 1, 2012. The strategic action plan must be updated every two years. The Council must create a 10-year roadmap due December 1, 2013, and updated every two years. The Council is required to conduct strategic planning in collaboration with agencies and stakeholders and outline strategies that address:

- strategic planning, including setting benchmarks and goals for long-term degree production generally and in particular fields of study;
- expanding access, affordability, quality, efficiency, and accountability among the various institutions of higher education;
- higher education finance planning and strategic investments;
- system design and coordination;
- improving student transitions;
- higher education data and analysis, in collaboration with the Education Data and Research Center (ERDC);
- college and career preparedness in collaboration with the OSPI and the SBE;
- expanding participation and success for racial and ethnic minorities in higher education; and
- relevant policy research.

Other Duties of the Council. *Transitions.* The Council is required to collaborate with agencies and stakeholders to improve student transitions and success. The Council must set minimum college admission standards, and propose programs and policies to encourage students to prepare for, understand how to access, and pursue postsecondary college and career programs, including specific

policies and programs for students with disabilities. The Council must recommend policies that require coordination between sectors and identify transition issues and solutions.

Financial Aid. The Council is charged to direct the work of the Office of Financial Assistance and administer state and federal financial aid programs.

Innovations. The Council is required to facilitate the development and expansion of innovative practices to increase educational attainment, including accountability measures to determine the effectiveness of the innovations.

Consumer Protection. The Council is charged to protect higher education consumers with the specific duty to approve degree-granting postsecondary institutions and establish minimum criteria to assess whether students who attend for-profit institutions of higher education are eligible for the State Need Grant and other forms of state financial aid. The Council must report by December 1, 2014, to the Joint Committee on the outcomes of all students who receive the State Need Grant and also present options for prioritizing the State Need Grant.

Capital Budget Prioritization. The Higher Education Coordinating Board (HECB) duties related to capital budget prioritization are transferred to the ERDC, while specific HECB duties to prioritize institutional operating budget requests are eliminated.

Higher Education System Design. The HECB duties related to higher education system design are transferred to the Council. The following HECB duties related to system design are eliminated:

- approval of new degree programs;
- approval of the creation of any off-campus program by a four-year institution;
- approval of the lease or purchase of major off-campus facilities by a four-year institution; and
- approval of applied baccalaureate degree programs developed by a community or technical college.

Other Duties. The Council must adopt residency requirements by rule; arbitrate disputes between and among four-year institutions and the SBCTC; may solicit, accept, receive, or administer federal funds or privates funds to support the purposes and functions of the Council; and must represent the broad public interest above the interests of the individual institutions of higher education.

Higher Education Accountability, Research, and Data. The ERDC is required to support higher education accountability. The public baccalaureate institutions must report to the ERDC regarding accountability measures. The Council must use education data and analysis produced by, and in consultation with, the ERDC to:

- identify barriers to increasing education attainment;
- evaluate the effectiveness of various educational models;
- assess educational achievement;
- track progress toward meeting the state's goals; and
- communicate results.

The Council must identify the data needed to carry out its responsibilities for policy analysis in consultation with the ERDC, institutions of higher education, and state education agencies. The ERDC may, in consultation with the Council, update data requirements to be consistent with best practices across the country. The HECB duties related to identifying cost-effective methods for collecting data and protocols are eliminated.

The ERDC is required to conduct an educational cost study. The ERDC, in consultation with the institutions of higher education, must develop information on the approximate amount of state support that students receive, including the level of support received by students in each tuition category, and provide this information annually. The ERDC is required to compare per student funding with similar public institutions of higher education in the global challenge states. The Council must report annually a national comparison of tuition and fees**.**

Transfer or Elimination of HECB Functions. The HECB powers, duties, resources, and records are transferred to the Council. Exempt staff that are necessary to the functions of the Council, and subject to the Executive Director, are transferred from the HECB to the Council. Remaining functions of the HECB are transferred to the Council, or transferred to other agencies, or eliminated.

Other. Clarification is provided for the College Bound Scholarship to ensure alignment with statutory provisions for the State Need Grant unless otherwise directed in statute.

Votes on Final Passage:

House	64	32	
Senate	49	0	(Senate amended)
House	72	26	(House concurred)

Effective: June 7, 2012
July 1, 2012 (Sections 101, 117, 401, 402, 501-569, 571-594, 601-609, 701-708, 801-821, 902, and 904)

Partial Veto Summary: The Governor vetoed a section that replaced a reference to the HECB with the Council because other legislation enacted in 2012, related to educational outcomes for foster youth, removed the original reference.

VETO MESSAGE ON E2SHB 2483

March 30, 2012

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 570, Engrossed Second Substitute House Bill 2483 entitled:

"AN ACT Relating to higher education coordination."

The Legislature has passed two bills this session amending RCW 28B.117.020. To prevent a conflicting double amendment, I am vetoing Section 570 of Engrossed Second Substitute House Bill

2483. This section would correct a reference to the Higher Education Coordinating Board in RCW 28B.117.020. Substitute House Bill 2254 eliminates the reference and obviates the need for correction.

For this reason I have vetoed Section 570 of Engrossed Second Substitute House Bill 2483.

With the exception of Section 570, Engrossed Second Substitute House Bill 2483 is approved.

Respectfully submitted,

Christine O. Gregoire
Governor

HB 2485
C 209 L 12

Authorizing school districts to use electronic formats for warrants.

By Representatives Probst, Upthegrove and Dahlquist.

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

Background: The county treasurer acts as banker for each school district within the county. All school district revenue and expenditure moneys are deposited with and released by the county treasurer. Expenditure warrants are authorized by the school district board of directors and paid from available district funds held by the county treasurer.

Summary: School district warrants and warrant registers may be sent in an electronic format and may use facsimile signatures. Orders for warrants by second-class school districts may also be sent in an electronic format and may be signed using facsimile signatures.

Votes on Final Passage:

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

Effective: June 7, 2012

SHB 2491
C 2 L 12 E1

Addressing when predecessor-successor relationships do not exist for purposes of unemployment experience rating.

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

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

Background: Most employment in the state is covered for unemployment insurance. Each covered taxable employer is required to pay contributions on a percentage of his or her taxable payroll.

The contribution rate is generally the combined rate assigned to the employer based on layoff experience, social costs, and the solvency surcharge, if any. The contribution rate is assigned differently, however, for a successor employer.

Predecessor-Successor Relationships. A predecessor-successor relationship exists when a transfer occurs and one business acquires all or part of another business. It may arise from the transfer of operating assets, which may include the transfer of employees, or from an internal reorganization of affiliated companies.

Whether or not a predecessor-successor relationship exists depends on the totality of the circumstances. Factors that favor establishment of such a relationship include, but are not limited to: whether the employers are in the same or a like business; whether the assets were transferred directly; whether multiple types of assets were transferred; whether a significant number or group of employees were transferred; whether the business name continued or was used in some way; whether there was continuity of management; and whether the employers shared one or more owners.

The Employment Security Department must prove by a preponderance of the evidence that a business is the successor, or partial successor, to a predecessor business.

Successor Contribution Rates. Contribution rates assigned to successor employers vary depending on whether the successor is an employer and other circumstances.

If the successor is an employer at the time of the business transfer, the successor's tax rate is unchanged for the rest of the calendar year. Beginning on January 1 after the transfer (and until the successor qualifies for its own rate), the rate is based on a combination of the successor's and the predecessor's experience.If the successor is not an employer at the time of the business transfer, the successor's tax rate is the same as the predecessor's tax rate for the rest of the calendar year. Beginning on January 1 after the transfer (and until the successor qualifies for its own rate), the rate depends on whether there is substantial continuity of ownership, control, or management by the successor.

Other provisions address rates assigned to successor employers that simultaneously acquire business from multiple employers with different tax rates, predecessor employers, and employers engaged in "State Unemployment Tax Avoidance" (also referred to as "SUTA dumping").

Summary: A predecessor-successor relationship does not exist, and successor contribution rates are not assigned, when a significant purpose of the transfer of the business or its operating assets is for: (1) the employer to move or expand an existing business; or (2) an employer to

establish a substantially similar business under common ownership, management, and control.

If an employer transfers its business to another employer, and both employers are at the time of transfer under substantially common ownership, management, or control, the experience is also transferred.

If a significant purpose of the transfer is to obtain a reduced experience rate, rates are computed and penalties and sanctions applied as specified in the statute on "State Unemployment Tax Avoidance."

Votes on Final Passage:

House 97 0

First Special Session

House 94 0
Senate 40 0

Effective: July 10, 2012

SHB 2492

C 210 L 12

Requiring the state board of education to provide fiscal impact statements before making rule changes.

By House Committee on Education Appropriations & Oversight (originally sponsored by Representatives Haigh, Dammeier, Maxwell, Dahlquist, Liias, Finn and Santos).

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

Background: The State Board of Education (SBE) was first established by the Territorial Legislature in 1877. The SBE consists of 16 members: five elected by school board members, seven appointed by the Governor, one elected by private schools, the Superintendent of Public Instruction, and two nonvoting students. The SBE's statutory purpose is to provide advocacy and strategic oversight of public education, implement a standards-based accountability framework, provide leadership, and promote achievement of the Basic Education goals. Goals are adopted by the SBE by rule. The SBE is responsible for: setting performance standards for statewide assessments and the accountability system; setting high school graduation requirements; monitoring compliance with Basic Education requirements; and approving private schools.

Summary: When publishing a notice of a rule-making hearing under the Administrative Procedures Act, the SBE is required to provide a school district fiscal impact statement along with proposed rules. Additionally, the SBE is required to have a presentation and public hearing on the impact statement along with the rule. A copy of the impact statement must be forwarded to the legislative education committees.

The Office of Superintendent of Public Instruction must prepare the fiscal impact statements and solicit estimates from a representative sample of school districts. Certain rules are excluded from the fiscal impact statement requirements: emergency rules; rules that adopt by reference or without material change other state or federal laws and rules; rules that deal with procedures or practices of the SBE and are not related to any external parties; technical corrections; and rules where the content is explicitly dictated by the Legislature.

Votes on Final Passage:

House 97 0
Senate 47 1

Effective: June 7, 2012

HB 2499

C 226 L 12

Expanding disclosure of political advertising to include advertising supporting or opposing ballot measures.

By Representatives Billig, Finn, Hunt, Appleton, Hasegawa, Reykdal, Liias, Ormsby, Sells, Jinkins, Fitzgibbon, Kagi, Miloscia, Kelley, Hudgins, Roberts and Pollet.

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

Background: All written political advertising must include the sponsor's name and address. Political advertising that is broadcast must include the sponsor's name. Political advertising undertaken as an independent expenditure by a person or entity other than a party organization and all electioneering communications must include a statement indicating that the advertisement is not authorized by any candidate, as well as information on who paid for the advertisement. If an advertisement is an independent expenditure or electioneering communication sponsored by a political committee, the top five contributors must be listed. If the sponsor of the advertisement is a political committee established, maintained, or controlled directly, or indirectly through the formation of one or more political committees, by an individual, corporation, union, association, or other entity, the full name of that individual or entity also must be listed in the advertisement.

Independent expenditures pertain to advertisements made in support of, or opposition to, a candidate. Electioneering communications are advertisements that clearly identify a candidate by either specifically naming the candidate or identifying the candidate without using his or her name.

A political committee means any person, except a candidate or an individual dealing with his or her own funds or property, having the expectation of receiving contributions or making expenditures in support of, or opposition to, any candidate or any ballot proposition.

Summary: Political advertising costing $1,000 or more that supports or opposes a ballot measure and is sponsored by a political committee must include a listing of the names of the five persons or entities making the largest contributions in excess of $700 during the 12-month period before the date the advertisement is initially published or presented to the public.

Votes on Final Passage:

House	75	22	
Senate	34	14	(Senate amended)
House	68	26	(House concurred)

Effective: June 7, 2012

ESHB 2502

C 170 L 12

Modifying exceptions to the compensating tax provisions for removal from forest land classification to more closely parallel open space property tax provisions.

By House Committee on Ways & Means (originally sponsored by Representatives Hansen and Appleton).

House Committee on Ways & Means
Senate Committee on Government Operations, Tribal Relations & Elections
Senate Committee on Ways & Means

Background: Property Taxes. Property taxes are imposed by state and local governments. The county assessor determines the 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.

Current Use Programs. Property that meets certain conditions may have property taxes determined on current use values rather than market values. There are four categories of lands that may be classified and assessed on current use. Three categories are covered in the Open Space Taxation Act (Act): open space lands, farm and agriculture lands, and timber lands. The fourth category is certain designated forest land.

Compensating Taxes. When land is designated as forest land it is generally assessed at a lower value resulting in lower taxes. When land is removed from designation as forest land, back taxes must be paid, unless certain exceptions are met. The amount of the back tax owed for designated forest land is specified by formula and is equal to the tax benefit in the most recent year multiplied by the number of years in the current use classification, but not more than nine.

Exceptions to the Payment of Compensating Taxes for Designated Forest Land. The compensating tax is not imposed if the removal is from one of the following actions:

- land is transferred to a government entity in exchange for other forest land within Washington;
- land is transferred to an entity using the power of eminent domain;
- land is sold or transferred to a governmental entity or nonprofit nature conservancy corporation. (The sale of land for conservation purposes must be exclusively for the protection of land which has been recommended for state natural area preserve purposes by the Natural Heritage Council, or approved by the Department of Natural Resources for state natural resources conservation area purposes;)
- land is sold to the Parks and Recreation Commission for park purposes;
- the present use of the land is disallowed because of an official action by an agency of the state or local government;
- the creation, sale, or transfer of forestry riparian easements or conservation easements;
- the sale of land within two years after the death of the owner of at least a 50 percent interest in the land if the land has been designated continuously since 1993; and
- removal of the land because it was classified in error.

Additionally, in counties with populations greater than 600,000, an exception to the payment of back taxes is allowed for a sale or transfer to a governmental entity, nonprofit historic preservation, or nonprofit nature conservancy corporation for the purpose of conserving open space. This exception is similar to the third exception above for acquisition of conservation property, but contains a broader exception, similar to the exception in the open space classification.

Summary: The exception for the payment of back taxes on designated forest land when the transfer of property interests is for public use and enjoyment in a county with a population of more than 600,000 inhabitants is changed to include transfers in a county with a population of at least 245,000 inhabitants that borders Puget Sound. In addition, the exception for removals of land that has been transferred from designated forest land to open space and then removed from the open space classification under one of the authorized exceptions is expanded from a county with a population of more than 600,000 inhabitants to a county with a population of at least 245,000 inhabitants that borders Puget Sound.

Votes on Final Passage:

House	95	1
Senate	48	0

Effective: June 7, 2012

EHB 2509
FULL VETO

Promoting workplace safety and health by enacting the blueprint for safety program.

By Representatives Chandler, Bailey and Pearson.

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

Background: The Department of Labor and Industries (Department) administers and enforces the Washington Industrial Safety and Health Act. The Department, through the Division of Occupational Safety and Health (DOSH), adopts safety and health standards, provides consultation and advice to employers, and conducts inspections and investigations.

Workers' compensation premiums paid by an employer are determined, in part, by the employer's experience rating, which is based on the costs of claims of the employer's workers.

The Department has created a Blueprint for Safety series within the DOSH to change the perspective of management and labor leaders in an organization and give them a vision of why their leadership in their safety and health program is an essential element for long-term success. About 12 employers in northwest Washington currently participate in the series.

Summary: The Blueprint for Safety program is enacted. The goal of the program is to improve safety for employees and lower employer costs by assisting employers for which the traditional safety and health model has not been effective. The Department must design the program to promote management and labor leadership in safety and health as essential for long-term success. Criteria for participation may include, but are not limited to a:

- history with the Department indicating a less than optimal leadership commitment to safety and health;
- rising experience modification factor;
- recent catastrophic workplace injury;
- change in the employer's safety management; and
- request by the employer to participate.

The Department must expand the program to one additional Department region.

The Department must adopt rules establishing criteria for participation and post information on its webpage to inform employers about the program. Participation in the program is voluntary and employers must be approved by the Department to participate. The program does not replace the Department's existing compliance or consultation programs.

The program must be implemented within existing resources and funding for the program may not be appropriated from workers' compensation funds.

Votes on Final Passage:

House	97	0	
Senate	49	0	(Senate amended)
House			(House refused to concur)
Senate	49	0	(Senate amended)
House	98	0	(House concurred)

VETO MESSAGE ON EHB 2509

March 30, 2012

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 2509 entitled:

"AN ACT Relating to improving workplace safety and health by enacting the blueprint for safety program."

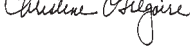
Engrossed House Bill 2509 would require the Department of Labor and Industries to expand its voluntary technical assistance pilot program, the Blueprint for Safety Program, to an additional region of the state. Engrossed House Bill 2509 further states that funding for this program cannot be appropriated from the medical aid fund or accident fund, but shall be implemented within existing resources.

The goal of the Blueprint for Safety Program is to improve employee safety and lower costs by assisting those employers for which the traditional safety and health model has not been effective. This goal is laudable, and I will direct the Department to continue its work in this area. However, combining a mandated expansion of this labor-intensive program with restrictions on use of the medical aid fund or accident fund is problematic. These limits on funding sources could cause significant reductions in several important ongoing programs supported by other funds. Also, these limits would decrease the Department's ability to ensure federal matching funds are not put in jeopardy.

This bill contains a single section that both expands the Blueprint for Safety Program and restricts use of resources.

For this reason I have vetoed Engrossed House Bill 2509 in its entirety.

Respectfully submitted,



Christine O. Gregoire
Governor

HB 2523
C 211 L 12

Regulating insurers and insurance products.

By Representatives Bailey, Cody and Kirby; by request of Insurance Commissioner.

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

Background: In 2010 the United States Congress passed, and the President signed, the Patient Protection and Affordable Care Act and the Health Care and Education Reconciliation Act of 2010 (PPACA). Many of the PPACA's provisions do not go into effect until 2014. However, several health insurance-related provisions, and the administrative rules implementing them, are in effect or will go into effect in the near future. These provisions include:

- minimum medical loss ratios;
- the removal of preexisting condition exclusions for children under age 19;
- the removal of lifetime maximums;
- internal and external review processes;
- mandatory coverage for emergency services;
- dependent coverage until age 26; and
- mandated coverage for preventive services.

Preexisting Condition Exclusions for Health Insurance and Portability. *Preexisting Condition Exclusions Under Federal Law.* The PPACA prohibits health insurers from imposing preexisting condition exclusions on persons under age 19. Beginning in 2014, this prohibition will apply to all consumers.

Preexisting Condition Exclusions Under State Law. Generally, health insurers who offer conversion contracts or policies, i.e., a contract or policy that converts group coverage to individual coverage, may not exclude coverage of preexisting conditions. However, a preexisting condition exclusion is allowed to the extent that any waiting period in the original group coverage for a preexisting condition has not been satisfied. In 2011 a state law was enacted that made a number of changes related to implementation of the PPACA. The 2011 act intended to make the PPACA implementation changes, provided that conversion contracts and conversion policies may not contain exclusions for preexisting conditions for any applicant who is under age 19.

Health Insurance Portability Under State Law. A person seeking to purchase an individual health plan or enroll in the Basic Health Plan administered by the Health Care Authority (HCA) may have to complete a standard health questionnaire. The results of the questionnaire may qualify the person for coverage by the Washington State Health Insurance Pool (WSHIP). If the person qualifies for the WSHIP, a health carrier may decide to not enroll the person in an individual health plan, and the HCA may not enroll the person in the Basic Health Plan.

Internal and External Review Procedures for Health Insurance. *Internal and External Review Procedures Under Federal Law.*

1. Internal Review.

Under the PPACA, health insurers must have an effective internal appeals process for appeals of coverage and claims determinations. Enrollees must be informed of the appeals process in a culturally and linguistically appropriate manner.

Notice of an adverse benefit determination must contain the following information:

- information sufficient to identify the claim involved, including the date of service, the health care provider, the claim amount (if applicable), the diagnosis code and its corresponding meaning, and the treatment code and its corresponding meaning; and
- the reason or reasons for the adverse benefit determination or final internal adverse benefit determination, including the denial code and its corresponding meaning, as well as a description of the issuer's standard, if any, that was used in denying the claim. In the case of a notice of final internal adverse benefit determination, this description must include a discussion of the decision.

2. External Review.

The PPACA also requires health insurers to comply with applicable state external review processes that contain at least the protections in the Uniform External Review Model Act promulgated by the National Association of Insurance Commissioners (NAIC) and meet the requirements of the federal rules adopted to implement the PPACA.

Internal and External Review Procedures Under State Law.

1. Internal Review.

In 2011 a state law was enacted that made a number of changes related to PPACA implementation and to conform the existing state internal review process to the PPACA standards. Every health insurer must have a fully operational, comprehensive grievance process. An insurer must respond to an enrollee's dissatisfaction about customer service or health service availability in a timely and thorough manner. Enrollees must be provided with written notice of decisions to deny, modify, reduce, or terminate payment, coverage, authorization, or provision of health care services or benefits. Appeals of adverse decisions must be processed within 30 days (or 72 hours if the 30-day timeline could seriously jeopardize the enrollee's life, health, or function). When adopting rules on internal grievance processes, the Insurance Commissioner (Commissioner) must consider grievance processes as approved by the federal Department of Health and Human Services or the federal Department of Labor (unless the health plans are grandfathered). The

state Department of Health (DOH) oversees the IRO process, and the state requirements for the IRO process are largely found in the DOH's laws or rules.

2. External Review.

In 2011 a state law was enacted that made a number of changes related to PPACA implementation and to conform the existing state IRO process to the PPACA standards. Once a health insurer's grievance process has been exhausted, the enrollee may seek review by an IRO. The Office of the Insurance Commissioner (OIC) maintains a rotational registry for the assignment of an IRO to each dispute. Enrollees must be provided with at least five business days to submit additional information to the IRO, which the IRO must forward to the carrier within one business day. An expedited review process must be available for determinations regarding admissions, availability of care, continued stay, health care services for which the claimant received emergency services, but has not been discharged, or medical conditions for which a 45-day wait would jeopardize the life, health, or function of the claimant. The IRO must provide notice of its decision within 72 hours. If the notice is not in writing, the notice must be followed by written confirmation within 48 hours. The Commissioner must consider standards adopted by the NAIC when promulgating rules regarding IROs.

Dependent Coverage to Age 26. *Dependent Coverage Under Federal Law.* Under the PPACA, if a health insurer offers dependent coverage, a child may stay on the parent's plan until age 26, unless the child's employer offers health insurance.

Dependent Coverage Under State Law. In 2011 a state law was enacted that made a number of changes related to PPACA implementation. The 2011 act provided that health insurers who offer dependent coverage must offer the option of covering any dependent under age 26. Health insurers in the WSHIP must terminate dependent coverage at age 26.

The Washington State Health Insurance Pool. The WSHIP is the "high-risk" health insurance pool for this state. The WSHIP offers health insurance to residents of this state who are rejected for coverage in the individual market due to medical reasons. Enrollees into the WSHIP may face a benefit waiting period for preexisting conditions. The benefit waiting period may not be applied to prenatal care services.

Risk-Based Capital Reports. All insurers must file reports that use formulas to assess their solvency and the nature of the risk of their business. If the reports do not meet a specific threshold, a correlative action may be taken by the Commissioner. The steps are progressive and range from additional reports to a takeover of a company. The first step is called a "company action level event" where the insurer must submit a report that identifies what led to the situation, corrective action to remedy the situation, and a projection of financial results with and without the corrective actions. Life insurers and health insurers may face an action level event if their Risk-Based Capital (RBC) result does not exceed 2.5 times the "authorized control level" and has a negative trend.

Multiple Employer Welfare Arrangements. A multiple employer welfare arrangement (MEWA) is a group purchasing arrangement defined by the federal Employee Retirement Income Security Act of 1974 (ERISA). The ERISA defines a MEWA as an employee welfare benefit plan or other arrangement established or maintained to offer or provide welfare plan benefits to employees of two or more employers or their beneficiaries. An employee welfare benefit plan is defined to include medical, surgical, or hospital care or benefits as well as sickness, accident, disability, and death benefits. The ERISA generally preempts state laws relating to employee benefit plans. An exception allows the application of state insurance laws to ERISA-covered welfare plans that meet the MEWA definition. The state applies a regulatory structure to MEWAs. One part of that structure requires any person who exercises control over the financial dealings and operations of the MEWA to be fingerprinted as a part of a background check by the Washington State Patrol (WSP) and the Federal Bureau of Investigation (FBI).

Adjusters. An adjuster is a person who is compensated for investigating or reporting on claims arising under insurance contracts on the sole behalf of either the insurer or the insured. A person may not hold himself or herself out to be an adjuster unless licensed by the OIC or otherwise authorized under law to act as an adjuster. Adjusters have to undergo background checks in the licensing process. In 2010 a law was an enacted that allowed non-resident adjusters who are licensed in another state to receive reciprocity in this state. Over the last several years, numerous laws have been enacted addressing insurance producers, including changes regarding reciprocity and also designation of a home state. "Home state" is defined as "the District of Columbia and any state or territory of the United States or province of Canada in which an insurance producer maintains the insurance producer's principal place of residence or principal place of business, and is licensed to act as an insurance producer."

Solicitation Permits for Domestic Insurers. A domestic insurer is an insurer organized under Washington law. A person forming or seeking to form an insurer in this state may not advertise, or solicit or receive any funds, agreement, stock subscription, or membership unless the person has a solicitation permit from the OIC. A person applying for a solicitation permit must provide the contact information and fingerprints of every person that will be associated with the formation of the insurer for a state and national criminal background check. The background check will be performed by the WSP and the FBI and possibly other governmental agencies.

Charitable Gift Annuities. Charitable gift annuity (CGA) businesses are regulated under the Insurance Code. The Commissioner may grant a certificate of exemption to

any insurer or educational, religious, charitable, or scientific institution conducting a charitable gift annuity business that meets specific criteria. The Commissioner may refuse to grant, revoke, or suspend a certificate of exemption if the Commissioner finds the CGA does not meet statutory requirements, has not acted in good faith, or has violated an unfair practice law.

Service of Process. Service of process is the legal procedure of notifying an affected person or business of a pending legal action. The Insurance Code contains provisions that require a wide variety of nonresident persons and businesses to follow certain procedures in appointing the Commissioner their attorney for the purpose of receiving service of process. Generally, the person or entity must provide the Commissioner with the name, title, and address of the person who should be contacted about the action. Service of process provisions were changed for OIC licensees in 2010 and 2011.

Casualty Rate Credits. As a general rule, casualty rates must be filed with and approved by the Commissioner. The standard for rate review is that premium rates for insurance may not be excessive, inadequate, or unfairly discriminatory. In 1986 an omnibus act was enacted that made a number of changes throughout the tort system. One part of that law required the Commissioner to review casualty rate filings to determine if a credit to casualty policyholders was required based on the changes in the 1986 act.

The Centers for Medicare and Medicaid Services. The Centers for Medicare and Medicaid Services (CMS) is a federal agency within the United States Department of Health and Human Services. The CMS administers the Medicare program, works with state governments to administer Medicaid and the State Children's Health Insurance Program, and oversees certain health insurance portability standards. The CMS was known as the Health Care Financing Administration from 1977-2001.

Summary: Preexisting Condition Exclusions for Health Insurance and Portability. Persons under age 19 are exempt from having to complete the standard health questionnaire if they are in the individual market because their employer has discontinued coverage. A person seeking enrollment into the Basic Health Plan as a nonsubsidized enrollee is exempt from the standard health questionnaire if the person meets certain continuous coverage standards.

Internal and External Review Procedures for Health Insurance. A definition of "grievance" that applies to all health carriers is modified to eliminate a complaint about a denial or payment or non-provision of medical services. The definition of "meaningful grievance procedure" in the definitions applying to health maintenance organizations (HMOs) is modified to become "meaningful appeal procedure" or "meaningful adverse determination review" procedure depending on the context. Each carrier and health plan must have a comprehensive grievance and appeal process. A reference to a time frame of 45 days for the expedited review process is removed. Plans that are not grandfathered must have fully operational, comprehensive, and effective grievance and review of adverse benefit determination processes. With coverage offered under a group health plan, if either the carrier or the health plan complies with these requirements, then the obligation to comply is satisfied for both the carrier and the plan. Health plans, in addition to carriers, must provide written notices of a decision to deny, modify, reduce, or terminate payment, coverage, authorization, or provision of health services or benefits (denial). A person may request a reconsideration of a denial. If the request is made under a grandfathered plan, the carrier and the plan must process it as an appeal. If it is made under a plan that is not grandfathered, the plan and carrier must process it as a review of an adverse benefit determination. Similar distinctions are made between grandfather plans and plans that are not grandfathered with regard to an enrollee's rights, continuation of coverage, explanations of the processes, accessibility to enrollees who are limited English speakers, have disabilities, or have physical or mental disabilities, tracking of appeals, and record-keeping. Several references to grievances in provisions that apply only to HMOs are struck and replaced by a meaningful appeal procedure. A requirement that a detailed description of a carrier's grievance system must be provided to the OIC is deleted. The Commissioner will no longer consider an HMO's agreements with providers for the provision of health care services or procedures to resolve grievances as a part of the HMO's registration process.

Dependent Coverage to Age 26. Language regarding coverage for dependent children under age 26 is modified for insurance offered by health care service contractors, HMOs, and disability insurers. The requirement that individual plans offer the option of covering a dependent child under age 26 is changed by removing "dependent" and limiting the broad requirement to plans that are not "grandfathered plans" as defined in existing law. Grandfathered plans must offer the option of coverage until age 26 unless the child is eligible to enroll in an eligible health plan sponsored by the child's employer or the child's spouse's employer.

The Washington State Health Insurance Pool. The WSHIP may not apply a benefit waiting period to benefits for outpatient prescription drugs.

Risk-Based Capital Reports. Health carriers and life insurers may face an action level event if their RBC result does not exceed three times the authorized control level.

Multiple Employer Welfare Arrangements. The background check must be performed by a vendor authorized by the NAIC to perform state, national, and international background checks.

Adjusters. The definition of "home state" is modified to include adjusters, in addition to insurance producers. Nonresident applicants for an adjuster license must provide background information if they designate

Washington as their home state. A nonresident adjuster applicant who does not designate Washington as a home state does not need to meet fingerprint requirements. A nonresident adjuster applicant state must meet the resident adjuster standards of the applicant's designated home state. If a nonresident adjuster applicant resides or has his or her principal place of business in another state that does not have substantially similar laws regarding adjuster licensure and the applicant is licensed and acts as an adjuster in this state or a third state, the applicant may list this state or the third state as his or her designated home state.

Solicitation Permits for Domestic Insurers. Provisions regarding the background checks are changed. A person applying for a solicitation permit must provide biographical reports for every person that will be an officer, director, trustee, employee, or fiduciary of the insurer. The background check must be performed by a vendor authorized by the NAIC to perform state, national, and international background checks.

Charitable Gift Annuities. A provision that requires the Commissioner to revoke a certification of exemption if the CGA fails to establish and maintain a separate reserve fund is removed. The Commissioner may also refuse to grant, revoke, or suspend a certificate of exemption if the Commissioner finds the CGA has violated additional provisions of law specific to the CGAs or has violated a rule applicable to the CGAs.

Service of Process. A reference to unauthorized foreign or alien insurers is changed to authorized foreign or alien insurers.

Casualty Rate Credits. The provision regarding the review and credit in the 1986 Omnibus Tort Reform Act is repealed.

The Centers for Medicare and Medicaid Services. References to the Health Care Financing Administration are changed to the Centers for Medicare and Medicaid Services.

Other grammatical and clarifying changes are made, including changes to incorrect cites.

Votes on Final Passage:

House	96	0
Senate	49	0

Effective: June 7, 2012

HB 2535

C 146 L 12

Creating a juvenile gang court.

By Representatives Ladenburg, Johnson, Moscoso, Walsh, Ross, Klippert, Goodman, Nealey, Fitzgibbon, Appleton, Pollet, Green, Billig, Roberts, Kirby, Probst, Jinkins, Kagi, Lytton, Dickerson, Darneille, Santos and Kenney.

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

Background: Special Courts. Many counties in Washington operate "problem solving" courts for specific offenders. At least three of these courts are authorized in statute: mental health courts, drug courts, and courts for offenders charged with driving under the influence. These dedicated courts have special calendars or dockets designed to reduce recidivism and provide intense, judicially supervised treatment. If an offender completes the requirements of a particular court, the underlying criminal charge is usually dismissed. In Washington, most dedicated courts handle only adult offender cases. Some counties, however, operate a juvenile drug court.

Gang Courts. Some state and federal courts have initiated gang courts for adult offenders. These courts are often developed based upon a drug court model. Instead of providing substance abuse treatment, the courts use a team approach whose goal is to assist offenders who want to leave a gang lifestyle.

Yakima County is the only county in Washington that has developed a gang court specifically for juvenile offenders. In order to participate, the juvenile charged with an offense must be involved in gang-related activities. Under Yakima's model, the youth is supervised by a gang court "team" that may include a prosecutor, defense counsel, probation officer, law enforcement, treatment providers, educators, and other interested members in the community. Upon admission to gang court, the juvenile either pleads guilty or is found guilty by the court based upon the facts in the police report. Sentencing is deferred for one year. Even if the juvenile offender completes all of the requirements of the gang court, the case is not dismissed. The court, however, may have a basis to impose a sentence more lenient than the standard sentence range.

Summary: Counties are authorized to establish and operate "juvenile gang" courts, which are courts that have special calendars or dockets designed to achieve a reduction in gang-related offenses among juvenile offenders. The gang courts must provide juveniles with integrated evidence-based services that are proven to reduce recidivism and gang involvement.

Any county that establishes a juvenile gang court must establish minimum requirements for participation. A

particular county, however, may adopt more stringent admission requirements.

For this purpose, a "gang" is defined as: "a group which consists of three or more persons; has identifiable leadership; and, on an ongoing basis, regularly conspires and acts in concert mainly for criminal purposes."

Admission. The minimum requirements for admission to gang court are:

- the juvenile offender participates in gang activity, is repeatedly in the company of known gang members, or openly admits that he or she has been admitted to a gang;
- the juvenile offender has not previously been convicted of a serious violent offense or a sex offense;
- the juvenile offender is not currently charged with:
  - a class A felony;
  - a sex offense;
  - the offense of Assault of a Child in the second degree;
  - an offense during which the offender intentionally discharged or threatened to discharge a firearm; or
  - the juvenile is not subject to the original jurisdiction of the adult superior court; and
- the court, the prosecutor, and the juvenile agree to the juvenile's admission to gang court.

Requirements for Completion. Once a juvenile offender is admitted into gang court, he or she must stipulate to the admissibility of the facts in the police report and agree that the facts are sufficient to find him or her guilty of the charged offense. The juvenile must waive the right to a speedy trial and the right to confront witnesses. Upon review of the police report, the court, if it determines that there is sufficient evidence to do so, enters a finding of guilt. The juvenile disposition, or sentencing, is deferred.

Once the juvenile is admitted, an individualized plan is developed for the juvenile, which may include mental health treatment, substance abuse treatment, or other recommended services. The plan must contain goals for the juvenile and his or her support team and must include a requirement that the juvenile remain in the gang program for at least 12 months. The support team may be comprised of treatment providers, a probation officer, teachers, defense counsel, the prosecuting attorney, law enforcement, guardians or family members, and other participants deemed necessary by the court. At least one member of the support team must have daily contact with the juvenile. If the juvenile completes the requirements of the gang court, the charges are dismissed. A juvenile may be admitted to gang court only once.

Data Collection and Reports. Counties that create juvenile gang courts must collect data (1) regarding the criteria upon which a juvenile was admitted to gang court, (2) whether the juvenile successfully completed gang court, and (3) whether a juvenile court participant was subsequently charged with any offenses.

By December 1, 2013, the Administrative Office of the Courts must study the data collected by the counties and make a preliminary report to the Legislature regarding the recidivism outcomes for the gang court participants. A final report is due by December 1, 2015.

Votes on Final Passage:

House	92	4	
Senate	48	0	(Senate amended)
House	97	1	(House concurred)

Effective: June 7, 2012

E2SHB 2536

C 232 L 12

Concerning the use of evidence-based practices for the delivery of services to children and juveniles.

By House Committee on Ways & Means (originally sponsored by Representatives Dickerson, Johnson, Goodman, Hinkle, Kretz, Pettigrew, Warnick, Cody, Harris, Kenney, Kagi, Darneille, Orwall, Condotta, Ladenburg, Appleton, Jinkins and Maxwell).

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

Background: Evidence-based practices are generally defined as those programs or policies that are supported by a rigorous outcome evaluation clearly demonstrating effectiveness. Since the mid-1990s, the Washington State Institute for Public Policy (WSIPP), the research arm of the Legislature, has undertaken comprehensive reviews of evidence-based programs. It has examined programs and policies in the juvenile and adult criminal justice arenas, as well as in other public policy areas, including early childhood education, child welfare, children's and adult mental health, and substance abuse. A "research-based" practice has some research demonstrating effectiveness, but it does not yet meet the standard of an evidence-based practice. A "promising practice" does not meet evidence-based standards but presents potential for becoming a research-based practice.

In 2007 the Legislature established the University of Washington Evidence Based Practice Institute (EBPI) which collaborates with the WSIPP and other entities to improve the implementation of evidence-based and research-based practices by providing training and consultation to mental health providers and agencies that serve the needs of children. The EBPI also provides oversight of implementation of evidence-based practices to ensure fidelity to program models.

Medicaid. In 2011 the Health Care Authority (HCA) was designated as the single state agency for the administration and supervision of Washington's Medicaid program.

Summary: A new chapter is created in Title 43 regarding the use of evidence-based and research-based prevention and intervention services in the areas of children's mental health, juvenile rehabilitation, and child welfare. "Prevention and intervention services" are defined as services and programs for children and youth and their families that are specifically directed to address behaviors that have resulted or may result in truancy, abuse or neglect, out-of-home placements, chemical dependency, substance abuse, sexual aggressiveness, or mental or emotional disorders.

Description and Inventory of Practices. By September 30, 2012, the Department of Social and Health Services (Department), in consultation with the WSIPP, the EBPI, a university-based child welfare partnership and research entity, other national experts in the delivery of evidence-based services, and organizations representing Washington practitioners, is required to publish descriptive definitions for and prepare an inventory of evidence-based, research-based, and promising practices for prevention and intervention services in the areas of child welfare, juvenile rehabilitation, and children's mental health services. The inventory must be periodically updated as more practices are identified.

In the identification of evidence-based and research-based services, the WSIPP and the EBPI must consider available systemic evidence-based assessment of a program's efficacy and cost effectiveness and attempt to identify assessments that use valid and reliable evidence. The Department must prioritize the assessment of promising practices that it has identified with the goal of increasing the number of promising practices that meet the standards for evidence-based or research-based practices.

Baseline Assessment of Utilization. By June 30, 2013, the Department and the HCA must complete a baseline assessment of the utilization of evidence-based and research-based practices in the areas of child welfare, juvenile rehabilitation, and children's mental health services. The assessment must include prevention and intervention services provided through Medicaid fee-for-service and Healthy Options managed care contracts. The assessments of services must include estimates of:

- the number of children receiving each service;
- the total amount of state and federal funds expended for juvenile rehabilitation and child welfare services;
- the number and percentage of encounters for children's mental health services provided to children served by the Regional Support Networks and for children receiving services through Medicaid fee-for-service or Healthy Options;
- the relative availability of the service in different regions in the state; and
- the unmet need for each service, to the extent it can be assessed.

Coordinated Care and Monitoring Procedures. The Department must develop strategies to use unified and coordinated case plans for children, youth, and their families who are or will likely be involved in multiple systems within the Department. It must also use monitoring and quality control procedures designed to measure fidelity with evidence-based and research-based prevention and treatment services, including the use of existing data reporting and system of quality management processes at the state and local levels. The Department must carry out these responsibilities in consultation with:

- a university-based evidence-based practice institute entity in Washington;
- the Washington Partnership Council on Juvenile Justice;
- the Child Mental Health Systems of Care Planning Committee;
- the Children, Youth, and Family Advisory Committee;
- a university-based Child Welfare entity in Washington;
- Regional Support Networks;
- the Washington Association of Juvenile Court Administrators; and
- the WSIPP.

Matching Funds. The Department and the HCA must identify components of evidence-based practices for which federal funds might be claimed and seek federal matching funds for such components.

Training. The Department must efficiently use funds to coordinate training across program areas, and training for child welfare employees must be delivered by the University of Washington School of Social Work in Coordination with the EBPI.

Implementation of Act. The Department and the HCA, in implementing this act, are not required to take actions that are in conflict with Presidential Executive Order 13175 or that adversely impact tribal-state consultation protocols or contractual relations. The Department and the HCA are not required to redirect funds in a manner that conflicts with the Department's Section 1915(b) Medicaid mental health waiver or that would substantially reduce Medicaid funding or impair access to services for a substantial number of Medicaid clients.

The Department is not required to take actions inconsistent with its obligations or authority pursuant to a court order or agreement in the context of a lawsuit.

Reports. By December 30, 2013, the Department and the HCA must report to the Governor and to the Legislature regarding recommended strategies, timelines, and costs for increasing the use of evidence-based and research-based practices. The report must include

recommendations for substantial increases above the baseline assessment for the 2015-2017 and the 2017-2019 biennia. The recommendations for increases must be relative to the estimates of the number of persons served, service encounters, availability of services, unmet need, and funding expenditures contained in the June 2013 report. They must also include strategies to identify programs that are effective with ethnically diverse clients and to consult with tribal governments and experts within diverse communities.

The report must distinguish between a reallocation of existing funding to support recommended strategies and new funding necessary to effect increases in the use of evidence-based and research-based practices. Subsequent reports with updated recommendations are required by December 30, 2014, and by December 30, 2015.

If the Department or the HCA anticipates that it will not meet the levels recommended in the reports to the Governor and the Legislature, the relevant entity must report to the Legislature by November 1 of the year preceding the biennium. The report must include identified impediments, current and anticipated performance levels, and strategies to improve performance.

Votes on Final Passage:

House	97	1	
Senate	48	0	(Senate amended)
House			(House refused to concur)
Senate	48	0	(Senate amended)
House	98	0	(House concurred)

Effective: June 7, 2012

SHB 2541
FULL VETO

Concerning the sealing of juvenile records.

By House Committee on Early Learning & Human Services (originally sponsored by Representatives Darneille, Dickerson, Jinkins, Roberts, Appleton, Kagi and Kenney).

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

Background: Deferred Disposition. A disposition is the juvenile court equivalent of sentencing in adult court. A deferred disposition in juvenile court is akin to a deferred prosecution in adult court. The juvenile offender is found guilty at the time that the court agrees to allow a deferred disposition. A deferred disposition allows a juvenile to complete certain conditions set out by the court and probation, including any restitution payment, in exchange for having the charges dismissed.

A juvenile is eligible for a deferred disposition unless he or she:

- is charged with a sex or violent offense;
- has a criminal history which includes any felony; or
- has two or more prior adjudications.

If a court grants a deferred disposition, the juvenile is required to:

- stipulate to the admissibility of the facts contained in the written police report;
- acknowledge that the report will be entered and used to support a finding of guilt and to impose a disposition (i.e., sentencing) if the juvenile fails to comply with terms of supervision; and
- waive the right to a speedy disposition and to call and confront witnesses.

After the court enters a finding or plea of guilty, the court defers entry of an order of disposition. The juvenile offender is placed on community supervision, and the court may impose any conditions that it deems appropriate. Payment of restitution must be a condition of supervision. Generally, the juvenile has one year to complete the conditions but may have up to two years. If the juvenile fails to complete the conditions, as determined by a hearing before the court, the court must enter an order of disposition.

If the court finds that the juvenile offender has successfully complied with the conditions of his or her supervision, including payment of restitution, the conviction is vacated and the court dismisses the case with prejudice. If the juvenile has a conviction for Animal Cruelty in the first degree, his or her conviction is not vacated.

Sealing of Deferred Dispositions. A juvenile's records of a deferred disposition must be sealed within 30 days after the juvenile's eighteenth birthday if:

- the conditions of the deferred disposition have been completed;
- the deferred disposition has been vacated and the case dismissed with prejudice; and
- the juvenile does not have any pending charges.

If the juvenile is already 18 years old at the time that the deferred disposition is vacated, he or she may request that the court seal his or her records, and that request must be granted. Records sealed under this provision have the same legal status as records sealed under other laws governing juvenile offender records.

Summary: At the time that a court vacates a deferred disposition, the court must set a date for an administrative hearing within 30 days after the juvenile's eighteenth birthday. At that administrative hearing, the court must execute an order sealing the juvenile's deferred disposition, and the juvenile does not have to appear.

Votes on Final Passage:

House	97	0
Senate	44	3

VETO MESSAGE ON SHB 2541

March 29, 2012

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, Substitute House Bill 2541 entitled:

"AN ACT Relating to sealing juvenile records."

The policy of this bill is covered in Substitute Senate Bill 6240. Further, the two sections in Substitute House Bill 2541 would result in double amendments of RCW 13.40.127 and RCW 13.50.050 that cannot be fully reconciled with Substitute Senate Bill 6240.

For these reasons I have vetoed Substitute House Bill 2541 in its entirety.

Respectfully submitted,

Christine O. Gregoire
Governor

ESHB 2545

C 171 L 12

Including compressed natural gas, liquefied natural gas, or propane in fuel usage requirements for local governments.

By House Committee on Technology, Energy & Communications (originally sponsored by Representatives Zeiger, Ladenburg, Dammeier, Seaquist, Angel, Dahlquist, Wilcox, Jinkins, McCune and Kelley).

House Committee on Technology, Energy & Communications
Senate Committee on Energy, Natural Resources & Marine Waters

Background: Alternative Fuel Usage Requirements. In 2007 legislation was enacted setting out alternative fuel usage requirements for state and local governments. These requirements specify that by 2015, all state agencies and local governments, to the extent practicable as determined by the Department of Commerce (Department), must satisfy 100 percent of their fuel needs for all vessels, vehicles, and construction equipment using electricity or biofuel.

In 2009 an interim alternative fuel usage requirement was adopted for state agencies. By June 1, 2015, state agencies, to the extent practicable as determined by the Department, must achieve 40 percent fuel usage from electricity or biofuel for publicly owned vessels, vehicles, and construction equipment. In 2011 legislation was enacted that granted local government subdivisions until June 1, 2018, to comply with the requirement.

Rulemaking. By June 1, 2015, the Department must adopt rules to define practicability and clarify how local government will be evaluated to determine whether they have met associated goals. Although the Department was required to adopt rules by June 1, 2010, to define practicability and clarify how state agencies would be evaluated in determining whether they had met this objective, the agency has not done so.

In developing state and local government compliance rules, the Department must at least consider the following factors: (1) the regional availability of fuels; (2) vehicle costs; (3) differences between types of vehicles, vessels, or equipment; (4) the cost of program implementation; and (5) cost differentials in different parts of the state. Also, the Department must develop a schedule for phased-in progress towards meeting the goal and that may include different schedules for different fuel applications or different quantities of biofuel.

Summary: Local governments and state agencies in satisfying their fuel usage requirements may substitute compressed natural gas, liquefied natural gas, and propane for electricity or biofuel, if the Department of Commerce determines that electricity and biofuel are not reasonably available.

Transit agencies using compressed natural gas on June 1, 2018, are exempt from fuel usage requirements.

Votes on Final Passage:

House	97	0
Senate	48	1

Effective: June 7, 2012

3E2SHB 2565

C 4 L 12 E2

Concerning persons who operate a roll-your-own cigarette machine at retail establishments.

By House Committee on Ways & Means (originally sponsored by Representatives Kirby, Harris, Dammeier, Walsh, Orwall, Kelley, Moscoso and Zeiger).

House Committee on Business & Financial Services
House Committee on Ways & Means
Senate Committee on Ways & Means

Background: Tobacco products are subject to various taxes, including state retail sales and use taxes and tobacco taxes that are paid by wholesalers or distributors of the products in the state.

Cigarette Taxes. The cigarette tax is added directly to the price of cigarettes before the sales tax is applied. The cigarette tax is due from the first person who sells, uses, consumes, handles, possesses, or distributes the cigarettes in the state. The taxpayer pays the cigarette tax by purchasing cigarette tax stamps that are placed on cigarette packs. On May 1, 2010, the cigarette tax rate was increased from $0.10125 to $0.15125 per cigarette (from $2.025 to $3.025 per pack of 20 cigarettes).

Taxpayers pay the tax by purchasing cigarette tax stamps from banks authorized by the Department of Revenue (Department). The stamps are placed on cigarette packs. A licensed wholesaler may possess cigarettes

for a reasonable period before affixing stamps. Except for licensed wholesalers, it is unlawful to possess unstamped cigarettes unless the possessor files a notice of intent to possess with the Department before receiving the cigarettes. It is unlawful for any person to place a cigarette tax stamp on a package of cigarettes unless the brand family is on the list on the Attorney General's website. Cigarettes without tax stamps are contraband and subject to seizure if in the possession of anyone other than a licensed wholesaler or a person who filed a notice of intent to possess.

Tobacco Products Taxes. The tobacco products tax applies to all tobacco products, except cigarettes, which are taxed separately. Examples of tobacco products include cigars, pipe tobacco, snuff, and chewing tobacco. The tobacco products tax is due from the distributor when the distributor brings tobacco products into the state, manufactures tobacco products in the state, or ships tobacco products to retailers in the state.

Beginning May 1, 2010, the tobacco products tax was increased from 75 percent to 95 percent of the taxable sales price, with some exceptions. The tobacco products tax rate is 95 percent of the wholesale price, with some exemptions (cigars and snuff) but for cigars the tax is capped at 50 cents per cigar. The wholesale price is, generally, the actual purchase or selling price charged by the manufacturer or distributor. These tobacco products are not subject to any stamp requirement.

Tobacco Sales Regulation. A retailer that sells tobacco products must be licensed and must comply with laws that:

- provide signage standards;
- limit access to minors; and
- prohibit sampling.

The Liquor Control Board (Board) may impose sanctions for statutory violations.

Enforcement. The Board may revoke or suspend the license of any wholesaler who violates tax and stamping provisions. The Board or Department may impose civil penalties for a violation, not to exceed the greater of 500 percent of the retail value of the cigarettes or $5,000. The Attorney General may seek a court injunction to restrain a threatened or actual violation. It is a gross misdemeanor to sell, distribute, or possess cigarettes with tax stamps that have been affixed in violation of the requirements. Cigarettes not in compliance with the tax stamp requirements may be seized as contraband.

Summary: The definition of "cigarette" used for excise taxation is modified to explicitly include roll-your-own (RYO) cigarettes. Several new definitions are created including "cigarette paper," "cigarette tube," "commercial cigarette-making machine," and "roll-your-own cigarettes."

A tax enforcement and regulatory system for RYO cigarettes is established that requires RYO retailers to:

- purchase tax stamps that must be affixed to the containers that are provided by the retailer and used by consumers to transport RYO cigarettes from the retailer's place of business;
- limit consumer access to a RYO machine;
- pay an additional $93 annual RYO retailer licensing fee; and
- use only commercial RYO machines that have metering devices.

Retailers that purchase stamps for RYO cigarettes are provided with compensation to offset the tobacco products tax. The amount is equal to 5 cents per cigarette.

Votes on Final Passage:

House	67	30
First Special Session		
House	65	32
Second Special Session		
House	66	32
Senate	27	19

Effective: July 1, 2012

ESHB 2567

C 60 L 12

Authorizing an optional system of rates and charges for conservation districts.

By House Committee on Local Government (originally sponsored by Representative Fitzgibbon).

House Committee on Local Government
House Committee on General Government Appropriations & Oversight
Senate Committee on Agriculture, Water & Rural Economic Development

Background: Conservation Districts and Special Assessments. A conservation district is a governmental subdivision of the state with the authority to conduct research, education, and cooperative intergovernmental activities relating to the conservation of renewable natural resources. A county legislative authority may impose special assessments to finance the activities of a conservation district within that county.

Proposed systems of assessments are established by conservation district supervisors and the county legislative authority through a process of public hearings and filings. In completing this process, the conservation district proposes the system of assessments to the county legislative authority for its acceptance or modification.

Conservation districts are required to prepare an assessment roll to implement the system of assessments approved by the county legislative authority. These special assessments are to be spread by the county assessor as a separate item on the tax rolls and are collected with property taxes by the county treasurer. The amount of a special assessment constitutes a lien against the land that

is subject to the same conditions as a tax lien and is subject to the same interest rate and penalty as delinquent property taxes.

Public and Forest Lands. Public lands are also subject to special assessments to the same extent as privately owned lands. Forest lands used for planting, growing, or harvesting of trees may also be subject to special assessments if the lands benefit from the activities of the conservation district, but the per acre rate of special assessment on forest lands is limited to one-tenth of the weighted average per acre assessment.

Summary: Conservation Districts – Optional System of Rates and Charges.

County legislative authorities are authorized to establish optional systems of rates and charges for conservation districts and may consider certain factors when fixing rates and charges. The system of rates and charges may include an annual per acre amount, an annual per parcel amount, or an annual per parcel amount plus an annual per acre amount. The consideration, adoption, implementation, and collection of a system of rates and charges must follow the same public notice and hearing process, and is subject to the same procedure and authority, as required for special assessments for conservation districts. The conservation district board of supervisors is required to establish rules providing for appeals regarding the application of the adopted system of rates and charges. The county assessor is responsible for collecting the rates and charges using the same process that is used for collecting special assessments for conservation districts.

The county assessor is responsible for collecting the rates and charges using the same process that is used for collecting special assessments for conservation districts. The amount of the rates and charges will constitute a lien against the land that is subject to the same conditions as a tax lien. The lien must be collected by the county treasurer in the same manner as delinquent real property taxes, and subject to the same interest and penalty as for delinquent property taxes. The rates and charges for a conservation district will not be spread on the tax rolls and will not be allocated with property tax collections in the following year if a petition objecting to the imposition of the rates and charges is signed by at least 20 percent of the landowners and filed with the county legislative authority.

Public and Forest Lands. Public land and forest lands used solely for the planting, growing, or harvesting of trees may be subject to rates and charges if the land is served by the activities of a conservation district. If the system of rates and charges includes an annual per acre amount or an annual per parcel amount plus an annual per acre amount, the per acre rate or charge on the forest lands must not exceed one-tenth of the weighted average per acre rate or charge on all other lands within the conservation district that are subject to rates and charges.

Votes on Final Passage:

House	89	8	
Senate	45	2	(Senate amended)
House	90	8	(House concurred)

Effective: March 20, 2012

ESHB 2570

PARTIAL VETO

C 233 L 12

Addressing metal property theft.

By House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Goodman, Hurst and Ross).

House Committee on Public Safety & Emergency Preparedness

Senate Committee on Judiciary

Background: State law regulates scrap metal businesses. The law imposes restrictions and comprehensive record-keeping requirements on commercial transactions involving metal property.

Summary: Task Force on Commercial and Nonferrous Metal Property Theft. The Task Force on Commercial and Nonferrous Metal Property Theft (Task Force) is created and tasked with consideration of issues regarding the prosecution and prevention of theft of metal property, including appropriate penalties, the role of local government, private rights of action in prosecuting thefts, restrictions on the purchasing of metal property, the registration of scrap metal businesses, and the implementation of a metal theft alert system.

The Task Force members include business owners involved in the sale of scrap metal, representatives of industries most affected by metal theft, municipal and county representatives, and state law enforcement agencies.

The Task Force must meet quarterly through the end of 2014 and make a preliminary report to the Legislature by December 31, 2012. Task Force members must seek funding for their expenses from their respective agencies within existing resources.

Changes to Criminal Statutes. The theft of metal wire from a public service company or a consumer owned utility constitutes Theft in the first degree, a class B felony, if the costs of the damage to the company or utility's property exceeds $5,000. The same theft constitutes Theft in the second degree, a class C felony, if the costs of the damage to the company or utility's property exceeds $750 but not $5,000.

For this offense, a public service company is any gas company, electrical company, telecommunications company, or water company.

Votes on Final Passage:

House	94	3	
Senate	49	0	(Senate amended)
House	92	6	(House concurred)

Effective: June 7, 2012

Partial Veto Summary: The Governor vetoed the section that created a task force to formulate suggestions for state policy regarding reduction of commercial and nonferrous metal property theft.

VETO MESSAGE ON ESHB 2570

March 30, 2012

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 2570 entitled:

"AN ACT Relating to metal property theft."

Section 1 creates a twenty-four member task force to study the issue of metal theft and make recommendations to the Legislature. As I have stated many times, I do not support the statutory creation of new boards, commissions, work groups, or task forces. I believe this task force can be assembled independently, by the interested parties, without the need for a statute. In the alternative, the Legislative Committee(s) with jurisdiction can make the issue part of its interim work plan.

For these reasons, I have vetoed Section 1 of Engrossed Substitute House Bill 2570.

With the exception of Section 1, Engrossed Substitute House Bill 2570 is approved.

Respectfully submitted,

Christine O. Gregoire
Governor

ESHB 2571

C 234 L 12

Concerning waste, fraud, and abuse prevention, detection, and recovery to improve program integrity for medical services programs.

By House Committee on Health & Human Services Appropriations & Oversight (originally sponsored by Representatives Parker, Cody, Dammeier, Darneille, Alexander, Schmick, Orcutt, Hurst and Kelley).

House Committee on Health Care & Wellness
House Committee on Health & Human Services Appropriations & Oversight
Senate Committee on Ways & Means

Background: State Medical Programs. The Health Care Authority (HCA) administers various medical programs, including Medicaid, Apple Health for Kids, the Medical Care Services (MCS) program, and the Limited Casualty program.

Medicaid is a health care program for qualifying low-income and needy people, including children, the elderly, and persons with disabilities. The Medicaid program is a federal-state partnership established under the federal Social Security Act, and implemented at the state level with federal matching funds. Each state program must establish a plan that meets specified requirements mandated by the federal Centers for Medicare and Medicaid Services (CMS).

The Apple Health for Kids program provides medical coverage for children under age 19 in families with incomes at or below 300 percent of the federal poverty level (FPL). Apple Health for Kids includes three programs for financing this coverage: (1) the joint state-federal Medicaid program which provides coverage for children with family incomes at or below 133 percent of the FPL; (2) the joint state-federal Children's Health Insurance Program (CHIP) which provides coverage for children with family incomes above 133 percent and at or below 300 percent of the FPL; and (3) the state-funded Children's Health Program (CHP) which provides coverage for children with family incomes at or below 300 percent of the FPL who are not eligible for Medicaid or CHIP due to their citizenship status. Children in the CHP with family incomes at or above 200 percent of the FPL must pay premiums equal to the average state per capita cost of other children in the CHP.

The MCS program provides limited scope medical coverage to persons who are incapacitated from gainful employment for a minimum of 90 days. To be eligible, a person must have countable income at or below $339 per month. Additionally, persons who qualify for the Aged, Blind, and Disabled Assistance Program or for services under the Alcohol and Drug Addiction Treatment and Support Act are eligible for the MCS program.

The Limited Casualty program is a medical care program provided to medically needy persons and medically indigent persons without income or resources sufficient to secure necessary medical services. Medically needy persons with incomes higher than the Medicaid eligibility standards are eligible for coverage if their medical expenses are large enough to reduce their remaining incomes to levels consistent with Medicaid eligibility standards.

Managed care is a prepaid, comprehensive system of medical and health care delivery, including preventive, primary, specialty, and ancillary health services. Healthy Options is the Medicaid managed care program for low-income people in Washington. Healthy Options offers eligible families, children under age 19, and pregnant women a complete medical benefits package. The HCA intends to include clients who are eligible for federal Supplemental Security Income payments, but not Medicare, in managed care starting in July 2012.

Patient Protection and Affordable Care Act. The federal Patient Protection and Affordable Care Act (Affordable Care Act) provided new authorities to federal and state governments to promote program integrity and combat fraud, waste, and abuse in federal health care

programs. The CMS is adopting policies to prevent payment of fraudulent claims rather than chasing fraudulent providers after payments have been made. The CMS issued Final Rule 6028, which created enhanced screening procedures for providers and required states to terminate providers that have been terminated for cause by Medicare or another state Medicaid agency. Final Rule 6028 also requires states to withhold payments to Medicaid providers prospectively when there are credible allegations of fraud.

Program Integrity. The HCA's Office of Program Integrity performs activities designed to ensure correct payment for services to the right providers for eligible clients. The activities include provider enrollment and support, payment system controls, prepayment adjustments, postpayment reviews, provider audits, and advanced data mining algorithms and models.

Summary: Intent. The act's stated purpose is to implement waste, fraud, and abuse detection, prevention, and recovery solutions to shift from a retrospective "pay and chase" model to a prospective prepayment model. The act also states that it is the Legislature's intent to invest in the most cost-effective technologies or strategies that yield the highest returns on investment.

New Program Integrity Provisions. The new program integrity provisions apply to Medicaid, the Children's Health Insurance Program, the Children's Health Program, the Medical Care Services program, and the Limited Casualty program.

The Health Care Authority (HCA) is required to issue a request for information (RFI) by September 1, 2012, to seek input from potential contractors on implementing program integrity measures. The RFI will focus on capabilities that the HCA does not currently possess and functions that the HCA is not currently performing.

The RFI will seek input about predictive modeling and analytics technologies to identify and analyze billing or utilization patterns that represent high risks of fraudulent activity. The technologies would be integrated into existing claims operations and conducted before payments are made. The technologies would also prioritize identified transactions for additional review before payment is made and prevent payment until the claims have been automatically verified as valid.

The RFI will also seek input on provider and enrollee data verification and screening technologies to automate reviews and prevent inappropriate payments. The technologies should identify associations between providers and beneficiaries that indicate rings of collusive fraudulent activity. They should also discover enrollee attributes which indicate improper eligibility such as death, out-of-state residence, inappropriate asset ownership, or incarceration. These technologies may use publicly available records.

The RFI will inquire about fraud investigation services that combine retrospective claims analysis and prospective waste, fraud, and abuse detection techniques. The services must include analysis of historical claims, medical records, suspect provider databases, high-risk identification lists, and direct enrollee and provider interviews. The RFI must also emphasize provider education and allow providers opportunities to review and correct any problems identified prior to adjudication.

Upon completion of the RFI, the HCA is encouraged to issue a request for proposals to carry out the work if the HCA expects to generate state savings, the work can be integrated into the HCA's current claims operations without additional costs, and the reviews or audits are not anticipated to delay or improperly deny the payment of legitimate claims.

Contracting. The act's stated intent is that the savings achieved through the program integrity provisions must more than cover the cost of implementation and administration. The HCA must secure any technology services through a shared savings model where the state's only direct cost is providing a portion of the actual savings to the contractor.

Votes on Final Passage:

House	96	1
Senate	49	0

Effective: July 1, 2012

SHB 2574
C 71 L 12

Allowing special year tabs on certain special license plates for persons with disabilities.

By House Committee on Transportation (originally sponsored by Representatives Kristiansen and Pearson).

House Committee on Transportation
Senate Committee on Transportation

Background: A registered owner who qualifies for special parking privileges as a person with a disability may apply to the Department of Licensing for special license plates with a special year tab for persons with disabilities. Special year tabs for persons with disabilities are not available on all special license plate designs, including Amateur Radio (ham radio), Music Matters, and Volunteer Firefighters plates. In addition, special year tabs for persons with disabilities are also not available for license plates on certain vehicles which are not for general use, including horseless carriages, collector vehicles, and ride share vehicles.

Summary: Special year tabs for persons with disabilities are made available for any special license plate, except the collector vehicle, horseless carriage, and ride share special license plates.

Votes on Final Passage:

House	97	0
Senate	48	0

Effective: January 1, 2013

ESHB 2582

C 184 L 12

Requiring notice to patients for certain charges at a health care facility.

By House Committee on Health Care & Wellness (originally sponsored by Representatives Johnson, Cody, Ross, Jinkins, Green, Walsh, Hinkle, Clibborn, Liias, Kenney, Klippert, Smith, Alexander, Warnick, Fagan, Bailey, Ahern, Asay, Dahlquist, Kretz, DeBolt, Angel, Kelley, Hunt, Dickerson, Ladenburg, Orcutt, Zeiger, Wilcox, Finn, Wylie, Probst, Darneille, Moscoso, Kagi and Tharinger).

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

Background: Under the Medicare program, charges for hospital outpatient department visits may be comprised of two components: a professional fee and a facility fee. The facility fee may be charged if the location of the service is considered a provider-based department. Many factors affect the determination of provider-based status, including whether or not the hospital and the outpatient facility operate under the same license, the integration of clinical services of the hospital and the outpatient facility, the financial integration of the outpatient facility and the hospital, and the public's awareness of the relationship of the facility with the hospital.

To maintain provider-based status under the Medicare program, a hospital outpatient department must meet several obligations. One of these requirements is that, if the Medicare patient will be responsible for a coinsurance requirement for the facility fee, the hospital-based entity must provide the Medicare patient with:

- notice of the amount of the potential cost to the patient, prior to the delivery of services; and
- an explanation to the patient that he or she will be responsible for coinsurance costs to the hospital because of the facility's provider-based status.

Summary: A "provider-based clinic" is defined as a clinic or provider office that either (1) is 250 yards or more from the main campus of a hospital or (2) has been determined to be a provider-based clinic by the federal Centers for Medicare and Medicaid Services. In addition, to meet the definition, "provider-based clinics" must be (1) owned by a hospital or health system that operates hospitals, (2) licensed as part of the hospital, and (3) primarily engaged in providing diagnostic and therapeutic care. The definition excludes clinics that are rural health clinics or that exclusively provide laboratory, x-ray, testing, therapy, pharmacy, or educational services.

A "facility fee" is defined as any separate charge, in addition to professional fees, by a provider-based clinic that is intended to cover building, electronic medical records, billing, and other administrative and operational expenses.

Prior to delivering nonemergency services, a provider-based clinic must notify the patient that the clinic is licensed as part of the hospital and the patient may receive a separate billing for a facility fee which may result in greater out-of-pocket expenses for the patient. A provider-based clinic must also post a statement, in a place that is accessible and visible to patients, that the clinic is licensed as a part of the hospital and that a separate facility fee may be charged to the patient.

Hospitals that own or operate provider-based clinics that charge facility fees must report specified information to the Department of Health about their facility fees. The report must include: (1) the total number of provider-based clinics owned or operated by the hospital that charge a facility fee; (2) the number of visits at each provider-based clinic for which a facility fee was charged; (3) the revenue received by the hospital through facility fees at each provider-based clinic; and (4) the range of allowable facility fees charged at each provider-based clinic.

Votes on Final Passage:

House	81	16	
Senate	49	0	(Senate amended)
House	95	1	(House concurred)

Effective: January 1, 2013

3SHB 2585

PARTIAL VETO

C 230 L 12

Creating efficiencies for institutions of higher education.

By House Committee on Ways & Means (originally sponsored by Representatives Springer, Haler, Eddy, Seaquist and Zeiger).

House Committee on Higher Education
House Committee on Education Appropriations & Oversight
House Committee on Ways & Means
Senate Committee on Higher Education & Workforce Development
Senate Committee on Ways & Means

Background: Institutions of higher education and state agencies are subject to certain rules on procurement and employment.

Goods and Services. Purchases and sales must be based on competitive bids, and formal sealed, electronic, or web-based procedures must be used as standard procedure for purchases and contracts executed by agencies,

including educational institutions. However, formal sealed, electronic, or web-based competitive contracting is not required for purchases such as: purchases by institutions of higher education of specialized equipment, instructional, and research material; purchases by universities for hospital operations; and certain purchases for resale by institutions of higher education.

Travel Arrangements. Competitive contracting requirements for goods and services apply to travel arrangements made by institutions of higher education.

Personal Services. Personal service contracts must be based on a competitive solicitation process except for emergency contracts, sole source contracts, contract amendments, and contracts of less than $20,000. Contracts of $5,000 or more, but less than $10,000, must have documented evidence of competition. Contracts of $10,000 or more, but less than $20,000, must have documented evidence of competition, including agency posting of the opportunity on the common vendor registration and bid notification system.

Equipment Maintenance Services. Payments for periodic maintenance services performed on state-owned equipment may be made only if a written contract for such services is in effect. Payments may not be made in advance for equipment maintenance services to be performed more than 12 months after such payment.

Compensation; Health Care Classifications. Civil service rules, including a comprehensive classification plan and compensation system for all positions in the classified service, must be adopted by the Human Resources Director within the Office of Financial Management. These rules may include special competitive salary ranges for institutions of higher education. These rules must provide for local administration and management by institutions of higher education, subject to periodic audit and review by the Human Resources Director.

Compensation; Direct Deposit. Upon written request of at least 25 employees, payments of salaries and wages may be paid to a financial institution for credit to the employees' accounts in that institution, or for immediate transfer to the employees' accounts in other financial institutions.

Operating Fee Accounts; Allotment. Tuition fees must be deposited in local operating fee accounts. These accounts are not subject to appropriation or allotment procedures.

Operating Fee Accounts; Charges. Moneys from the State General Fund that are appropriated but not expended must be returned to the State General Fund at the end of a biennium. State agencies must charge expenditures to appropriated and nonappropriated funds in ratios that conserve appropriated funds. In 2011 the Legislature made institutions of higher education subject to this requirement during the 2011-13 biennium.

Summary: Certain rules on procurement and employment are modified for institutions of higher education.

Goods and Services. Institutions of higher education are exempt from formal sealed, electronic, and web-based competitive bidding requirements for goods and services purchases of $100,000 or less. However, for purchases of $10,000 or more, but less than $100,000, institutions must: secure quotations from at least three vendors; invite at least one quotation each from a certified minority-owned vendor and a certified woman-owned vendor qualified to perform the work; and keep documented records of such competition for audit purposes.

Travel Arrangements. Institutions of higher education are exempt from competitive contracting requirements applicable to travel arrangements. Instead, institutions may use all appropriate means to make and pay for travel arrangements. These arrangements must support travel in the most cost-effective and efficient manner possible, regardless of the source of funds.

Personal Services. Institutions of higher education are exempt from competitive solicitation requirements for personal service contracts that are less than $100,000. However, for personal service contracts of $10,000 or greater, but less than $100,000, institutions must: invite at least one quotation each from a certified minority-owned vendor and a certified woman-owned vendor qualified to perform the work; and document evidence of competition.

Equipment Maintenance Services. Institutions of higher education may make payments in advance for equipment maintenance services to be performed up to 60 months (instead of up to 12 months) after such payment.

Compensation; Health Care Classifications. Institutions of higher education may implement special pay plans for health care classifications to be competitive with similar positions in the institution's locality. Such compensation changes include, but are not limited to, increases in salary ranges, new top steps in salary ranges, premium pay, and adjustments for community practices. Institutions must report such changes annually to the Human Resources Director within the Office of Financial Management.

Compensation; Direct Deposit. Institutions may require payment of wages by direct deposit for employees with accounts in financial institutions and by alternative methods, such as payroll cards, for employees without such accounts.

Operating Fee Accounts; Allotment. Local operating fee accounts are subject to allotment procedures by budget program and fiscal year.

Operating Fee Accounts; Charges. The requirement that institutions of higher education charge expenditures in ratios that conserve appropriated funds is made permanent. This requirement applies to appropriated funds and

operating fee accounts (rather than all nonappropriated funds).

Report. Institutions of higher education must report on the amount of savings and the manner in which such savings were used to promote student academic success by January 1, 2017.

Votes on Final Passage:

House	98	0	
Senate	48	0	(Senate amended)
House	56	41	(House concurred)

Effective: June 7, 2012

Partial Veto Summary: The veto removes the section authorizing institutions of higher education to implement compensation changes for certain health care classifications.

VETO MESSAGE ON 3SHB 2585

March 30, 2012

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

Ladies and Gentlemen:

I am returning herewith, without my approval as to Section 2, Third Substitute House Bill 2585 entitled:

"AN ACT Relating to creating efficiencies for institutions of higher education."

Section 2 allows institutions of higher education to implement higher education health care special pay plans without the approval of the State Human Resources Director. Higher education health care special pay plans have existed for many years and the institutions do an excellent job in demonstrating the need for special pay ranges to be competitive with positions of a similar nature in the locality of the institutions. However, review of special pay plans by the State Human Resources Director prior to implementation is a necessary step to assess the impact of special pay ranges to the state's compensation structure. Only the State Human Resources Director can provide this enterprise wide perspective.

For this reason, I am vetoing Section 2 of Third Substitute House Bill 2585.

However, I appreciate the needs of institutions to find efficiencies in this process. Therefore, I am directing the State Human Resources Director to work with institutions of higher education to identify opportunities at the administrative level to streamline the process for reviewing special pay plans.

With the exception of Section 2, Third Substitute House Bill 2585 is approved.

Respectfully submitted,

Christine O. Gregoire
Governor

ESHB 2586

C 51 L 12

Regarding the Washington kindergarten inventory of developing skills.

By House Committee on Ways & Means (originally sponsored by Representatives Kagi, Maxwell, Ladenburg, Dammeier, Kenney and Tharinger; by request of Department of Early Learning and Superintendent of Public Instruction).

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

Background: In 2009 the Legislature provided $100,000 over the biennium, contingent on an equal match from private sources, for the Department of Early Learning (DEL) to work with the Office of the Superintendent of Public Instruction (OSPI) and others to identify and test a kindergarten assessment process and tools in geographically diverse school districts. During the fall of 2010, the OSPI piloted the Washington Kindergarten Inventory of Developing Skills (WaKIDS) with 2,600 incoming kindergarteners in 115 classrooms around the state. The purpose of the WaKIDS is to gather information about the child in order to better inform teacher instruction.

State-supported all-day kindergarten is in the process of being phased in across the state, beginning with schools with the highest poverty levels. Beginning with the 2011-12 school year, on a voluntary basis and to the extent funds were available, schools receiving all-day kinder-garten state support administered the WaKids.

Beginning in the 2012-13 school year, to the extent funds are available, the WaKIDS must be administered to all students enrolled in state-funded all-day kindergarten programs. Parents and guardians may excuse their students from participating in the WaKIDS.

Until full implementation of state-funded all-day kindergarten, the Superintendent of Public Instruction (SPI), in consultation with the Director of the DEL, may grant annually renewable waivers in order to allow the administration of kindergarten assessments other than the WaKIDS. An application for such a waiver must include specified components:

- a description of the assessment and transition processes that it proposes to administer;
- an explanation as to why administering the WaKIDS would be unduly burdensome; and
- an explanation of how the alternative assessment will support social-emotional, physical, and cognitive growth and development of individual children, support early learning provider and parent involvement, and inform instruction.

Summary: Legislative intent is expressed that administration of the WaKids replace administration of other

assessments being required by school districts. Only if they seek to obtain information not covered by the WaKids, should other assessments be administered.

The OSPI, in consultation with the DEL, continues to be charged with directing the administration of the WaKids but, in doing so, must also collaborate with the private-public partnership which is focused on supporting investments in early learning and ensuring that every child in the state is prepared to succeed in school and in life.

Unchanged from current law, and still to the extent funds are available, beginning in the 2012-13 school year, the WaKids must be administered at the beginning of the school year to all students enrolled in state-funded full-day kindergarten, except those students who are excused by their parents or guardians. To the extent funds are available, additional support in the form of implementation grants must be offered to schools on a schedule to be determined by the OSPI in consultation with the DEL.

The OSPI is tasked with convening a workgroup to provide recommendations with respect to:

- implementation of the WaKids;
- the optimum way to administer the WaKids to students in half-day kindergarten; and
- replacing assessments currently used by districts with the WaKids.

The workgroup is to be comprised of the following:

- one representative from the OSPI;
- one representative from the DEL;
- one representative from the private-public partnership that is focused on supporting investments in early learning and ensuring that every child in the state is prepared to succeed in school and in life;
- five representatives, including teachers and principals, from districts that participated in the WaKids pilot program, with every effort made to make sure that there is representation from across the state;
- two parents who participated in the WaKids pilot program during the 2010-11 school year; and
- one representative from an independent, nonprofit children and family services organization with a main campus in North Bend.

By December 1, 2012, the workgroup must submit a preliminary report and recommendations to the Education committees of the Legislature. Subsequent reports and recommendations are due annually thereafter. The workgroup terminates upon full statewide implementation of all-day kindergarten.

Votes on Final Passage:

House	84	11	
Senate	43	5	(Senate amended)
House	86	12	(House concurred)

Effective: June 7, 2012

SHB 2590

C 3 L 12 E1

Extending the expiration of the pollution liability insurance agency's authority and its funding source.

By House Committee on Business & Financial Services (originally sponsored by Representatives Bailey and Buys; by request of Pollution Liability Insurance Agency).

House Committee on Business & Financial Services
House Committee on Ways & Means
Senate Committee on Ways & Means

Background: The Washington Pollution Liability Insurance Agency (PLIA) was created in 1989 to make pollution liability insurance available and affordable to the owners and operators of regulated underground petroleum storage tanks. An underground storage tank (UST) is a commercial tank or a combination of tanks used to store an accumulation of petroleum. The PLIA provides secondary insurance to insurance companies that insure owners and operators of USTs and heating oil tanks.

In 1991 the PLIA was directed to provide grants to owners of USTs at remote and rural gas stations to upgrade their tanks. In 2005 legislation was enacted directing the PLIA to provide an additional $1 million for these grants.

In 1995 the PLIA's duties were expanded to include assisting owners and operators of heating oil tanks by offering reinsurance services to the insurance industry. A heating oil tank is a tank for space heating of a home or working space. The PLIA offers a program to provide up to $60,000 of insurance coverage for clean-up of contamination from active heating oil tanks that are registered in the program prior to the contamination occurring. There is no cost to the homeowner for this coverage.

The PLIA also provides financial assistance to public and private owners and operators of USTs that are certified as meeting vital local government public health and safety needs. Financial assistance may be provided only to owners and operators who demonstrate serious financial hardship. The financial assistance may be used only for clean-ups and upgrades after a clean-up plan is filed with the Department of Ecology.

In 2007 legislation was enacted requiring the PLIA to identify design criteria for heating oil tanks that provide superior protection than standard steel tank designs provide against future leaks. Any new heating oil tank reimbursement provided under this provision must be funded within the statutory $60,000 per occurrence coverage limit.

The PLIA and its programs do not receive state general funds. Funding comes from two sources: (1) a pollution liability fee imposed on dealers making sales of heating oil to a homeowner or a consumer which is deposited into the Heating Oil Pollution Liability Trust Account; and (2) an excise tax on the wholesale value of petroleum which is deposited into the Pollution Liability Insurance Program Trust Account (PLT Account). The

amount of the excise tax is 0.5 percent multiplied by the wholesale value of the petroleum product. The excise tax includes a trigger mechanism based on the amount of funds in the PLT Account. The tax will only be imposed when the PLT Account balance is less than $7.5 million.

In 2006 the Legislature extended expiration dates associated with the PLIA to July 1, 2013.

Summary: Several new definitions are added. "Rack" is defined as "a mechanism for delivering petroleum products from a refinery or terminal into a truck, trailer, railcar, or other means of non-bulk transfer."

The rate of the tax is lowered to 0.3 percent. The wholesale value is determined at the time the petroleum product is removed at the rack unless the removal is to a licensed exporter for direct delivery to a destination outside of the state. In all other circumstances, the wholesale value is determined upon the first nonbulk possession in the state.

The expiration dates for various aspects of the PLIA program are extended from until July 1, 2013, to until July 1, 2020. This includes: the PLT Account; the chapter dealing with the UST portion of the PLIA program; the chapter dealing with the home heating oil portion of the PLIA program; and the chapter dealing with the tax on petroleum products.

Votes on Final Passage:

House 97 1

First Special Session

House 93 1
Senate 40 0

Effective: July 10, 2012

ESHB 2592

C 52 L 12

Concerning extended foster care services.

By House Committee on Early Learning & Human Services (originally sponsored by Representatives Roberts, Haler, Carlyle, Hinkle, Reykdal, Pettigrew, Walsh, Wylie, Kagi, Darneille, Kelley, Kenney and Tharinger).

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

Background: Title IV-E Funding. Title IV-E of the Social Security Act authorizes states to use federal funds to provide foster care for children under an approved state plan. To be eligible for Title IV-E funding, a child must meet eligibility requirements, such as specified age, deprivation of parental support or care, and a judicial determination that remaining in the home would be contrary to the child's welfare.

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

The enacting legislation for Washington's Foster Care to 21 program provides that, beginning in 2006, the DSHS was authorized to allow 50 youth to remain in foster care after reaching age 18. In addition to the first 50 youth, an additional 50 youth could also enter the program in 2007 and 2008.

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

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

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

Foster Care to 21 and Other Transitional Supports. In 2009 Engrossed Second Substitute House Bill 1961 was enacted clarifying the Foster Care to 21 statutes to allow continued enrollment in the program, subject to the availability of appropriated funding. Under that bill, eligibility

to remain in foster care or group care continued until the youth turned 21 years old if he or she adhered to program rules and remained enrolled in a postsecondary program.

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

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

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

Extended Foster Care Services/Court Jurisdiction. In 2011 the Legislature established "extended foster care services," which are defined as residential and other support services that the DSHS is authorized to provide to specific foster children. Extended foster care services include:

- placement in licensed, relative, or otherwise approved care;
- supervised independent living settings;
- assistance in meeting basic needs;
- independent living services;
- medical assistance; and
- counseling or treatment.

The 2011 legislation provided a process for youth potentially exiting care to receive extended foster care services. When a child or youth in foster care reaches age 18, his or her parent or guardian is dismissed from the dependency proceeding. The dependency court must postpone the dismissal of the dependency petition in its entirety for six months after a child in foster care turns 18 years old and who, at the time of his or her eighteenth birthday, is enrolled in a secondary education program or secondary education equivalency program. This six-month postponement allows the youth who is eligible for extended foster care services time to request extended foster care services after turning 18 years old. At the end of the six-month period, if the youth has not requested extended foster care services, the court must dismiss the dependency. After the youth turns 18 years old and before the youth requests the DSHS to provide extended foster care services, the DSHS is relieved of its supervisory duties. However, as long as the youth continues to agree to participate in extended foster care services, he or she is under the care and placement authority of the DSHS.

Six-month review hearings on case plans and services applies to youth receiving extended foster care services and should be applied in a developmentally appropriate manner. The court must dismiss the dependency at the request of the youth who has turned 18 years old or when the youth is no longer eligible to receive extended foster care services.

Summary: Foster Care to 21 must cease operations within three years of the effective date of this act. The DSHS is authorized to provide extended foster care services to youth ages 18 to 21 to participate in or complete a postsecondary academic or postsecondary vocational education program. Under certain circumstances, youth who participate in extended foster care while completing a secondary education or equivalency program may continue to receive extended foster care to participate in a postsecondary educational or vocational program. The court is required to postpone dismissing a dependency proceeding for a dependent child who, upon turning 18 years old, is enrolled in a postsecondary academic or vocational education program, or who has applied for and can demonstrate that he or she intends to enroll in a timely manner. The court must dismiss the dependency by the end of the six month postponement if the youth has not requested extended foster care or is no longer eligible.

The DSHS must develop and implement rules regarding youth eligibility requirements.

Votes on Final Passage:

House	88	9
Senate	45	2

Effective: June 7, 2012

ESHB 2614

C 185 L 12

Assisting homeowners in crisis by providing alternatives, remedies, and assistance.

By House Committee on Judiciary (originally sponsored by Representatives Kenney, Ryu, Hasegawa and Santos).

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

Background: Short Sales. In Washington, most loan obligations for residential real property are secured by deeds of trust. Under the Deeds of Trust Act, a beneficiary may use the non-judicial foreclosure process when a borrower defaults on the loan obligation. When there is a foreclosure (or "trustee sale") of residential real property under the Deeds of Trust Act, the beneficiary may not

obtain a judgment to collect the remainder of the debt secured by the beneficiary's loan.

A "short sale" is a real estate transaction in which the proceeds of the sale are insufficient to pay the debts encumbering the property and the borrower is unable to pay the difference. Selling the property in a short sale can be one option for the borrower to avoid foreclosure. Generally, a beneficiary with a security interest in the property must consent to releasing its lien on the property for less than the full amount of the debt. Depending on the agreement between the borrower and the beneficiary, the borrower may or may not be liable for the remaining amounts owed to the beneficiary that was not covered by the sale.

Generally, an action upon a written contract must be commenced within six years, unless a different statute of limitations is provided.

Foreclosure Fairness Act. *Meet and Confer Process.* Before a beneficiary may issue a notice of default to a borrower of a loan secured by a deed of trust on owner-occupied residential real property, the beneficiary must first contact the borrower by letter and telephone to explore options to avoid foreclosure. If the borrower requests a meeting with the beneficiary, the meeting must be in person, unless the borrower waives that requirement. A person authorized to modify the loan on behalf of the beneficiary may participate by telephone, so long as a representative of the beneficiary is at the meeting in person.

Generally, this initial "meet and confer" requirement does not apply if the borrower has filed for bankruptcy.

Mediation and Mediators. The Foreclosure Fairness Act (FFA), among other things, created a mediation process applicable to beneficiaries and borrowers of deeds of trust on owner-occupied residential real property. The borrower must be referred to mediation by a housing counselor or attorney and may be referred any time before a notice of trustee's sale has been recorded. The referral is sent to the Department of Commerce (Department), which selects a mediator from a list of approved foreclosure mediators and sends notice to the parties.

A foreclosure mediator's fee may not exceed $400 for a mediation session lasting between one and three hours. Payment of the fee is split equally between the beneficiary and borrower and must be remitted seven days before commencement of the mediation or pursuant to the mediator's instructions.

Mediators who are employees or volunteers of Dispute Resolution Centers (DRCs) are immune from suit in any civil action based on any proceedings or other official acts performed in their capacity as foreclosure mediators, except in cases of willful or wanton misconduct.

Beneficiary Reporting Requirements. Every quarter, a beneficiary that issues notices of default on owner-occupied residential real property must report to the Department the number of owner-occupied residential real properties for which the beneficiary has issued a notice of default during the previous quarter and remit $250 per property to the Department. The reporting and remitting requirement does not apply to beneficiaries that issued fewer than 250 notices of default in the previous year.

Allocation of Funds. The funds remitted by beneficiaries are allocated between different agencies. In particular, 80 percent of the funds must be used for providing housing counselors to borrowers. Up to 9 percent or $451,000, whichever is greater, goes to the Department to implement the FFA.

Rescission of Trustee Sale. Trustees have numerous responsibilities in the foreclosure process. The Deeds of Trust Act authorizes certain entities to be trustees, including, among others: professional limited liability companies, and general partnerships, including limited liability partnerships, all of whose shareholders, members, or partners are either licensed attorneys or entities owned by licensed attorneys.

When delivered to the purchaser after a trustee's sale, the trustee's deed conveys all of the right, title, and interest in the real property sold that the grantor had the power to convey. If a trustee accepts a bid, the trustee's sale is final if it is recorded within 15 days. After a trustee's sale, there is no right by statute or otherwise to redeem the property sold at the trustee's sale.

Summary: Short Sales. If a beneficiary or mortgagee, or its assignees of debt secured by owner-occupied real property intends to release its deed of trust or mortgage in the property for less than full payment of the debt, it must provide written notice to the borrower that, among other things, it is either waiving or reserving its right to collect full payment of the debt. If the beneficiary or mortgagee, or its assignees, does not initiate a court action to collect the outstanding debt within three years of the date it released its security interest, the right to collect the outstanding debt is forfeited. This provision applies to debts incurred by individuals primarily for personal, family, or household purposes and not to debts for business, commercial, or agricultural purposes. The six year statute of limitations for written contracts is amended to cross-reference the three year limitation applicable to deficiencies in short sales.

The statutorily required pamphlet a real estate licensee provides to clients must include a disclosure stating the real estate licensee must notify a seller in writing that a short sale does not automatically relieve the seller of the obligation to pay any debt or costs remaining at closing, including fees such as the real estate licensee's commission.

Foreclosure Fairness Act. *Meet and Confer.* The initial meeting between the beneficiary and borrower may be by telephone, unless the borrower requests in writing an in-person meeting. The meet and confer requirement applies to borrowers who have filed for bankruptcy.

Referral to Mediation. A borrower may no longer be referred to mediation during the meet and confer period. The borrower may be referred to mediation any time after a notice of default has been issued but no later than 20 days after a notice of trustee's sale has been recorded.

Mediation and Mediators. A mediation session must be held within 70 days, rather than 45 days, of the referral from the Department. The beneficiary and borrower must exchange required documents within a certain time, and changes are made regarding the information beneficiaries are required to provide the mediator.

If the mediator reasonably believes a borrower will not attend a mediation session, the mediator may cancel a scheduled mediation session and send a written cancellation to the parties, and the beneficiary may proceed with the foreclosure. After a mediation session commences, the mediator may continue the session once, but any further continuances must be with the consent of the parties.

The mediator fee of $400 is for preparing for mediation, rather than just for a mediation session, and must be paid within 30 days of the parties' referral to mediation. The list of who may be approved as a foreclosure mediator is expanded and mediators must have a certain level of experience evidenced by the number of mediations. The immunity applicable to mediators who are employees or volunteers of a DRC is extended to all foreclosure mediators.

Time Period for Trustee's Sale. The time period between recording the notice of trustee's sale and the actual sale is extended from 90 days to 120 days for those borrowers who have received the letter under the meet and confer requirement.

Beneficiary Reporting Requirements. The quarterly reporting by beneficiaries to the Department must include updated beneficiary contact information, and beneficiaries have up to 45 days from the end of each quarter to report.

Allocation of Funds. Changes are made to the allocation of funds remitted by beneficiaries to the Department. Instead of 80 percent of the funds allocated to provide housing counselors for borrowers, 76 percent is allocated to provide housing counseling activities to benefit borrowers. The greater of 13 percent or $590,000 is allocated to the Department.

Applicability. A borrower referred to mediation before the effective date of the act may continue with the mediation process and does not lose the right to mediation. A borrower who has not been referred to mediation as of the effective date of the act may only be referred to mediation after a notice of default but no later than 20 days after a notice of trustee's sale is recorded. A borrower who has not been referred to mediation as of the effective date of the act and who has had a notice of trustee's sale recorded, may only be referred to mediation if the referral is made before 20 days have passed from the date the notice of trustee's sale was recorded.

Rescission of Trustee's Sale. A domestic limited liability corporation may be a trustee under the Deeds of Trust Act.

Up to 11 days following a trustee's sale, the trustee, beneficiary, or authorized agent for the beneficiary may declare the sale and trustee's deed void if: (1) the trustee, beneficiary, or authorized agent asserts that there was an error with the foreclosure sale process including, but not limited to, an erroneous opening bid; (2) the beneficiary and borrower, prior to the sale, agreed to a loan modification or loss mitigation plan to postpone or discontinue the sale; or (3) the beneficiary or authorized agent accepted funds that fully reinstated or satisfied the loan.

If rescission occurs, the trustee must refund the bid amount to the purchaser. The trustee must send a notice of rescission to parties no later than 15 days following the sale. If the rescission is based on an error in the sale process or based on the borrower and beneficiary previously agreeing to a loan modification or postponement of the sale, the trustee may set a new sale date within a certain time and must comply with certain notice requirements.

Votes on Final Passage:

House	69	29	
Senate	48	1	(Senate amended)
House			(House refused to concur)
Senate	47	1	(Senate amended)
House	97	0	(House concurred)

Effective: June 7, 2012
March 29, 2012 (Section 12)

SHB 2617

C 186 L 12

Regarding school district financial insolvency.

By House Committee on Education Appropriations & Oversight (originally sponsored by Representatives Anderson and Haigh; by request of Superintendent of Public Instruction).

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

Background: A school district that cannot submit a balanced annual budget to the Office of Superintendent of Public Instruction (OSPI) may request permission to borrow against future apportionment payments. The OSPI places such a district on "binding conditions" intended to improve the district's financial situation. Binding conditions are monitored by the Educational Service Districts (ESDs), but the ESDs have limited authority and primarily serve in a consulting role.

State laws emphasize voluntary and negotiated reorganization of school districts. A regional committee convened by the ESD is authorized to make decisions when agreement among districts is not possible, and is also authorized to make necessary adjustments to assets and liabilities of affected districts when there is a reorganization. There are only two statutory references to dissolution of a school district:

1. District boundaries may be altered by the dissolution and annexation of part or all of another district.
2. A Regional Committee must dissolve any school district that had an annual enrollment of fewer than five K-8 students in the prior year or has not made a reasonable effort to provide the minimum 180-day school year.

In 2011 the Legislature directed the OSPI to convene the ESDs for the purpose of analyzing options and making recommendations for a clear legal framework and process for dissolution of a school district on the basis of financial insolvency. The required analysis included:

- a definition of financial insolvency;
- a timeframe, criteria, and process for initiating dissolution of a district;
- roles and responsibilities of various entities, including the OSPI, the ESDs, and regional committees on school district organization; and
- recommendations with respect to various issues such as terminating staff contracts, liquidation of liabilities, and dealing with bonded indebtedness.

Summary: A financially insolvent school district is defined as one that has been on binding conditions for two consecutive years or is reasonably forseeable and likely to have a deficit general fund balance within three years, and is unable to prepare a satisfactory financial plan. A satisfactory financial plan is a plan approved by the Superintendent of Public Instruction (SPI) and the ESD demonstrating that the district will have an adequate fund balance by the end of the plan period that relies on currently available revenue streams or revenue streams that the ESD determines are reasonably reliable.

The SPI is directed to convene a Financial Oversight Committee (Oversight Committee) if a district is found to be financially insolvent or at the request of a financially insolvent district. The Oversight Committee is made up of two representatives of the OSPI, one representative from an ESD where the district is not located, and one nonvoting representative from the ESD where the district is located. The purpose of the Oversight Committee is to review the financial condition of a financially insolvent school district, hold a public hearing, and make a recommendation to the SPI as to whether the district should be dissolved or placed under enhanced financial monitoring. The parameters of enhanced financial monitoring are specified.

The SPI may file a petition with the appropriate regional committee to dissolve a financially insolvent school district if recommended by the Oversight Committee. The petition must specify the proposed annexation of the district by one or more contiguous school districts and the disposition of assets and liabilities of the district. Using the same process and timelines as for other school district reorganization and boundary adjustments, the ESD negotiates with the identified contiguous school districts and attempts to seek agreement regarding annexation of the financially insolvent district. The agreement must be approved by the Oversight Committee. If the districts cannot agree, the matter is forwarded to the regional committee for a decision using the process and criteria under current law. Any appeals or judicial review of the regional committee's decision must be expedited.

The order filed by the SPI that implements either the agreement among school districts or the decision of the regional committee must also specify that any excess tax levy approved by an annexing school district is imposed on the newly annexed territory. Before the effective date of a dissolution, a school district that annexes part or all of a financially insolvent district may submit to the voters either a levy to replace existing levies and provide for an increase due to the dissolution, or an additional levy to provide for an increase due to the dissolution. If these elections do not occur or fail, the transferred territory is relieved of any previous levy associated with the dissolved district, but subject to any previous levy associated with the annexing district. In the case of bonded indebtedness by a dissolved district, the annexing district may refund all or a part of it, or certify a levy to pay the debt.

Boundary changes take effect on the date specified in an order from the ESD to the county auditor, but no later than 60 days prior to the first day candidates may file for office for the next succeeding general or special election. For the purposes of determining property taxes, the boundaries of an annexing district must be established on September 1 (rather than August 1 as is required for most other taxing districts).

Employees of a dissolved district have no continuing contract or grievance rights. The dissolution of the district is sufficient cause for contract nonrenewal or discharge. An annexing district has no obligation to observe terms of collective bargaining agreements of the dissolved district.

A financially insolvent school district may file for bankruptcy only if recommended by the Oversight Committee.

Votes on Final Passage:

House	97	0	
Senate	45	3	(Senate amended)
House	96	0	(House concurred)

Effective: September 1, 2012

EHB 2620

C 187 L 12

Addressing the management and investment of state funds and accounts.

By Representative Hunter; by request of State Treasurer.

House Committee on Ways & Means

Background: The State Treasurer (Treasurer) is generally responsible for managing the cash flow of state accounts and for short-term investment of the state's operating cash.

There are two types of accounts managed by the Treasurer: treasury accounts and custodial accounts. This distinction arises from the constitutional requirement for an appropriation in law before moneys in the treasury may be expended. The Legislature may exclude some public accounts from this appropriation requirement by designating those accounts as "in the custody of" the Treasurer. Moneys in these custodial accounts, also referred to as non-appropriated accounts, typically do not require an appropriation before they may be expended. Instead, the statute designates an appropriate agency official who may authorize expenditure from a custodial account.

In addition to treasury accounts and custodial accounts, agencies may also maintain accounts at private financial institutions. These are known as "local" accounts. Agencies may establish new local accounts only when authorized to do so by the Office of Financial Management for reasons of economy and efficiency that could not be achieved by placing the moneys in the state treasury.

Both the Treasurer and the State Investment Board (SIB) manage and invest moneys in both treasury accounts and custodial accounts. Authorized forms of investment for treasury and custodial accounts are specified in statute. In general, the state Constitution prohibits investing public moneys in corporate stock, but there are exceptions for specific accounts. Some state accounts, including the state pension funds, industrial insurance funds, and the Budget Stabilization Account, are invested by the SIB. The SIB is required to invest those public trust and retirement funds that are listed in statute.

Public funds contained in cash accounts invested by the SIB are each separately invested in a money market mutual fund. Private funds contained in cash accounts invested by the SIB may be invested in a manner that generates slightly higher yields. Over the last 10 years the state treasury portfolio (where investments are pooled) had an average annual net yield of 2.70 percent versus 1.92 percent for the money market fund.

The custodial American Indian Scholarship Endowment Fund is administered by the Higher Education Coordinating Board (HECB). Earnings from the account are used to provide scholarships to American Indian higher education students. Investment authority for both public moneys and gifts deposited into the account rests with the SIB.

The custodial Foster Care Scholarship Endowment Fund is administered by the HECB. Earnings from the account are used to provide scholarships to eligible students who were in foster care. Investment authority for both public moneys and gifts deposited into the account rests with the SIB.

The Budget Stabilization Account is in the state treasury. Moneys may be appropriated from the Budget Stabilization Account by a majority vote of each house of the Legislature if: (1) forecasted state employment growth for any fiscal year is less than 1 percent; or (2) the Governor declares an emergency resulting from a catastrophic event that requires government action to protect life or public safety. Other withdrawals from the Budget Stabilization Account may be made only by a three-fifths vote of the Legislature. Investment authority for moneys deposited into the account rests with the SIB.

The Special Wildlife Account is in the state treasury. Funds in the account may be used for the protection, propagation, and conservation of wild animals, wild birds, and game fish. Investment authority for both public moneys and gifts deposited into the account rests with the SIB.

The custodial Radiation Perpetual Maintenance Fund is administered by the Department of Health. Funds in the account may be used to survey and maintain processing sites which may contain radioactive material. Investment authority for moneys deposited into the account rests with the SIB.

The State Reclamation Revolving Account is in the state treasury. Funds in the account may be used to carry out the State Reclamation Act. Investment authority for both public moneys and gifts deposited into the account rests with the SIB.

The custodial Public Employees and Retirees' Insurance Reserve Fund is administered by the Health Care Authority (HCA). Funds in the account hold reserves established by the HCA for employee and retiree benefit programs. Investment authority for moneys deposited into the account rests with the SIB.

The custodial Basic Health Plan Self-insurance Reserve Fund is administered by the HCA. Funds in the account hold reserves established by the HCA for the basic health plan. Investment authority for moneys deposited into the account rests with the SIB.

The Pension Funding Stabilization Account is in the state treasury. Funds in the account may be used for payment of state government employer retirement contributions. Investment authority for moneys deposited into the account rests with the SIB.

The custodial Millersylvania Park Trust Fund is administered by the SIB and the State Parks and Recreation Commission. Earnings from the account are used for the improvement, maintenance, and upkeep of Millersylvania State Park. Investment authority for both public moneys and gifts deposited into the account rests with the SIB.

The custodial Judicial Retirement System Account is administered by the Department of Retirement Systems. Funds in the account are used to administer the judicial retirement system (including the payment of pension benefits). Investment authority for moneys deposited into the account rests with the SIB.

Summary: Investment responsibility for the following accounts is transferred from the State Investment Board (SIB) to the State Treasurer: American Indian Scholarship Endowment Fund; Foster Care Scholarship Endowment Fund; Budget Stabilization Account; Special Wildlife Account; Radiation Perpetual Maintenance Fund; State Reclamation Revolving Account; Pension Funding Stabilization Account; Millersylvania Park Trust Fund; Judicial Retirement System Account; Public Employees and Retirees' Insurance Reserve Fund; and the Basic Health Plan Self-insurance Reserve Fund.

Investment authority remains with the SIB for non-public funds in the American Indian Scholarship Endowment Fund and in the Foster Care Scholarship Endowment Fund.

The SIB is required to invest public trust and retirement funds unless otherwise prescribed as by law.

There are no changes made to fund types (custodial versus treasury), where interest earnings are credited or allowable uses of individual accounts.

Votes on Final Passage:

House	93	0
Senate	49	0

Effective: June 7, 2012
July 1, 2012 (Sections 3 and 5)

SHB 2640

C 235 L 12

Emphasizing cost-effectiveness in the housing trust fund.

By House Committee on Community & Economic Development & Housing (originally sponsored by Representatives Smith, Kenney, Warnick, Finn, Walsh, Orcutt and Kelley).

House Committee on Community & Economic Development & Housing
House Committee on Capital Budget
Senate Committee on Financial Institutions, Housing & Insurance

Background: Established by the Department of Commerce (Department) in 1987 and funded beginning in 1989, the Washington State Housing Trust Fund (Housing Trust Fund) provides loans and grants to help communities meet the housing needs of low-income and special needs populations.

The Housing Trust Fund portfolio is approximately $820 million. The Housing Trust Fund appropriations from the omnibus capital appropriations act have supported the development of 1,200 projects and 36,763 single and multifamily units in 38 counties. Ninety-three percent of households served through the Housing Trust Fund are below 50 percent of area median income, with 72 percent below 30 percent of area median income. Fifty-eight percent of the units serve general low-income populations, 14 percent serve elderly populations, 11 percent serve special needs populations, and the rest serve homeless households, farm workers, and others.

In awarding grants and loans from the Housing Trust Fund, the Department must provide for a statewide geographic distribution. The Department is required to give preference for applications based on some or all of the following criteria:

- the degree of leveraging of other funds;
- the degree of commitment from programs to provide necessary habilitation and support services for projects focusing on special needs populations;
- recipient and local government project contributions;
- projects that encourage ownership, management, and other project-related responsibility opportunities;
- projects that demonstrate a strong probability of serving the original target group or income level for a period of at least 25 years;
- the applicant has the demonstrated ability, stability, and resources to implement the project;
- projects which demonstrate serving the greatest need, persons and families with the lowest incomes, and special needs populations;
- project location and access to employment centers and public transportation; and
- projects that provide employment and training opportunities for disadvantaged youth.

Summary: The Department is required to consider total project cost and per-unit cost compared to similar housing projects constructed or renovated within the same geographic area for the Housing Trust Fund applications it reviews through June 30, 2013. The scope of projects for which cost will be considered is limited to those involving housing construction, rehabilitation, or acquisition.

The Department, with input from the Affordable Housing Advisory Board (Board), or a subcommittee of the Board, is required to report to the Legislature by December 1, 2012, with recommendations for awarding funds from the Housing Trust Fund in a cost-effective manner.

Votes on Final Passage:

House	95	0	
Senate	48	0	(Senate amended)
House			(House refused to concur)
Senate	48	0	(Senate receded)

Effective: June 7, 2012

HB 2651
C 110 L 12

Changing the numeric limit for bacterial contamination for industrial storm water permittees with discharges to water bodies listed as impaired to a narrative limit.

By Representatives Springer, Chandler, Blake, Upthegrove and Wilcox; by request of Department of Ecology.

House Committee on Environment
Senate Committee on Environment

Background: Clean Water Act. The Washington Department of Ecology (Department) administers a state program for discharge of pollutants to state waters. State permits are required for anyone who discharges waste materials from a commercial or industrial operation to ground or to publicly owned treatment plants. State permits are also required for municipalities that discharge to ground.

The federal Clean Water Act (CWA) prohibits the discharge of pollutants in toxic amounts. Stormwater is a pollutant under the CWA. The CWA also establishes the National Pollution Discharge Elimination System (NPDES) permit system to regulate wastewater discharges from point sources to surface waters. A NPDES permit is required for anyone who discharges wastewater to surface waters or who has a significant potential to impact surface waters. The Department has been delegated the authority by the United States Environmental Protection Agency (EPA) to develop and administer NPDES permits.

In the state and NPDES permit programs, the Department issues both individual permits (covering single, specific activities or facilities) and general permits (covering a category of similar dischargers). These permits include limits on the quantity and concentrations of contaminants that may be discharged. These permits also may require wastewater treatment or impose operating or other conditions.

Industrial Stormwater General Permits. One type of general permit that the Department issues is the industrial stormwater general permit. This permit implements state and federal regulations that require industrial facilities to control stormwater using Best Management Practices to prevent water pollution. The statewide permit covers more than 1,200 facilities that discharge stormwater associated with industrial activity into surface waters and storm drains. Business types that need this permit include lumber, paper, printing, chemicals, petroleum, leather, manufacturing, metals, landfills, transportation, mills, and food.

The Department requires many businesses that are permittees under the industrial stormwater general permit to ensure that their stormwater runoff complies with strict numeric limits for bacteria, if their stormwater runoff goes to an "impaired" water body that already has bacteria pollution. A water body is designated as impaired if the Department has data showing that the water quality standards have been violated for one or more pollutants, and there is no total maximum daily load or pollution control plan. Total maximum daily loads are required for water bodies designated as impaired, and these water bodies are added to a federal list of impaired water bodies under the federal CWA rule 303(d).

Summary: By July 1, 2012, the industrial stormwater general permit must require permittees with discharges to water bodies listed as impaired for bacteria to comply with nonnumeric, narrative effluent limitations.

An expiration date of January 1, 2015, is added for the section of law that applies to the construction and industrial stormwater general permits.

Votes on Final Passage:

House	97	0
Senate	48	0

Effective: June 7, 2012

HB 2653
C 111 L 12

Correcting technical statutory cross-references in previous private infrastructure development legislation for certain provisions relating to regulatory fees for wastewater companies.

By Representatives Hansen and Upthegrove; by request of Utilities & Transportation Commission.

House Committee on Environment
Senate Committee on Environment

Background: Certain wastewater companies may not provide sewerage services for compensation without first obtaining a certificate from the Utilities and Transportation Commission (UTC). Wastewater companies subject to the UTC jurisdiction are entities that own, or propose to develop and own, a sewerage system that is designed to either serve: (1) a peak flow of 27,000 to 100,000 gallons if treatment is by large on-site sewerage systems; or (2) to serve 100 or more customers. Excluded from the UTC's jurisdiction are publicly owned wastewater systems and wastewater company service to customers outside an urban growth area.

Summary: Statutory references are corrected to reference the chapter within the Public Utilities Code that applies to regulatory fees for wastewater companies.

Votes on Final Passage:

House	95	1
Senate	49	0

Effective: July 1, 2012

SHB 2657

PARTIAL VETO

C 147 L 12

Revising provisions affecting adoption support expenditures.

By House Committee on Health & Human Services Appropriations & Oversight (originally sponsored by Representatives Roberts, Kagi, Maxwell and Kenney).

House Committee on Health & Human Services Appropriations & Oversight

Senate Committee on Human Services & Corrections

Background: Adoption Support Program. The adoption support program provides assistance to families adopting foster children who face barriers to adoption because of their special conditions or needs by providing one or more of the following benefits:

- reimbursement for nonrecurring adoption finalization costs, which are limited to $1,500 per child;
- cash payments (adoption subsidy);
- payment for counseling services as preauthorized; or
- medical services through the Medicaid program.

The adoption support program is governed by state and federal law and state regulations. Washington's adoption support statutes were adopted in 1971, almost 10 years before the federal law was passed. Washington law authorizes support for "hard to place" children without defining the term while the federal law uses and defines the term "special needs child." Because the federal adoption support law is part of Title IV-E of the Social Security Act, it requires the state to have a federally approved Title IV-E plan to enter into adoption assistance (support) agreements with the adoptive parents of special needs children.

Federal law requires a child to meet the following criteria to qualify as a "special needs child:"

1. The state has determined that the child cannot or should not be returned to the birth parents' home.
2. The state has found a specific factor or condition, or combination of factors and conditions, which make the child more difficult to place for adoption. Each state sets its own special needs definition, which may include: the child's ethnic background; age; sibling group status; medical condition; or physical, mental, or emotional disabilities.
3. The state has made a reasonable, but unsuccessful, effort to place the child without providing adoption assistance, except when making the effort to locate a family is not in the best interest of the child.

Under the second criterion above, the state has the authority to determine what constitutes a specific factor or condition. State regulations provide that in order for a child to be considered a child with special needs, the child must have one of the following specific factors or conditions:

- the child is of a minority ethnic background;
- the child is 6 years of age or older at the time of the application for adoption support;
- the child is a member of a sibling group of three or more, or of a sibling group in which one or more siblings meets the definition of special needs;
- the child is diagnosed with a physical, mental, developmental, cognitive, or emotional disability; or
- the child is at risk for a diagnosis of a physical, mental, developmental, cognitive, or emotional disability due to prenatal exposure to toxins, a history of serious abuse or neglect, or genetic history.

Adoptive parents and the state enter into adoption support agreements for children who are determined to have special needs. The agreements are contracts that provide benefits the adoptive family will receive. Under federal law, these agreements must be individually negotiated and the amount of the subsidy may not exceed the amount of the foster care maintenance payment the child would receive if the child were in foster care. An adoptive parent may request a review of the level of adoption support in writing.

Adoption Support Caseload and Payments. The Caseload Forecast Council (CFC) develops a forecast of adoption support. The CFC forecasts and per capita expenditure data are used to develop the maintenance level of funding for the adoption support program within the Department of Social and Health Services Children's Administration (DSHS). The state receives federal Title IV-E funds for children who meet the federal Title IV-E criteria and have special needs. The state is required to match the federal funds, and the match is 50 percent in federal fiscal year 2012.

The 2010 Supplemental Omnibus Operating Appropriations Act set the maximum amount for adoption support payments to 90 percent of what the foster care maintenance payment would have been for the child, had the child remained in family foster care. The 90 percent maximum applied to new adoption support agreements rather than adoption support agreements that were already in existence. This requirement was also included in the 2011-13 State Omnibus Operating Appropriations Act.

Mental Health Services. The DSHS contracts primarily with Regional Support Networks (RSNs) to oversee the delivery of mental health services for adults and children who suffer from mental illness or severe emotional disturbance. Entities that are selected to operate as the RSN for designated geographic areas must meet regulatory and contractual standards. There are 13 RSNs in Washington. The RSNs are required to provide access to a wide array of services for Medicaid enrollees who meet diagnostic and functional eligibility criteria referred to as the RSN Access to Care Standards. The RSNs must include crisis, assessment, outpatient, residential, and

inpatient services. Children who are adopted from foster care are eligible for Medicaid and as such are entitled to RSN assessments as well as crisis services. In order to access other levels of RSN care, children must meet RSN Access to Care Standards. The DSHS is undertaking a redesign effort regarding children's mental health services.

Summary: The Secretary of the DSHS must not set the amount of an adoption support payment to more than 80 percent of what the foster care maintenance payment would have been for the child, had the child remained in foster care during the same period. The maximum amount applies prospectively to adoption assistance agreements established on or after July 1, 2013.

The DSHS must establish a central unit of adoption support negotiators to help ensure consistent negotiations of adoption support agreements that will balance the needs of the adoptive families with the state's need to remain fiscally responsible.

The DSHS must request, in writing, that adoptive families with existing adoption support agreements renegotiate their contracts to lower the adoption assistance payment if it is fiscally feasible for the families to do so.

The DSHS Division of Behavioral Health and Recovery must convene a workgroup as part of the children's mental health redesign process to develop recommendations to better address the mental health service needs of adoptive families and reduce the need for adoptive families to spend adoption support payments on mental health services. The workgroup is to assess the mental health needs of children in adoption support households, existing services and provider capacity to meet the identified needs, and additional provider training, consultation, or capacity necessary to meet the unmet service needs. The workgroup must include representatives from certain entities and must report its recommendations to the Legislature no later than December 15, 2012.

Votes on Final Passage:

House	97	0
Senate	49	0

Effective: June 7, 2012

Partial Veto Summary: The Governor vetoed the section requiring the DSHS to convene a workgroup as part of its children's mental health redesign and issue recommendations regarding the mental health needs of children in adoption support households, existing service and provider capacity, and additional provider training to the Legislature by December 15, 2012.

VETO MESSAGE ON SHB 2657

March 29, 2012

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, Substitute House Bill 2657 entitled:

"AN ACT Relating to adoption support expenditures."

Section 3 requires the Department of Social and Health Services to convene a work group, as part of its children's mental health redesign efforts, to develop recommendations to better address the mental health service needs of adoptive families and reduce the need to spend adoption support payments on mental health services. The Department of Social and Health Services is additionally required to issue recommendations to the Legislature by December 15, 2012.

While I appreciate the intent of this section, the Department of Social and Health Services has already included the convening of a similar work group in its plan for improvements to the children's mental health system. I am directing the Secretary of the Department of Social and Health Services to consider the Legislature's intent in the composition and tasks of the work group and to keep the Legislature informed of its efforts. Creation of a work group in statute and the preparation of a formal report are not necessary.

For this reason, I have vetoed Section 3 of Substitute House Bill 2657.

With the exception of Section 3, Substitute House Bill 2657 is approved.

Respectfully submitted,

Christine O. Gregoire
Governor

EHB 2660

C 74 L 12

Addressing transportation revenue.

By Representatives Clibborn, Ryu, Moeller, Finn, Billig, Eddy, Fitzgibbon and Moscoso; by request of Governor Gregoire.

House Committee on Transportation

Background: Eighty-five percent of the funding for statewide transportation comes from a variety of taxes, licenses, permits, and fees that are imposed on fuels, vehicles, and drivers. Fifty-nine percent is derived from fuel taxes; 21 percent from the licenses, permits, and fees; and 5 percent from driver-related fees.

Upon a proper request, the Department of Licensing (DOL) may furnish an abstract of a person's driving record (ADR) as permitted under state law. The fee is $10 per ADR.

The Director of the DOL is required to furnish to all persons making satisfactory application for a vehicle registration: (1) two identical license plates each containing the license plate number; or (2) one license plate, if the vehicle is a trailer, semitrailer, camper, moped, collector vehicle, horseless carriage, or motorcycle. On an original plate issuance, the registered owner pays a reflectorized fee, but does not pay for the original license plates. A person may apply for a replacement license plate or plates if the current license plate or plates assigned to the vehicle have been lost, defaced, or destroyed, or if one or both plates have become so illegible or are in such a condition as to be difficult to distinguish. Washington also has periodic license plate replacement every seven years. When a person replaces a license plate, the fee is $10 per

plate, except for replacing motorcycle plates, which is a $2 fee.

It is unlawful for any person, firm, or association to act as a vehicle dealer or vehicle manufacturer, to engage in business as such, serve in the capacity of such, advertise themselves as such, solicit sales as such, or distribute or transfer vehicles for resale in this state, without first obtaining and holding a current vehicle dealer's license. The DOL administers, licenses, audits, investigates, and regulates the vehicle dealer industry.

Vehicle dealers may charge a documentary service fee to recover administrative costs. Administrative costs include: collecting taxes and fees; verifying and clearing titles; transferring titles; and perfecting, satisfying, or releasing liens. A dealer may charge the documentary service fee under the following conditions: the dealer must disclose the fee in writing; the dealer must disclose in writing that the fee is negotiable; the dealer cannot represent that the fee is required by the state; the dealer must separately designate the fee from the selling price and other charges; and the dealer must disclose the fee in advertisements as an addition to the selling price. The current maximum document fee is up to $150 per vehicle sale or lease until June 30, 2014. On July 1, 2014, the fee reverts to a maximum of $50.

Summary: The following fee increases are made:

Category	Current Fee	New Fee
Abstract of Driver's Record (ADR)	$10	$13
Certificate of Ownership (title) Application	$5	$15
Original Issue License Plate	$0	$10
Late Title Transfer Penalty	$25 to $100	$50 to $125
Original Issue Motorcycle License Plates	$0	$4
Motorcycle Replacement License Plates	$2	$4
Vehicle Dealer Original License	$750	$975
Vehicle Dealer License Renewal License	$250	$325
Electric Vehicle Fee	$0	$100
Vehicles Dealer Documentary Fee Temporary to Permanent	Up to $150	Up to $150

The penalty for a late transfer of vehicle ownership is increased from $25 to $50 to be assessed on the sixteenth day after the date of delivery. There is also a two dollar penalty for each additional day thereafter, with the maximum total penalty increased from $100 to $125.

The vehicle dealer documentary service fee is permanently established at up to $150.

A $100 annual renewal fee is implemented for electric vehicles that use propulsion units powered solely by electricity. The vehicle must be designed to have the capability to drive at a speed of more than 35 miles per hour. The fee applies to vehicle registration renewals that are due on or after February 1, 2013. This fee would expire on the effective date of legislation enacted by the Legislature that imposes a vehicle-miles-traveled fee or tax. The Department of Licensing (DOL) must provide written notice of the expiration date of the fee to the Chief Clerk of the House of Representatives, the Secretary of the Senate, the Office of the Code Reviser, and others as deemed appropriate by the DOL.

The public transportation grant program account is created in the state treasury, and expenditures from the account are required to be used only for grants to aid transit authorities with operations.

Technical changes are made to some of the statutes implicated by the 2010 and 2011 vehicle registration statutes recodification.

Votes on Final Passage:

House	56	42
Senate	30	19

Effective: June 7, 2012

ESHB 2664

C 112 L 12

Concerning the voluntary option to purchase qualified energy resources.

By House Committee on Technology, Energy & Communications (originally sponsored by Representative Morris).

House Committee on Technology, Energy & Communications

Senate Committee on Energy, Natural Resources & Marine Waters

Background: Electric utilities must provide to their retail electricity customers a voluntary option to purchase qualified alternative energy resources. On at least a quarterly basis, electric utilities must include with their retail customers regular billing statement a voluntary option to purchase qualified alternative energy resources. A utility may provide qualified alternative energy resource options through either resources it owns or contracts for, or the purchase of credits issued by a clearinghouse, or other system.

Qualified alternative energy resource is defined to mean the electricity produced from generation facilities that are fueled by: (1) wind; (2) solar energy; (3) geothermal energy; (4) landfill gas; (5) wave or tidal action; (6) gas produced during the treatment of wastewater; (7) qualified hydropower; or (8) biomass energy based on animal waste or solid organic fuels from wood, forest, or field residues, or dedicated energy crops that do not include wood pieces that have been treated with chemical

preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic.

Each consumer-owned utility must report annually to the Department of Commerce (Department) and each investor-owned utility must report annually to the Utilities and Transportation Commission (Commission) describing the option or options it is offering its customers, the rate of customer participation, the amount of qualified alternative energy resources purchased by customers, the amount of utility investments in qualified alternative energy resources, and the results of pursuing aggregated purchasing opportunities. The Department and the Commission together must report annually to the Legislature with the results of the utility reports. The reporting requirement expires on October 1, 2012.

Summary: The definition of "qualified alternative energy resource" is modified to include thermal energy produced from certain generation facilities.

Annual reporting requirements are removed for electric utilities relating to the voluntary option to purchase qualified alternative energy resources (voluntary option). Electric utilities must maintain information relating to the voluntary option and make available the information upon request of the Department or the Commission. The Department and the Commission must report the information to the appropriate committees of the Legislature upon request.

Votes on Final Passage:

House	97	0
Senate	47	1

Effective: June 7, 2012

EHB 2671

C 172 L 12

Clarifying procedures for appealing department of ecology final action on a local shoreline master program by ensuring consistency with existing procedural provisions of the growth management act, chapter 36.70A RCW, the administrative procedure act, chapter 34.05 RCW, and the state environmental policy act, chapter 43.21C RCW.

By Representatives Takko and Fitzgibbon; by request of Department of Ecology.

House Committee on Local Government
Senate Committee on Energy, Natural Resources & Marine Waters

Background: Shoreline Management Act. The Shoreline Management Act of 1971 (SMA) governs uses of state shorelines. The SMA enunciates state policy to provide for shoreline management by planning for and fostering "all reasonable and appropriate uses." The SMA prioritizes public shoreline access and enjoyment and creates preference criteria listed in prioritized order that must be used by state and local governments in regulating shoreline uses.

The SMA involves a cooperative regulatory approach between local governments and the state. At the local level, the SMA regulations are developed in city and county shoreline master programs (master programs) that regulate land use activities in shoreline areas of the state. Master programs must be consistent with guidelines adopted by the Department of Ecology (DOE). The DOE has the authority to approve or reject a master program, and the segments of or amendments to it.

Appeals of Decisions Relating to Shoreline Master Programs. The DOE decision to approve or reject a master program may be appealed to either the Growth Management Hearings Board (GMHB) or Shorelines Hearings Board (SHB), depending on the jurisdiction. For jurisdictions fully planning under the Growth Management Act, decisions are appealed to the GMHB. For other jurisdictions, decisions are appealed to the SHB.

Standards are specified in statute for review of master programs by both boards. For the purposes of review by the SHB, the validity of the master program must be determined in light of the SMA and its applicable guidelines. The aggrieved local government has the burden of proof, and the SHB must consider the presentations of the local government and the DOE in making its decision. The DOE and any local government may appeal a final decision of the SHB to superior court.

In appeals concerning "shorelines of statewide significance," both the GMHB or the SHB are required to uphold the decision of the DOE unless either board, by clear and convincing evidence, determines that the decision of the DOE is inconsistent with the policy of the SMA and the applicable guidelines. "Shorelines of statewide significance" are delineated under the SMA.

A master program amendment is effective after approval of the DOE or after the decision of the SHB to uphold the master program or amendment, provided that the SHB may remand the master program or adjustment to the local government or the DOE for modification prior to final adoption. For appeals to the GMHB, it is not specified at which stage the master program is effective.

State Environmental Policy Act. The State Environmental Policy Act (SEPA) applies to decisions by every state and local agency within Washington. One agency is usually identified as the lead agency for a specific proposal. The lead agency is responsible for identifying and evaluating the potential adverse environmental impacts of a proposal. Because some minor projects do not require an environmental review, the lead agency will first decide if environmental review is needed. If the proposed project is the type of project that is "categorically exempt" from the SEPA review process, no further environmental review is required.

Summary: Certain standards regarding review of master programs are changed. For the purposes of review by the

SHB, the SHB is required to also consider the relevant provisions of the SEPA. It is specified that the appellant has the burden of proof, and the SHB must consider the presentations of the parties in making its decision. The DOE and any party aggrieved by a final decision of the SHB may appeal to superior court.

In appeals involving "shorelines of statewide significance," both the GMHB and SHB are required to review whether the master program is compliant with the policy of the SMA as well as with the SEPA as it relates to the adoption of master programs and amendments.

For the purposes of review by the GMHB, a master program amendment is effective after it is upheld by the GMHB, provided that the matter may be remanded to the local government or the DOE for modification prior to final adoption.

Votes on Final Passage:

House	54	44
Senate	42	6

Effective: June 7, 2012

SHB 2673

C 66 L 12

Addressing transportation workforce development.

By House Committee on Transportation (originally sponsored by Representatives Clibborn, Hunt, Liias, Kenney, Lytton, Green, Probst, Goodman, Dickerson, Ryu, Seaquist, Darneille, Cody, Carlyle, Sullivan, Kirby, Ormsby, Ladenburg, Moscoso, Springer, Hasegawa, Maxwell, Wylie, Tharinger and Pollet).

House Committee on Labor & Workforce Development
House Committee on Transportation
Senate Committee on Transportation

Background: On-the-Job Training Programs. The Federal Highway Administration On-the-Job Training (OJT) program is established in federal law. It requires state transportation agencies receiving certain federal funds to establish apprenticeship and training programs aimed at increasing the number of women, minorities, and disadvantaged individuals in journey-level highway construction positions. The stated goal is to ensure a competent workforce to meet highway construction hiring needs and to address the historical under-representation of these groups in highway construction skilled crafts.

The OJT/Supportive Services program was created in federal regulation to supplement the OJT program by providing services to highway construction contractors and assistance to highway construction apprentices and trainees. Under federal law, the federal Secretary of Transportation may fund the OJT/Supportive Services in an amount not to exceed $10 million annually. These funds are distributed through a competitive grant process. State transportation agencies may also use up to one-half of 1 percent of funds apportioned to the state under the federal Surface Transportation Program and the Highway Bridge Replacement and Rehabilitation Program for the OJT/Supportive Services. The OJT/Supportive Services may fund recruitment, skills training, job placement, child care, outreach, transportation to work sites, post-graduation follow-up, and job-site mentoring.

In Washington the OJT/Support Services Unit is within the Office of Equal Opportunity at the Washington State Department of Transportation (Department). The OJT/Supportive Services Unit's stated goal is to provide support services to increase the number of minorities and women participating in the federal-aid highway construction industry. It is currently funded through funds received through the competitive grant process.

Washington State Apprenticeship and Training Council. The Washington State Apprenticeship and Training Council (Council) oversees the state apprenticeship program within the Department of Labor and Industries (L&I). The Council establishes apprenticeship program standards, approves apprenticeship training programs, and otherwise governs apprenticeship programs.

Summary: The Department must expend federal funds received under the federal OJT program to increase diversity in the highway construction workforce and prepare individuals interested in entering the highway construction workforce by providing certain OJT/Supportive Services. The Department must coordinate with the Council to provide any portion of these OJT/Supportive Services:

- preapprenticeship programs;
- preemployment counseling;
- orientations on the highway construction industry, including outreach to women, minorities, and other disadvantaged individuals;
- basic skills improvement classes;
- career counseling;
- remedial training;
- entry requirements for training programs;
- supportive services and assistance with transpor tation;
- child care and special needs;
- job-site mentoring and retention services; and
- assistance with tools, protective clothing, and other related support for employment costs.

The Department must, in coordination with the Council and to the extent practicable, expend moneys from other sources to provide these activities. Requirements for the Department related to these activities do not apply or reduce funds that would otherwise be allocated to local governments.

The Department, in coordination with the Council, must submit a report to the Transportation committees of the Legislature by December 1 of each year, beginning in 2012. The report must contain:

- an analysis of the results of providing these services;
- the amount available to the Department from federal funds for the services and the amount expended for those services; and
- the performance outcomes achieved from each activity, including the number of persons receiving services, training, and employment.

Votes on Final Passage:

House	56	40	
Senate	40	9	(Senate amended)
House	70	26	(House concurred)

Effective: June 7, 2012

ESHB 2692

PARTIAL VETO

C 136 L 12

Concerning the reduction of the commercial sale of sex.

By House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Orwall, Asay, Parker, Carlyle, Kelley, Hurst, Ormsby, Kagi, Dickerson, Upthegrove, Goodman, Pettigrew, Maxwell, Dahlquist, Dammeier, Moscoso, Pearson and Kenney).

House Committee on Public Safety & Emergency Preparedness

Senate Committee on Judiciary

Background: Offense: Patronizing a Prostitute. A person is guilty of the misdemeanor of Patronizing a Prostitute if:

- pursuant to a prior understanding, he or she pays a fee to another person as compensation for such person or a third person having engaged in sexual conduct with him or her;
- he or she pays or agrees to pay a fee to another person pursuant to an understanding that in return therefor such person will engage in sexual conduct with him or her; or
- he or she solicits or requests another person to engage in sexual conduct with him or her in return for a fee.

A person who has been convicted, been given a deferred sentence or prosecution, or entered into a statutory or nonstatutory diversion agreement as a result of an arrest for Indecent Exposure, Prostitution, Promoting Prostitution in the first or second degree, Permitting Prostitution or Patronizing a Prostitute (or a similar county or municipal ordinance), is assessed a fee.

The fee assessed in connection with a prosecution for Patronizing a Prostitute is $150, in addition to criminal penalties or other fees.

A statutory or nonstatutory diversion agreement is a written agreement between a person and a court, county, or city prosecutor, or designee thereof, where the person agrees to fulfill certain conditions in lieu of prosecution.

A deferred sentence is a sentence that will not be carried out if the defendant meets certain requirements, such as complying with the conditions of probation.

Prostitution Prevention and Intervention Account. The additional fees imposed for these offenses are collected by the clerk of the court and distributed each month for deposit in a state account, the Prostitution Prevention and Intervention Account (Account). The funds in the Account may be used to:

1. support programs that provide mental health and substance abuse counseling, parenting skills training, housing relief, education, and vocational training for youth who have been diverted for a prostitution or prostitution loitering offense;
2. fund services provided to sexually exploited children in secure and semi-secure crisis residential centers with access to staff trained to meet their specific needs;
3. fund services for sexually exploited children; and
4. fund a grant program to enhance prostitution prevention and intervention services.

Educational Programs for Offenders ("John Schools"). Some cities in Washington, including Tacoma and Seattle, have created "john schools," court-ordered educational programs for persons arrested for patronizing a prostitute. These programs, which typically involve presentations by former prostitutes, are designed to show offenders the impact of prostitution on individuals involved in the sex trade, as well as the risks of prostitution to purchasers of sexual services.

Typically, a certain percentage of the fines, fees, penalties, and costs collected by the courts must be remitted to the state.

Summary: Fines for Prostitution Offenses. The additional fine imposed in connection with a prosecution for Patronizing a Prostitute is $1,500 for a first offense, $2,500 for a second offense, and $5,000 for a third or subsequent offense. These fines may not be reduced, suspended, or waived unless the court finds, on the record, that the offender is unable to pay, in which case, the fees may be reduced by up to two-thirds. The revenue raised from this fine is collected by the clerk of the court and remitted to the county where the offense occurred for the county general fund, except if the offense occurred within a city or town which provides for its own law enforcement, in which case the funds will be deposited in the city or town general fund.

The funds must be used for local efforts to reduce the commercial sale of sex including prevention and increased enforcement of commercial sex laws. Specifically, at least half of the funds must be spent on prevention, including education programs for offenders, such as john schools, and rehabilitative services to help individuals transition out of the commercial sex industry such as: mental health and substance abuse counseling, parenting skills training,

housing relief, education, vocational training, drop-in centers, and employment counseling.

The revenue from these fees are exempt from distribution statutes that require a certain percentage of funds collected by courts to be remitted to the state.

Nonmonetary Penalties. First-time offenders are required to fulfill the terms of a program, such as a "john school," designed to educate offenders about the negative costs of prostitution. The specific program will be designated by the sentencing court.

Votes on Final Passage:

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

Effective: June 7, 2012

Partial Veto Summary: The Governor vetoed the section increasing additional fee amounts imposed in connection to committing the offense of Patronizing a Prostitute because the section duplicates, and conflicts with, a section of Engrossed Substitute House Bill 1983.

VETO MESSAGE ON ESHB 2692

March 29, 2012

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

Ladies and Gentlemen:

I have approved, except for Section 1, Engrossed Substitute House Bill 2692 entitled:

"AN ACT Relating to the reduction of the commercial sale of sex."

I am vetoing Section 1 because it amends the same section of the Revised Code of Washington that is amended in Section 3 of Engrossed Substitute House Bill 1983. The amendments cannot be reconciled.

For this reason I have vetoed Section 1 of Engrossed Substitute House Bill 2692.

With the exception of Section 1, Engrossed Substitute House Bill 2692 is approved.

Respectfully submitted,

Christine O. Gregoire
Governor

HB 2705

C 113 L 12

Creating the office of legislative support services.

By Representatives Sullivan and Kretz.

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

Background: In addition to the Senate and the House of Representatives (House), the legislative branch of government consists of several legislative agencies created by statute. The legislative agencies include:

- the Joint Legislative Audit and Review Committee (conducts performance audits, program evaluations, special studies, and program sunset reviews);
- the Statute Law Committee (publishes the Revised Code of Washington and the Washington Administrative Code, and provides a central bill-drafting service);
- the Joint Transportation Committee (serves as the joint fact-finding committee on transportation issues);
- the Office of the State Actuary (provides actuarial services relating to state retirement systems);
- the Joint Legislative Systems Committee (administers legislative information processing and communications systems); and
- the Legislative Evaluation and Accountability Program Committee (provides information and technology with respect to budgets and revenue).

The Senate, the House, and legislative agencies each employ professional and administrative support staff.

Summary: The Office of Legislative Support Services is established to provide administrative and support services to the Senate, the House, the Joint Legislative Audit and Review Committee, the Statute Law Committee, the Joint Transportation Committee, the Office of the State Actuary, the Joint Legislative Systems Committee, and the Legislative Evaluation and Accountability Program Committee. These services include facility management, production and audio-visual services, information distribution, and other administrative and support services.

The Director of the Office of Legislative Support Services (Director) is appointed jointly by the Chief Clerk of the House and the Secretary of the Senate. The Director is authorized to employ additional staff. The Office of Legislative Support Services is subject to the operational policies, procedures, and oversight of the Facilities and Operations Committee of the Senate and the Executive Rules Committee of the House.

Votes on Final Passage:

House	97	0
Senate	49	0

Effective: July 1, 2012

ESHB 2747
C 173 L 12

Modifying the use of funds in the fire service training account.

By House Committee on Capital Budget (originally sponsored by Representative Hansen; by request of Washington State Patrol).

House Committee on Capital Budget
Senate Committee on Ways & Means

Background: The Washington State Patrol (WSP) has authority for: (1) patrolling Washington state highways; (2) providing security for the Governor; (3) operating the Washington State Crime Lab and the Investigative Services Bureau; and (4) appointing the State Fire Marshal.

The State Fire Marshal is responsible for providing fire and life safety inspections in licensed care occupancies including nursing homes, boarding homes, group homes, hospitals, and childcare centers. The State Fire Marshal also may conduct construction plan review on new school construction and when local jurisdictions request assistance. It licenses the fireworks and the fire sprinkler industries, and certifies fire sprinkler industry workers and cigarette manufacturers; trains Washington's fire service, in the field and at the Washington State Fire Training Academy (Academy); and coordinates fire service resources during large fires and disasters through the state's Fire Resource Mobilization Plan.

The Academy is located in North Bend, Washington. The Academy provides training for firefighters and public safety officials as well as private brigades and the maritime industry. The Academy also provides training for hazardous spill cleanup. The facility is comprised of an administrative building, three classrooms, dormitories, and support facilities.

The Fire Services Training Account (Account) consists of: (1) funds received by the WSP for fire service training; (2) all grants and bequests accepted by the WSP; (3) 20 percent of all moneys received by the state on fire insurance premiums; and (4) State General Fund moneys appropriated into the Account by the Legislature.

The Account may only be used for fire service training and for contracting with the Washington State Firefighters Apprenticeship Trust for the operation of the Firefighter Joint Apprenticeship Training Program. During the 2011-13 biennium, the state capital budget allows funds to be used for school fire prevention activities within the WSP, and for predesign and repairs of the burn building at the Academy.

Summary: The use of the Account is expanded to include capital projects at the Academy, and school fire prevention activities within the WSP, as long as it does not affect training for volunteer and career firefighters.

Votes on Final Passage:

House	92	0
Senate	47	0

Effective: June 7, 2012

SHB 2757
C 114 L 12

Creating accounts for the center for childhood deafness and hearing loss and for the school for the blind.

By House Committee on Ways & Means (originally sponsored by Representative Moeller; by request of Washington State School for the Blind and Center for Childhood Deafness).

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

Background: The Washington State Center for Childhood Deafness and Hearing Loss and the Washington State School for the Blind are residential schools located in Vancouver, Washington.

Fees collected from the following sources are deposited into the respective schools' General Fund-Local Account with permission of the Office of Financial Management (OFM): (1) fees for services charged to out-of-state residents; and (2) charges for contracts with school districts for students serviced by the district, who seek additional consultation or advice from the schools.

Recently, accounting functions were transferred from the schools to the Small Agency Client Services (SACS). The SACS informed the schools and the OFM that depositing these funds into the General Fund-Local Account would not allow the schools to carry funds forward from year to year, as had previously been allowed by the OFM.

Summary: Two accounts are created, one for the Washington State Center for Childhood Deafness and Hearing Loss and one for the Washington State School for the Blind. These accounts are to be used for fees for contracts, tuition, donations, and other incomes. The accounts are allotted but nonappropriated, and the accounts will retain their interest earnings.

Votes on Final Passage:

House	97	0
Senate	48	0

Effective: June 7, 2012

HB 2758
C 39 L 12

Strengthening the department of revenue's ability to collect spirits taxes imposed under RCW 82.08.150.

By Representatives Hunter and Alexander; by request of Department of Revenue.

House Committee on Ways & Means
Senate Committee on Labor, Commerce & Consumer Protection

Background: Licenses to Sell Liquor. With the passage of Initiative 1183 in November of 2011, voters approved the transfer of responsibility for the distribution and retail sale of liquor to the private sector. A spirits distributor license is required to sell spirits purchased from manufacturers, distillers, or suppliers to spirits retailers. A spirits retail license is required to sell spirits in original containers to consumers for consumption off the licensed premise. In addition, a licensed spirits distiller may act as a retailer and/or a distributor to retailers selling for consumption on or off the premises of spirits of its own production. A manufacturer, importer, or bottler of spirits holding a certificate of approval may act as a distributor of spirits it is entitled to import into the state. The Liquor Control Board (Board) administers the issuance of spirits distributor, retailer, distillery, and importer licenses.

Liquor Taxes. Spirits taxes are levied upon the sale of spirits in their original package including a liquor sales tax and a liquor liter tax. For sales to consumers, the liquor sales tax is 20.5 percent of the selling price, and the liquor liter tax is $3.7708 per liter. For sales to restaurants and bars, the liquor sales tax is 13.7 percent of the selling price, and the liquor liter tax is $2.4408 per liter.

Liquor Tax Administration. Prior to the passage of Initiative 1183, the Board collected all spirits taxes by incorporating those taxes in the price of spirits sold in Washington. Initiative 1183 transfers the administration of spirits taxes from the Board to the Department of Revenue (Department). Spirits taxes must be paid by the buyer to the seller, and the seller must report and return all taxes imposed in accordance with rules adopted by the Department.

The Department must apply payments from taxpayers first against penalties and interest, and then upon the tax, without regard to any direction of the taxpayer.

Summary: The Department may request that the Board suspend a spirits license and refuse to renew such license if the taxpayer is more than 30 days delinquent in reporting or remitting spirits taxes. Before making the request to the Board, the Department must provide the taxpayer at least seven days written notice. The notice must include information listing any unfiled tax returns, the amount of unpaid spirits taxes, who to contact about payment, and that the taxpayer may seek administrative review by the Department. The Department may not make a request to the Board for a license suspension that is subject to pending administrative review.

Upon written notification by the Department, the Board must suspend all spirits licenses held by a person that is more than 30 days delinquent in reporting or remitting spirits taxes to the Department. The Board must also refuse to renew or issue any new spirits licenses to the person or any other applicant controlled directly or indirectly by that person. The Board may not reinstate a person's spirits license until such time as the Department notifies the Board that the person is current in reporting and remitting spirits taxes. All spirits licenses are subject to the condition that the spirits license holder must report and remit all spirits taxes by the due date to the Department.

The amount of spirits taxes assessed against a licensee or applicant for a license may not be considered by the Board at hearings to contest the suspension of a license. Requests made by the Department to the Board to suspend a license are not subject to adjudicative proceedings under the Administrative Procedures Act. No person may file a notice of appeal with the Board of Tax appeals to contest the amount of spirits taxes assessed or due unless the person has first paid the full amount of contested spirits taxes. A taxpayer's right to administrative review does not include the right to challenge the amount of spirits taxes assessed if the taxpayer has already sought administrative review of this amount, or could have done so.

By the fifteenth day of each month, all spirits certificate of approval holders (out-of-state distillers) must report to the Board a list of all spirits delivered to purchasers in the state during the preceding month. A spirits certificate of approval holder may not ship into the state any spirits unless the purchaser is licensed by the Board to sell spirits, or otherwise legally authorized to sell spirits. The Board must maintain on its website a list of all spirits certificate of approval holders licensed by the Board and in good standing.

The Department must apply payments from taxpayers in the following order: interest; penalties; fees; other nontax amounts; taxes, except spirits taxes; and spirits taxes. Trust fund taxes are defined as those taxes collected and held in trust, including spirits taxes.

Votes on Final Passage:

House	96	0
Senate	49	0

Effective: March 15, 2012

EHB 2771
C 236 L 12

Addressing employer and employee relationships under the state retirement systems.

By Representatives Pettigrew, Cody and Springer.

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

Background: The Department of Retirement Systems (DRS) was created in 1976 to administer the various retirement systems that provide benefits for state and local government employees in Washington, collectively referred to as the Washington State Retirement Systems. The retirement systems include: the Public Employees' Retirement System (PERS); the Teachers' Retirement System (TRS); the School Employees' Retirement System (SERS); the Law Enforcement Officers' and Fire Fighters' System (LEOFF); the Washington State Patrol Retirement System; and the Public Safety Employees' Retirement System (PSERS).

The retirement systems administered by the DRS are limited to government employees under the federal Internal Revenue Code. By operating the retirement systems in conformance with these federal laws, certain employer and employee contributions, as well as investment earnings upon those contributions, receive preferential individual federal income tax treatment for their employees. A retirement system or retirement plan operated in conformance with federal rules is commonly referred to as a "qualified plan."

A private employer entity acting as a governmental contractor may be found under federal tax law to be an instrumentality of a public agency if specified criteria are met. The employees of a private nonprofit or for-profit entity that does not meet the federal law definition of an instrumentality of a public agency may not participate in a federal tax law-qualified governmental retirement plan such as the PERS.

If employees of a private nonprofit entity that the Internal Revenue Service does not regard as an agency or instrumentality of a public agency are included in the PERS plan, it may adversely affect the qualified status of the plan and potentially all of the participants in the plan.

Under federal and state law whether an individual may be considered an employee, rather than an independent contractor, depends on a set of behavioral, financial, and business relationship factors. The tests for an employment relationship with a worker are similar under each of state and federal law. Among the ways these factors are considered include: whether the entity has a right to control what the worker does, and how the worker does it; whether there are written contracts between the entity and the worker; and whether employee-type benefits like pensions and health benefits are exchanged between them. For purposes of the state retirement systems, the factors considered in evaluating an employer-employee relationship are detailed in administrative rules.

In January 2012, the Washington Supreme Court (Court) ruled upon reconsideration in *Dolan v. King County,* Case No. 82842-3. The Court ruled that employees of several private non-profit public defender agencies that provide services to King County by contract are also employees of King County for purposes of the PERS, and that King County has such a right of control over the defender organizations that they are arms and agencies of the county.

Summary: The stated intent of the Legislature in providing the Washington State Retirement Systems is not to provide eligibility to the employees of government contractors. The Legislature intends to more clearly state that employees of for-profit and not-for-profit corporations providing services under government contracts are not eligible for membership in the Washington State Retirement Systems. The act is curative and remedial, but has no application to the Court's decision in *Dolan v. King County,* nor application to subjects other than eligibility for state-sponsored pension benefits.

For PERS, TRS, SERS, PSERS, and LEOFF, "employer" for the retirement system does not include a government contractor. Government contractors are defined to include partnerships, limited liability companies, for-profit and nonprofit corporations, or persons, that provide services pursuant to a contract with a retirement system employer.

The determination of whether an employer-employee relationship exists is not based on the relationship between a government contractor and a retirement system employer, but solely on the relationship between a government contractor's employee and a retirement system employer.

Votes on Final Passage:

House	83	14	
Senate	38	10	(Senate amended)
House	91	5	(House concurred)

Effective: June 7, 2012

ESHB 2799

C 53 L 12

Authorizing a five-year pilot project for up to six collaborative schools for innovation and success operated by school districts in partnership with colleges of education.

By House Committee on Education (originally sponsored by Representatives Sullivan, Santos, Maxwell, Darneille, Hunt, Carlyle, Haigh, Pollet and Kenney; by request of Governor Gregoire).

House Committee on Education

Background: *Educator Certification.* Educator certification programs must be approved by the Professional Educator Standards Board (PESB) and may be offered by institutions of higher education or other entities. There are teacher certification programs at each of the six public four-year institutions of higher education in Washington, as well as 13 independent institutions. Institutions offer initial or residency certification concurrently with a bachelor's degree, as a certificate-only option, or through Master's in Teaching programs. Six institutions also offer alternative routes to teacher certification which are partnerships between the institution, school districts, and other entities. These are designed for school paraprofessionals to become teachers, or for individuals with bachelor's degrees and other working experience to change careers.

Several national organizations, including the National Council for Accreditation of Teacher Education, have advocated for an approach to teacher preparation modeled after clinical residency and internship programs used in medical professions. Professional Development Schools are close collaborations between a college of education and a K-12 school where a cohort of teacher candidates is trained on-site, working with mentor teachers and college faculty to form a professional learning community at the school. Some large urban school districts, including Boston and Chicago, have targeted this model at high-needs schools as a way simultaneously to recruit and develop teachers with the background and skills to serve those schools, and to implement research-based strategies for school improvement.

Waivers. The State Board of Education (SBE) may grant waivers of some statutory program requirements of Basic Education, including minimum instructional hours, the length of the school year, and student-teacher ratios, if the waivers are necessary to implement a school improvement or restructuring plan, or to implement an Innovation School or Innovation Zone approved by the Superintendent of Public Instruction (SPI). The SPI is also authorized to grant waivers of administrative rules under these circumstances.

There are no statutory processes for waiving requirements regarding educator certification programs. However, most of these requirements are established by the PESB in administrative rules rather than in statute.

Required Action Framework. Legislation enacted in 2010 established a process for identifying and designating certain low-performing schools to receive federal school improvement grants. The process includes a comprehensive academic performance audit and development of a Required Action Plan. If necessary to implement a Required Action Plan, the school district and employee organizations must reopen collective bargaining agreements. In the event the school district and employee organizations are unable to agree, a process is outlined involving first an appointed mediator, and then consideration of disputed issues by the superior court.

Summary: The Collaborative Schools for Innovation and Success (CSIS) Pilot Project is established. The purpose is for colleges of education and school districts to develop and implement:

- research-based models of instruction proven to close the opportunity gap and improve student learning in low-performing schools; and
- research-based models of educator preparation and professional development proven to build an educator workforce with the knowledge, skills, and background to serve students in low-performing schools.

A college of education is defined as an institution of higher education in Washington with educator preparation and certification programs approved by the PESB.

Any school district may enter an agreement with a college of education and submit an application to the Office of the Superintendent of Public Instruction (OSPI) and the PESB to participate. The college and district must select an elementary school to be the CSIS school. The school must be among the lowest-achieving schools in the district as measured by district, state, or federal criteria, including criteria measuring the educational opportunity gap, and must not have previously received grant funds for school improvement.

Colleges and districts must submit a joint application of intent to the OSPI and the PESB by July 1, 2012. The required content of the application is specified. By August 1, 2012, the OSPI and the PESB select up to six applications, one of which must be the largest district in western Washington that submitted an application, and one of which must be the largest district in eastern Washington that submitted an application. Subject to funding, the OSPI allocates planning and implementation grants to three of the selected applicants. The remaining selected applicants may participate in the CSIS Pilot Project, but without state funding.

After an application of intent is approved, the college and district conduct a comprehensive needs assessment using disaggregated student data that includes the elements of an academic performance audit. Based on the needs assessment, an Innovation and Success Plan (Plan) is developed in collaboration with school staff, parents, and community members. A Plan must include:

- the proposed program for instruction, wraparound services, resource deployment, and professional development;
- a family and community engagement strategy;
- professional learning communities among school staff and higher education faculty;
- intensive preparation of teacher and principal candidates using research-based practices, with a particular focus on cultural competency and development of skills to serve students with special learning needs;
- identification of private and community partners;
- identification of the metrics to be used to assess student achievement and educator skill development and specific improvement goals for the term of the pilot project;
- any waivers to be requested from the SBE, the OSPI, or the PESB;
- identification and completion of any modifications to collective bargaining agreements necessary to implement the Plan, using the statutory process established under the Required Action Framework; and
- a project budget.

Each CSIS Pilot Project must submit a completed Plan to the OSPI and the PESB by March 15, 2013. The OSPI and the PESB must provide notification of whether a Plan is approved by May 1, 2013. If a Plan is not approved, the college and district have 30 days to revise and resubmit their Plan. Waiver authority of the SBE and the OSPI is extended to include waivers necessary to implement a Plan, and waiver authority is established for the PESB for this purpose.

Approved Plans are implemented over five years, beginning in the 2013-14 school year through the 2017-18 school year.

Each CSIS Pilot Project must submit an annual progress report by December 1 that describes best practices, lessons learned, adjustments planned and implemented, and suggestions for expanding the use of best practices to a larger scale. The OSPI and the PESB compile and summarize the reports and forward them to the Governor and the appropriate committees of the Legislature.

Subject to funding, the OSPI must contract with a northwest educational research organization for an outcomes evaluation of the CSIS Pilot Project. An interim evaluation is due December 1, 2015, with a final evaluation due September 1, 2018. The OSPI and the PESB must recommend by December 1, 2018, whether to modify, continue, or expand the CSIS Pilot Project.

The CSIS Pilot Project is repealed June 30, 2019.

Votes on Final Passage:

House	67	31
Senate	43	6

Effective: June 7, 2012

HB 2803

C 237 L 12

Concerning health care services for incarcerated offenders.

By Representative Cody.

House Committee on Ways & Means

Background: Health Care Services for Offenders. When an offender enters the custody of the Department of Corrections (DOC), a health profile for the offender must be prepared, including a financial assessment of the offender's ability to pay for all or a portion of the health care services received from personal resources or private insurance. Offenders are required to pay a co-payment of no less than $3 per visit. The co-payment may be collected from the offender's institution account and is deposited into the State General Fund. Offenders are not required to pay a co-payment for emergency treatment, visits initiated by health care staff, or treatment for a serious health care need.

The DOC has taken several steps over the past few years to contain health care costs. These steps include:

- payment of all eligible inpatient hospital and related services through Medicaid;
- utilizing a management team of nurses to monitor payments to outside providers as well as care provided within DOC facilities;
- contracting with the Washington State Health Care Authority pharmaceutical consortium to reduce the cost of prescription drugs in prisons; and
- implementing protocols and processes to ensure services are evidence-based and medically necessary.

Regulation of Hospitals. Hospitals in Washington must be licensed by the Department of Health (DOH). The DOH establishes standards for the construction, maintenance, and operation of hospitals, including standards for the care and treatment of patients. The DOH: issues, denies, and revokes licenses; conducts surveys and inspections of hospitals; determines sanctions for violations of the DOH standards; and receives regular reports on each hospital's governance and finances, as well as certain patient care measures.

Summary: Offenders must participate in the costs of their health care services by paying an amount that is commensurate with their resources as determined by the DOC, or a nominal amount of no less than $4 per visit. All co-payments collected must be used to reduce expenditures for offender health care at the DOC. An offender must make a co-payment even if the health care service is for emergency treatment, initiated by health care staff, or treatment for a serious health care need.

To the extent that it is allowed by federal law and federal financial participation is available, the DOC is authorized to act on behalf of an inmate for purposes of applying for Medicaid eligibility.

Providers of hospital services that are licensed with the DOH must contract with the DOC for inpatient, outpatient, and ancillary services, as a condition of licensure. Payments to hospitals from the DOC for these services must be:

- paid through the Provider One system operated by the Health Care Authority;
- reimbursed using the reimbursement methodology in use by the state Medicaid program; and
- reimbursed at a rate no more than the amount payable under the Medicaid reimbursement structure plus a percentage increase that is determined in the state operating budget.

Votes on Final Passage:

House	93	0	
Senate	46	1	(Senate amended)
House	98	0	(House concurred)

Effective: June 7, 2012

EHB 2814

C 84 L 12

Concerning the replacement of certain elements of the state route number 520 corridor.

By Representatives Clibborn, Armstrong, Eddy and Springer.

Background: Shoreline Management Act – General Provisions. *Policy.* The Shoreline Management Act of 1971 (SMA) governs uses of state shorelines. The SMA enunciates state policy to provide for shoreline management by planning for and fostering "all reasonable and appropriate uses." The SMA prioritizes public shoreline access and enjoyment, and creates preference criteria listed in prioritized order that must be used by state and local governments in regulating shoreline uses.

Regulations, Permits, and Delayed Authorizations for Commencing Construction. The SMA involves a cooperative regulatory approach between local governments and the state. At the local level, the SMA regulations are developed in city and county shoreline master programs (master programs) that regulate land use activities in shoreline areas of the state. Each local government is charged with establishing a program for the administration and enforcement of a shoreline permit system. While the SMA specifies standards for local governments to review and approve permit applications, the administration of the permit system is performed exclusively by the local government. Local governments, however, must notify the Department of Ecology (DOE) of all SMA permit decisions.

The SMA requires a property owner or developer to obtain a substantial development permit for substantial developments within shoreline areas. "Substantial developments" are defined to include both developments with a total cost or fair market value exceeding $5,718 and developments materially interfering with normal public shoreline or water use. Certain exemptions to the substantial development permit requirement are specified in statute.

The permit review and approval standards generally specify that a local permit system must include provisions to assure that construction on a project may not begin or be authorized until 21 days from the date of filing, which is defined as the date of receipt by the DOE of the local government's decision, or until all review proceedings are terminated.

Appeals and Timing – Permits and Construction. Appeals of substantial development permit decisions and the DOE shoreline rules and regulations are reviewed by the Shorelines Hearings Board (SHB). Any person aggrieved by the granting, denying, or rescinding of a shorelines permit may seek review from the SHB by filing a petition for review within 21 days of the date of receipt of the decision. The DOE or the Attorney General may also obtain review of any final decision granting a permit, or granting or denying an application for a permit issued by a local government by filing a written petition with the SHB and the appropriate local government within 21 days of the date the final decision was filed. Final decisions of the SHB may be appealed to superior court, and the SHB must issue its decision within 180 days after the date the petition is filed.

If a permit has been granted by a local government, the SMA specifies that construction may, with limited exceptions, be commenced 30 days after the date of an appeal of a decision of the SHB if:

- the granting of the permit is appealed to the SHB within 21 days of the date of filing;
- the SHB approves the granting of the permit or a portion of the substantial development for which the local government issued the permit; and
- an appeal for judicial review of the SHB's decision is filed in accordance with requirements of the Administrative Procedure Act.

Permittees beginning construction on a project prior to the termination of all review proceedings, however, do so at their own risk.

Floating Bridge Construction. The Legislature has previously authorized the Washington State Department of Transportation (WSDOT) to proceed with construction of floating bridges while shoreline permits were being appealed. The first instance was in 1980, in regards to the permits for the construction of the Hood Canal floating bridge. The second instance was in 1991, in regards to the permits for the construction of the Interstate 90 (I-90) floating bridge.

Evergreen Point Bridge – Replacement, Permits, and Appeals. The Governor Albert D. Rosellini Bridge – Evergreen Point (Evergreen Point Bridge) spans the 1.44 mile distance between Interstate 5 (I-5) in the City of

Seattle and the City of Medina on the eastern shore of Lake Washington. Originally opened to traffic in 1963, the four-lane floating bridge serves approximately 115,000 vehicles each day.

In 2007 the Legislature authorized the WSDOT to replace the existing bridge with a new floating structure. The replacement bridge, which is scheduled to open to traffic by the end of 2014, will have six lanes of traffic, including two general-purpose lanes, one transit/high occupancy vehicle (HOV) lane in each direction, and the ability to accommodate future light rail. In August 2011 the Federal Highway Administration issued the record of decision for the project, and construction on the replacement bridge is scheduled to begin in 2012. The program budget for the State Route (SR) 520 Bridge replacement and the HOV Program, as set by the Legislature in 2009, is $4.65 billion.

Numerous state and federal permits are required for the construction of the replacement bridge. With respect to permits required under the SMA, on January 17, 2012, the City of Seattle issued conditional approvals for the I-5 to Medina shoreline permit applications. On February 8, 2012, the Coalition for a Sustainable 520 (Coalition) filed an appeal of shoreline permits issued by Seattle with the SHB. In accordance with the SMA, the Coalition's actions have resulted in a stay of construction.

Summary: New construction authorization and conditioning provisions for the replacement of the floating bridge and landings of the SR 520 Evergreen Point Bridge are established.

Construction Authorization. Construction may begin 21 days after the date the WSDOT receives the local government's permit decision, if the local government decision pertains to any permit or a decision to issue any permit to the WSDOT for the replacement of the floating bridge and landings of the SR 520 Evergreen Point Bridge on or adjacent to Lake Washington. A substantial development permit granted for the floating bridge and landings is deemed to have been granted on the date that the local government's decision to grant the permit is issued.

The construction authorization applies to only those elements of the floating bridge and landings that do not preclude the WSDOT's selection of a four-lane alternative for SR 520 between I-5 and the City of Medina.

The WSDOT is prohibited from engaging in construction on any portion of the SR 520 corridor between the western landing of the floating bridge and I-5 until the Legislature has authorized the imposition of tolls on I-90 and/or other funding sufficient to complete construction of the SR 520 bridge replacement and the HOV project.

Conditioning Provisions. The construction authorization does not preclude the SHB from concluding that the project or any element of the project is inconsistent with the goals and policies of the SMA or the applicable master program.

General Limitations and Expiration. The construction authorization and conditioning provisions expire on June 30, 2014, and apply to appeals filed after January 1, 2012.

Votes on Final Passage:

House	94	4
Senate	33	16

Effective: March 23, 2012

HB 2822

C 9 L 12 E1

Concerning local sales and use tax account deposits and distributions.

By Representative Hunter; by request of Governor Gregoire and State Treasurer.

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

Background: Retail sales and use taxes are imposed by the state, most cities, all counties, and by some special purpose districts. Retail sales taxes are imposed on retail sales of most articles of tangible personal property and digital products and some services. A retail sale is a sale to the final consumer or end user of the property, digital product, or service. If retail sales taxes were not collected when the property, digital products, or services were acquired by the user, then use taxes apply to the value of most tangible personal property and digital products and some services when used in this state. Sales and use taxes imposed by the state and local governments are collected by the Department of Revenue (DOR).

Taxpayers remitting sales and use taxes typically file returns with the DOR monthly. Those taxes are initially deposited into the State General Fund. The next day, the local share of those taxes, minus a 1 percent administrative fee, is transferred from the State General Fund to the Local Sales and Use Tax Account. The Local Sales and Use Tax Account retains its own interest.

At the end of following month, these collected moneys, along with interest earnings, are then distributed by the State Treasurer to local governments.

Summary: Beginning January 1, 2013, the Department of Revenue will deposit the local share of retail sales and use taxes into the Local Sales and Use Tax Account on a monthly basis on the last business day of the month in which the distributions to local governments are made.

The State Treasurer must transfer an amount equal to any foregone interest from the State General Fund to the Local Sales and Use Tax Account and must also distribute the interest to impacted entities (counties, cities, transportation authorities, public facilities districts, public transportation benefit areas, regional transportation investment districts, and transportation benefit districts).

Votes on Final Passage:

First Special Session

House	82	15
Senate	42	5

Effective: July 10, 2012

ESHB 2823

C 5 L 12 E2

Redirecting existing state revenues into the state general fund.

By House Committee on Ways & Means (originally sponsored by Representative Hunter).

House Committee on Ways & Means

Background: Education Construction Fund. In 2000 Washington voters approved Initiative 728, which redirected state lottery revenue from the State General Fund to several education funds, beginning July 1, 2001. From July 1, 2004, to July 1, 2009, all net lottery revenues allocated for education were deposited in the Education Construction Fund. In 2010 legislation was enacted to create the Washington Opportunity Pathways Account. The Opportunity Pathways Account is dedicated to a number of different education programs. The 2010 legislation also redirected the deposit of state lottery revenue from the Education Construction Fund into the Opportunity Pathways Account. The 2010 legislation required the State Treasurer to transfer $102 million each year from the State General Fund into the Education Construction Fund. In recent years, including the 2011-13 biennium, the transfers from the State General Fund have effectively been suspended.

Liquor Excise Taxes. State sales taxes and volume taxes apply to the sale of spirits in their original package. Spirits are subject to a state volume tax of $3.7708 per liter for retail sales and $2.4408 per liter for sales to restaurants. All tax proceeds are deposited in the State General Fund. A state sales tax rate of 20.5 percent applies to spirits sold to consumers in the original package. A sales tax rate of 13.7 percent applies to spirits sold to establishments that sell the spirits on their premises. Approximately 26 percent of liquor sales taxes are deposited in the Liquor Excise Tax Fund and then distributed quarterly to cities and counties on the basis of population. A portion of the counties' funding is deposited in the County Research Services Account to support county research services.

Liquor Revolving Fund. The Washington State Liquor Control Board (WSLCB) was formed in 1933 by the Steele Act to regulate the importation, manufacture, distribution, and sale of alcohol. The WSLCB handles the purchase, distribution, and sale of liquor through a state-owned distribution center and state-owned stores and certain contract stores. Washington liquor is marked up and taxed prior to sale. A portion of the markup supports the operations of the retail state liquor stores and the excess profits received from sales are deposited in the Liquor Revolving Fund and returned to state and local governments. A portion of the cities' funding is deposited in the City and Town Research Services Account to support municipal research services.

With the passage of Initiative 1183 in November 2011, the WSLCB will cease state liquor store and liquor distribution operations by June 1, 2012. Initiative 1183 specifies that distributions from the Liquor Revolving Fund to border areas, counties, cities, towns, and the municipal research center will be made in a manner that provides each category of recipient an amount from the Liquor Revolving Fund no less than that received during comparable periods prior to the effective date of the initiative plus an additional $10 million for public safety.

Public Works Assistance Account. The Public Works Assistance Account is used to make loans and to give financial guarantees to local governments for public works projects. There are several sources of revenue to the account including the solid waste collection tax (SWCT), real estate excise tax (REET), public utilities tax (PUT), and loan repayments.

Solid Waste Collection Tax. Washington imposes a separate tax on solid waste collection services by firms that collect, transfer, store, or dispose of solid waste. This tax is in lieu of the state PUT; however, solid waste collection services are also subject to state business and occupation taxes. The SWCT rate is 3.6 percent. The tax is deposited in the Public Works Assistance Account where it is dedicated to making loans and financial guarantees to local governments for public works projects. The requirement to deposit the tax into the Public Works Assistance Account was suspended in fiscal year 2011, allowing the money to be deposited into the State General Fund.

Summary: Education Construction Fund. The annual $102 million transfer from the State General Fund into the Education Construction Fund is suspended during the 2013-15 biennium.

Solid Waste Collection Tax. The requirement to deposit the SWCT into the Public Works Assistance Account is suspended from July 1, 2011, through June 30, 2015. During that period, funds must be deposited in the State General Fund for general purpose expenditures. For fiscal years 2016 through 2018, one-half of the SWCT must be deposited in the State General Fund, and the remainder deposited in the Public Works Assistance Account.

Liquor Excise Taxes. In fiscal year 2013, all liquor excise taxes that would normally be deposited into the Liquor Excise Tax Fund for distribution to local governments are deposited into the State General Fund. Distributions to local governments are suspended for a year to correspond to this reallocation of the tax.

Beginning in fiscal year 2014 and every year thereafter, quarterly distributions from the Liquor Excise

Tax Fund of $2.5 million are made to the State General Fund.

The County Research Services Account is eliminated and any remaining moneys are deposited into the State General Fund. Prior to distributing the counties' portion of the Liquor Excise Tax Fund, the State Treasurer must transfer an amount to the Liquor Revolving Fund to support legislative appropriations for county research services.

Liquor Revolving Fund. Beginning July 1, 2012, the distributions to cities and counties from the Liquor Revolving Fund are modified. Instead of distributing moneys to cities and counties by a formula based on amounts deposited in the Liquor Revolving Fund, distributions will be made as provided under Initiative 1183. The City and Town Research Services Account is eliminated and any remaining moneys are deposited into the State General Fund. Prior to distributing the cities' portion of the Liquor Revolving Fund, an amount must be retained to support municipal research services consistent with Initiative 1183.

Votes on Final Passage:

Second Special Session

House	53	45
Senate	25	21

Effective: July 1, 2012
May 2, 2012 (Section 2)

HB 2824

C 10 L 12 E1

Addressing comprehensive funding for education by developing a plan for full funding and by freeing certain existing revenues for support of the basic education program.

By Representatives Eddy and Hunter.

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

Background: Basic Education. In the 2009-11 biennium, two pieces of legislation were enacted to redefine basic education and restructure the K-12 funding formulas. The first was Engrossed Substitute House Bill 2261 (Chapter 548, Laws of 2009), which expanded the definition of basic education and established a framework for a new K-12 funding allocation formula based on prototypical schools. These changes took effect September 1, 2011. The bill also contained a statement of legislative intent that the redefined program of basic education and funding for the program be fully implemented by 2018.

The second bill, Substitute House Bill 2776 (Chapter 236, Laws of 2010) enacted in statute the new prototypical school allocation formulas at funding levels that represented the 2009-10 school year state spending on basic education. The bill also established a timeline for phasing in enhancements to the program of basic education and its funding levels as follows:

- During the 2011-13 biennium, the K-3 class size must be reduced to 17 students per teacher, beginning with the schools with the highest poverty students, by 2017-18.
- During the 2011-13 biennium, the minimum allocation for maintenance, supplies, and operating costs (MSOC) must be increased as specified in the omnibus operating appropriations act until specific amounts are provided in the 2015-16 school year.
- During the 2011-13 biennium, funding for all-day kindergarten must continue to be phased in each year until full statewide implementation is achieved in the 2017-18 school year.
- During the 2011-13 biennium, funding for a revised formula for pupil transportation must begin and be fully implemented by the 2013-15 biennium.

Partial implementation of these four enhancements is included in the appropriations approved by the Legislature for the 2011-13 biennium. These appropriations include approximately $5 million for full-day kindergarten enhancements in select school districts, approximately $33.6 million to reduce class sizes in grades K-3 in high poverty school districts, $5 million for pupil transportation, and inflationary increases to the MSOC formulas.

Based on current enrollment figures, future enrollment projections and inflation projections, the estimated cost of fully implementing the four enhancements included in Substitute House Bill 2776 is approximately $1.6 billion in fiscal year (FY) 2018. This estimate assumes each enhancement is evenly phased in beginning in FY 2014, completed by each respective fiscal year deadline and, if required by current legislation, increased by inflation.

Initiative 728. In November 2000, Initiative 728 (I-728), the K-12 2000 Student Achievement Act was approved by Washington voters. Under I-728, a portion of certain state revenues were dedicated to the Student Achievement Fund. School districts were given the discretion to use the I-728 related funding for any of six activities for improving student achievement. These activities included:

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

Upon initial approval, $140 per pupil of the state property tax was directed to be placed in the Student Achievement Fund for calendar years 2001 through 2003. As directed in I-728, the dedicated funding to the Student Achievement Fund would increase in 2004 to $450 per pupil and be adjusted for inflation thereafter. However, the 2003 Legislature revised the per pupil amounts of the state property tax to be placed in the Student Achievement Fund to $140 in the 2003-04 school year, $254 in 2004-05, $300 in 2005-06, $375 in 2006-07, and $450 in 2007-08. Each year after 2007-08, the per pupil figure was to be adjusted annually for inflation.

In 2008 the Legislature made additional adjustments to the Student Achievement Fund. In 2008, the amount dedicated to the Student Achievement Fund was $458.10. For the 2009-10 school year, the per pupil appropriations began to be specified in the omnibus operating appropriations act and the figure was reduced to $131.16. Concurrently, the K-12 2000 Student Achievement Act Account was consolidated into the State General Fund under Engrossed Substitute Senate Bill 5073, and the Student Achievement Act and Student Achievement Fund became the Student Achievement Program. Funding for the program was suspended in the 2010-11 school year and continues to be suspended through 2012-13.

Summary: A joint task force on education funding is created, consisting of four members of the House of Representatives, four members of the Senate, and three individuals appointed by the Governor. The task force is required to develop a proposal for fully funding the state's program of basic education including the programmatic enhancements required by Substitute House Bill 2776. The task force is staffed by the Office of Program Research, Senate Committee Services, and the Office of Financial Management, with assistance from the Washington State Institute for Public Policy and other agencies as necessary. The task force's final report must be submitted to the Legislature by December 31, 2012.

The statutory requirement to provide funding in specified annual amounts for the Student Achievement Program is repealed. In addition, all statutory references to the Student Achievement Program are removed. Statutory references to dedication of remaining net lottery revenues to the Student Achievement Fund is directed to the program of basic education, while education legacy trust funds previously dedicated to the Student Achievement Fund are directed to the support of the common schools. The levy base is unaffected by the repeal of I-728.

Votes on Final Passage:

First Special Session

House	68	26	
Senate	28	20	(Senate amended)
House	74	24	(House concurred)

Effective: July 10, 2012

SHB 2828

C 4 L 12 E1

Removing the requirement that the department of social and health services or the department of early learning take appropriate action to establish or enforce support obligations whenever it receives an application for subsidized child care services or working connections child care services.

By House Committee on Ways & Means (originally sponsored by Representative Hunter).

House Committee on Ways & Means

Background: Working Connections Child Care (WCCC) is a program for children from low-income households that provides subsidized child care while parents are at work or engaged in WorkFirst participation requirements. The Department of Early Learning (DEL) sets WCCC policy and the Department of Social and Health Services (DSHS) provides WCCC eligibility determinations.

In 2011 legislation was enacted requiring WCCC applicants and recipients to seek child support enforcement services from the DSHS Division of Child Support as a condition of receiving subsidized child care. However, if the DSHS finds an applicant has good cause to not cooperate, then he or she is exempt from the child support requirement. The legislation also requires the DSHS or the DEL to take action to establish or enforce child support when it receives an application for subsidized child care. A child care subsidy payment constitutes an authorization for the DSHS to provide support enforcement services.

During the 2012 legislative session, legislation was enacted removing the requirement that an applicant or recipient must seek child support enforcement services from the DSHS as a condition of receiving child care subsidies.

Summary: The requirement that the Department of Social and Health Services (DSHS) or the Department of Early Learning take action to establish or enforce support obligations whenever it receives an application for subsidized child care services or Working Connections Child Care services is removed. The language specifying that a payment for subsidized child care constitutes an authorization for the DSHS to provide child support enforcement services is removed.

Votes on Final Passage:

First Special Session

House	97	0
Senate	45	0

Effective: June 7, 2012

HB 2834

PARTIAL VETO

C 5 L 12 E1

Providing cost savings for local governments by reducing a limited number of reporting requirements.

By Representatives Alexander, Springer and Angel.

Background: Counties and cities (including towns) are the two general purpose local governments in Washington. Counties and cities are the governmental units that perform broad functions, including the delivery of a wide variety of public services.

Washington's 39 counties are legal subdivisions of the state and have fixed boundaries. Washington's 281 cities and towns, which have boundaries that may be modified through annexation, are generally center-oriented governmental units that are established by incorporation to provide public services and an economic identity to large and small population concentrations.

Counties and cities are required by statute to fulfill numerous reporting requirements related to the conduct of their official duties.

Summary: The following county and city reporting requirements are eliminated.

City Public Works Budgets. A requirement obligating first class cities to report total public works construction budgets and supplemental budgets to the state auditor is changed from mandatory to discretionary.

County Prosecutors. A requirement obligating county prosecutors to annually report to the Governor regarding the amount and nature of business transacted is eliminated, as is a requirement obligating prosecutors to annually report liquor law prosecutions to the Liquor Control Board.

Growth Management Act. A requirement obligating jurisdictions that fully plan under the Growth Management Act (GMA) to submit reports to the Department of Commerce every five years regarding the progress made by that jurisdiction in implementing the GMA is eliminated.

Affordable Housing. Provisions requiring cities and counties to annually update the Department of Commerce on the inventory of real estate available for developing affordable housing are repealed.

A reporting requirement for the Office of Financial Management (OFM) is established. The OFM, with statewide organizations representing cities and counties, must develop a process and criteria to conduct a review of reports, mandates, and programs that create additional expenses for state and local government. Based upon this process and criteria, the OFM must submit recommendations to the Legislature every odd-numbered year regarding which reports, mandates, and programs should be terminated or consolidated. The OFM must also submit executive request legislation each odd-numbered year to implement its termination or consolidation recommendations.

Votes on Final Passage:

First Special Session

House	98	0
Senate	47	0

Effective: July 10, 2012

Partial Veto Summary: The section of the bill requiring the OFM to submit biennial cost-saving recommendation reports to the Legislature and to submit related executive request legislation was vetoed.

VETO MESSAGE ON HB 2834

May 2, 2012

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, House Bill 2834 entitled:

"AN ACT Relating to providing cost savings for local governments by reducing a limited number of reporting requirements."

Section 4 contains two directives. The first requires the Office of Financial Management (OFM) to conduct a review of reports, programs, and mandates required of state and local governments to determine those that are obsolete or unnecessary. The second requires OFM to develop and submit executive request legislation to terminate specific reports, programs, and mandates based on the review. While I agree that conducting a sunset review of requirements imposed on state and local governments would be beneficial, I do not believe it is appropriate for the Legislature to mandate the content of executive request legislation. Article III, section 6 of the Washington Constitution provides that the Governor shall recommend to the Legislature such measures as the Governor deems expedient for their action. Section 4 is inconsistent with this constitutional provision and the constitutional separation of powers.

I will direct OFM to work with statewide organizations representing cities and counties to create a process to review reports, mandates, and programs that create additional expenses for state and local governments. OFM will report to the Governor and the Legislature and submit recommendations on executive request legislation to the Governor.

For this reason, I have vetoed Section 4 of House Bill 2834.

With the exception of Section 4, House Bill 2834 is approved.

Respectfully submitted,

Christine O. Gregoire
Governor

HCR 4410

Establishing a joint select committee to address school funding.

By Representatives Sullivan, Kretz, Maxwell and Santos.

Background: Article IX, section 1 of the state Constitution declares that it is the paramount duty of the state to make ample provision for the education of all children within its borders. Beginning with *Seattle School District No. 1 v. State* (1978), the Washington Supreme Court (Court) has ruled that this section creates a state duty to define and fully fund a program of basic education, and creates a corresponding right in the state's children to receive educational opportunities. Because this funding duty arises from the Constitution, the *Seattle School District No. 1* Court declared that it takes precedence over other state programs.

In January of 2012, the Court issued its ruling in *McCleary v. State*, an education funding case. The Court held that the state had failed to meet its Article IX duty to fully fund the costs of its basic education program. The Court identified salary allocations, student transportation funding, and nonemployee related costs as areas of particular shortfalls. As in the *Seattle School District No. 1* case, the Court ruled that the Article IX duty is imposed on the state as a body politic, and therefore Article IX contemplates a shared responsibility among the three branches of government. The *McCleary* ruling reaffirmed two key principles from *Seattle School District No. 1*: it is the province of the judiciary to interpret the constitution and "say what the law is," but the Court must leave the means of implementing the Article IX duty to the Legislature.

Although the Court found that the state had failed to satisfy its funding duty, the Court also determined that Engrossed Substitute House Bill 2261 (Chapter 548, Laws of 2009) constituted a "promising reform program" that would, if fully funded, remedy deficiencies in the K-12 funding system. Explaining that the 2011-13 legislative budget made only small steps toward implementation of these funding reforms, the Court said that it "cannot stand idly by as the Legislature makes unfulfilled promises for reform," and it ruled that the judicial branch would retain jurisdiction over the case in order to monitor reforms under Engrossed Substitute House Bill 2261 and under the "paramount duty" generally. The Court declared that this approach would "foster[] dialogue and cooperation between coordinate branches of state government" regarding funding reforms.

The Court has not previously retained jurisdiction over an education funding case. (In the 1978 *Seattle School District No. 1* case, the Court expressly rejected the lower court's decision to retain jurisdiction over the case.) Later in 2012, the Court is expected to rule on the form of retained jurisdiction.

Summary: Legislative findings are made regarding the paramount nature of the Article IX education funding duty and the Legislature's role in implementing this duty. The Legislature declares that it does not believe that judicial oversight of its legislative prerogatives is necessary, but that the Legislature recognizes that the Court has retained jurisdiction over the *McCleary* case under the unique circumstances presented by the Article IX duty. For this reason, the Legislature states that it desires to establish a structure and process for interaction between the legislative and judicial branches in order to achieve the common purpose of amply providing for the education of Washington's children.

A legislative Joint Select Committee (Committee) on Article IX Litigation is established. The Committee consists of eight legislators, two each from the two largest caucuses of the Senate and the House of Representatives. The duties of the Committee are:

- facilitating communication with the Court on school funding legislation and other actions of the Legislature related to the Article IX duty;
- advising and directing the attorneys who represent the Legislature before the Court in the *McCleary* case; and
- apprising legislators and the Legislature of communications from the Court on *McCleary.*

Senate Committee Services and the Office of Program Research must provide staff support to the committee.

Votes on Final Passage:

House	92	0
Senate	Adopted	

ESB 5127

C 1 L 12 E 2

Concerning state general obligation bonds and related accounts.

By Senators Kilmer, Parlette, Murray and Zarelli; by request of Governor Gregoire.

Senate Committee on Ways & Means

Background: Washington State 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. Approximately one-half of the capital budget is financed by these state-issued general obligation bonds; and the balance is funded by dedicated accounts, trust revenue, and federal funding sources. The primary two-year budget is passed in the odd-numbered years, and a supplemental budget making adjustments to the two-year budget often is passed during the even-numbered years. The current capital budget covers the period from July 1, 2011, through June 30, 2013.

Summary: The capital budget appropriates $510.4 million in state general obligation bonds to support projects in the 2011 Supplemental Capital Budget. This includes $5 million in Chehalis River Basin bonds and $4.95 million in Columbia River Basin Water Supply bonds. The State Finance Committee is authorized to issue state general obligation bonds to finance $500.5 million in projects in the 2011 Supplemental Capital Budget. The State Treasurer is required to withdraw from state general revenues the amounts necessary to make the principal and interest payments on the bonds and to deposit these amounts into the Bond Retirement Account.

Votes on Final Passage:

Second Special Session

Senate	44	2
House	80	18

Effective: April 23, 2012

ESB 5159

C 72 L 12

Authorizing the transfer of service credit and contributions into the Washington state patrol retirement system by members who served as commercial vehicle enforcement officers and communications officers and then became commissioned troopers in the Washington state patrol.

By Senators Schoesler, Conway, Fain, Holmquist Newbry, Carrell, Murray, Becker, Haugen, Hobbs, Pridemore, Rockefeller, Roach, McAuliffe and Kilmer; by request of Select Committee on Pension Policy.

Senate Committee on Transportation
House Committee on Ways & Means

Background: Noncommissioned employees of the Washington State Patrol (WSP) are part of the Public Employees Retirement System 2 (PERS 2). Commissioned employees are part of the WSP Retirement System (WSPRS). Prior to 2000, Commercial Vehicle Enforcement Officers were noncommissioned employees. In 2000 all the Commercial Vehicle Enforcement Officers were made commissioned employees and their PERS 2 credits were transferred to the WSPRS. This transfer did not affect employees who had been Commercial Vehicle Enforcement Officers and who became commissioned employees prior to 2000.

WSP Communication Officers are considered noncommissioned employees. As such, retirement credits earned by Communication Officers are part of PERS 2.

Summary: Active members of WSPRS are allowed to transfer service credits earned as a Communications Officer or a Commercial Vehicle Enforcement Officers in PERS 2 to WSPRS. If the employee chooses to transfer credits to the WSPRS, the employee must pay the difference between the employee and employer contributions that would have been paid to WSPRS, and any other amount, to ensure that the funding status of WSPRS does not change due to the transfer.

Votes on Final Passage:

Senate	47	0
House	97	0

Effective: June 7, 2012

E2SSB 5188

C 85 L 12

Harmonizing certain traffic control signal provisions relative to yellow change intervals, certain fine amount limitations, and certain signage and reporting requirements.

By Senate Committee on Transportation (originally sponsored by Senators Becker, Haugen, Swecker, Stevens, King, Fain, Delvin, Holmquist Newbry, Honeyford and Hewitt).

Senate Committee on Transportation
House Committee on Transportation

Background: Under current law, local governments may use automated, traffic-safety cameras to detect stoplight, railroad crossing, or school speed zone violations. Use of the cameras is restricted to two arterial intersections, railroad crossings, and school speed zones. The cameras may only take pictures of the vehicle and vehicle's license plate while an infraction is occurring, and must not reveal the face of the driver or passengers. Infractions detected through the use of cameras are not part of the registered owner's driving record. Additionally, infractions must be processed like parking infractions, and fines issued for infractions may not exceed the amount of fines issued for other local parking infractions.

Summary: All traffic control signals (stoplights) must have yellow light change intervals that are at least as long as the minimum intervals identified in the federal Manual of Uniform Traffic Control Devices (MUTCD).

If an automated, traffic-safety camera is used to detect stoplight violations, it must be installed on a stoplight that has a yellow change interval duration that meets the standards identified in MUTCD, and the yellow change interval duration may not be reduced after placement of the camera.

The fine issued for a stoplight violation that is detected through the use of an automated, traffic-safety camera may not exceed the monetary penalty for a violation of the requirement to follow official traffic control devices – currently $124.

The following provisions are added to the automated traffic safety camera law:

- requires the applicable jurisdiction to conduct an analysis of the proposed camera locations;

- requires annual reports regarding traffic accident rates where a camera is located and the number of infractions issued for each camera;
- requires signage regarding the location of a camera to be posted at least 30 days before activation of the camera; and
- standardizes the signage requirements for camera locations.

Votes on Final Passage:

Senate	45	0
House	96	0

Effective: June 7, 2012

SSB 5217

C 148 L 12

Allowing appointment of student members on the boards of trustees of community colleges.

By Senate Committee on Higher Education & Workforce Development (originally sponsored by Senators Shin, White, Nelson, Sheldon, Murray, Delvin, Rockefeller, Harper, Kline, Keiser, Conway, Chase, Eide and Fraser).

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

Background: The University of Washington, Washington State University, the regional universities, and The Evergreen State College all have student members on their boards of regents or boards of trustees. There are no student members on the boards for any of the community college districts.

Boards at community and technical colleges have five trustees. Districts containing technical colleges must include at least one member from business and another from labor.

Summary: By a majority vote, the boards of trustees in any college district may establish a sixth trustee position to be filled by a full-time student in good standing throughout the student's term. The student trustee is selected, by the Governor, from a list of three-to-five candidates submitted by the student government of that college district and serves a one-year term or until the student member's successor is appointed and qualified, whichever is later. The student trustee is disqualified if he or she fails to be enrolled at the college full-time or forfeits his or her academic standing. A new member must be appointed to replace the disqualified member. The student must excuse himself or herself from participation or voting on matters relating to the hiring, discipline, or tenure of faculty members and personnel, or any other matters pertaining to collective bargaining agreements.

Votes on Final Passage:

Senate	32	15	
House	94	2	(House amended)
Senate			(Senate refused to concur)
House	88	10	(House receded)

Effective: June 7, 2012

SSB 5246

C 73 L 12

Concerning employer review of abstracts of driving records.

By Senate Committee on Transportation (originally sponsored by Senators Chase, Harper, White and Nelson).

Senate Committee on Transportation
House Committee on Transportation

Background: The Director of the Department of Licensing (DOL) maintains a case record on every person licensed to operate a motor vehicle in Washington. These case records, or abstracts, contain information relating to a person's driving record. The fee to obtain an abstract is $10 and the distribution of abstracts is restricted to certain persons and uses. The DOL may enter into a contractual agreement with an insurance company or its agent for the limited purpose of reviewing the driving records of existing policyholders for changes to the record and must establish a fee for this service, which may not result in a net revenue loss to the state.

Summary: DOL may enter into contractual agreements with an employer or the employer's agent to review the driving records of existing employees during specified periods of time for changes to the records. DOL must establish a fee for this service such that there is no net revenue loss to the state.

Votes on Final Passage:

Senate	45	4	
House	96	0	(House amended)
Senate	44	5	(Senate concurred)

Effective: June 7, 2012

SB 5259
C 20 L 12

Concerning the tax payment and reporting requirements of small wineries.

By Senators Kline, Honeyford, Kohl-Welles, Carrell and Schoesler.

Senate Committee on Labor, Commerce & Consumer Protection
Senate Committee on Ways & Means
House Committee on Ways & Means

Background: Wineries, wine distributors, importers, and holders of certificates of approval must submit a liter tax along with a wine tax report to the Liquor Control Board on a monthly basis. Revenue generated from the wine liter tax is distributed to the liquor revolving account, the General Fund, and to cities and counties. A portion of the liter tax revenue is also disbursed quarterly to the Washington Wine Commission and to Washington State University for wine and grape research.

Summary: Wineries and wine certificate of approval holders that have total taxable sales of wine in Washington of 6000 gallons or less during the calendar year preceding the tax due date must report on and pay taxes no more frequently than annually.

Votes on Final Passage:

Senate	44	0
House	97	0

Effective: June 7, 2012

E2SSB 5292
C 21 L 12

Exempting certain structures that are constructed and maintained by irrigation districts and port districts from the definition of critical areas.

By Senate Committee on Government Operations, Tribal Relations & Elections (originally sponsored by Senators Honeyford, Schoesler, Swecker, Holmquist Newbry and Roach).

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

Background: The Growth Management Act (GMA) is the comprehensive land use planning framework for county and city governments in Washington. Enacted in 1990 and 1991, the GMA establishes numerous planning requirements for counties and cities obligated by mandate or choice to fully plan under the GMA (planning jurisdictions), and a reduced number of directives for all other counties and cities. Twenty-nine of Washington's 39 counties, and the cities within those counties, are planning jurisdictions.

The GMA directs planning jurisdictions to adopt internally consistent comprehensive land use plans that are generalized, coordinated land use policy statements of the governing body. Comprehensive plans must address specified planning elements, each of which is a subset of a comprehensive plan. The implementation of comprehensive plans occurs through locally adopted development regulations.

All jurisdictions are required by the GMA to satisfy specific designation mandates for natural resource lands and critical areas. All local governments must adopt development regulations, also known as critical areas ordinances, that meet specified criteria. As defined by statute, critical areas include wetlands, aquifer recharge areas, fish and wildlife habitat conservation areas, frequently flooded areas, and geologically hazardous areas.

Summary: Within the definition of critical areas, fish and wildlife habitat conservation areas do not include artificial features or constructs, including irrigation delivery systems, irrigation infrastructure, irrigation canals, or drainage ditches that lie within the boundaries of and are maintained by a port district or an irrigation district or company.

Votes on Final Passage:

Senate	46	0
House	98	0

Effective: June 7, 2012

2SSB 5343
C 238 L 12

Concerning air emissions from anaerobic digesters.

By Senate Committee on Agriculture, Water & Rural Economic Development (originally sponsored by Senators Haugen, Delvin, Hatfield, Honeyford, Becker, Shin and Schoesler).

Senate Committee on Agriculture & Rural Economic Development
House Committee on Environment
Senate Committee on Agriculture, Water & Rural Economic Development
House Committee on General Government Appropriations & Oversight

Background: Washington has long promoted anaerobic digesters as renewable energy sources. State incentives include tax exemptions, cost recovery payments, and bioenergy loans. Currently, five commercial digesters in the state generate electricity from biogas derived from livestock manure, in some instances co-digested with certain organic waste. The first commenced generating operations in 2004. Similar digesters are planned. In 2009 the Legislature resolved a regulatory issue by exempting these digesters from a solid waste permitting requirement,

provided that they complied with several environmental safeguards and operating guidelines.

Generator engines used in digesters are usually not major sources of pollutants that trigger strict federal standards, and states have some discretion in regulating them. In Washington, regional air quality authorities have, pursuant to authority under the state Clean Air Act, required digester operators to obtain air emission permits for digester engines and satisfy monitoring requirements. Requirements in other states vary widely, ranging from permitting exemptions to restrictive conditions in areas with poor air quality. Michigan exempts internal combustion engines from air permitting requirements, including generator engines used in digesters, if they have less than 10 million British thermal units per hour maximum heat input.

Summary: An extended compliance period is granted, until December 31, 2016, to certain electric generating projects powered by gas from anaerobic digesters.

The extension covers permit provisions related to the emissions limit for sulfur established by the Department of Ecology (DOE) or a local air authority.

To qualify for this extension, a generator must:

- be operating at an electric generating project with an installed generator capacity of at least 750 kilowatts, but not exceeding 1000 kilowatts;
- be in operation on the effective date of this act and have begun operating after 2008;
- be located on agricultural lands of long-term commercial significance under the growth management act; and
- not be located in a federally designated nonattainment or maintenance area.

Upon request, DOE or a local air authority must provide technical assistance to a generator meeting the requirements above, in reducing its emissions.

The DOE must submit a report by December 1, 2012, to the appropriate standing committees of the Legislature, containing information regarding the degree to which current state air quality regulations consider different feed sources for anaerobic digesters, and strategies to address the different feed sources used in anaerobic digesters.

Votes on Final Passage:

Senate	42	7	
Senate	41	6	
House	97	0	(House amended)
Senate	45	2	(Senate concurred)

Effective: June 7, 2012

2SSB 5355

C 188 L 12

Regarding notice requirements for special meetings of public agencies.

By Senate Committee on Government Operations, Tribal Relations & Elections (originally sponsored by Senators Morton, Swecker and Honeyford).

Senate Committee on Government Operations, Tribal Relations & Elections

House Committee on State Government & Tribal Affairs

Background: The Open Public Meetings Act (OPMA) governs the meeting process followed by public agencies. A special meeting may be called by the presiding officer of the governing body of a public agency or by a majority of the members of the governing body by delivering written notice personally, by mail, fax, or electronic mail, to each local newspaper of general circulation, and to each local radio or television which has requested to be notified of special meetings.

Notice must occur at least 24 hours before the meeting. The notice must indicate the meeting's time and place, and specify the business to be transacted.

Summary: Notices of special meetings under the OPMA are modified. Meeting notices must be prominently displayed at the main entrance of the agency's principal location, as well as at the meeting site, if different. The notices must be posted on an agency's website except under the following conditions: the agency does not have a website; the agency employs fewer than ten full-time equivalent employees; or the agency does not employ personnel whose duty, as defined by a job description or existing contract, is to maintain or update the website.

Votes on Final Passage:

Senate	48	0	
House	97	0	(House amended)
Senate			(Senate refused to concur)
House	97	0	(House receded/amended)
Senate	48	0	(Senate concurred)

Effective: June 7, 2012

SB 5365
C 239 L 12

Authorizing the purchase of retirement pension coverage by certain volunteer firefighters and reserve officers.

By Senators Nelson and Kohl-Welles.

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

Background: The Volunteer Fire Fighters' and Reserve Officers' Relief and Pension System (VFFRORPS) provides death, disability, medical, and retirement benefits to volunteer firefighters and reserve officers in cities, towns, and fire protection districts. The VFFRORPS is funded by member and employer contributions and a portion of the fire insurance premium tax.

Employers are required to participate in the death, disability, and medical benefit plans (collectively referred to as the relief benefits) offered by the VFFRORPS, but participation in the pension component is optional and participants must enroll to be covered by the plan. Around 18,000 members are covered by the death, disability, and medical benefits, and 12,000 members are covered by the pension benefits.

Relief benefits are available to members covered under the relief provisions of the Volunteer Firefighters' and Reserve Officers' Relief and Pension Act injured in the performance of duty. Eligibility for retirement pension benefits from the VFFRORPS begins after ten years of service as a member. The amount of the pension vested increases for each five years of service beyond the minimum ten years and for payments made into the pension portion of the VFFRORPS. The maximum pension is vested with 25 years of service and 25 payments into the pension fund. Full retirement benefits are available at age 65, and early retirement benefits are available to members with 25 years of service on an actuarially reduced basis beginning at age 60. The maximum pension benefit is $300 per month.

Summary: At any time prior to retirement or at the time of retirement, a member of the VFFRORPS may purchase retirement pension coverage for years of eligible service prior to the member's enrollment in the system or for years of service credit lost due to the withdrawal of the member's pension fee contributions. A member choosing to purchase such retirement pension coverage must make a contribution to the system equal to the actuarial value of the resulting benefit increase. The municipality that the member serves may contribute some or all of the amount required to purchase coverage.

Votes on Final Passage:

Senate	48	0
House	96	0

Effective: June 7, 2012

SSB 5381
C 115 L 12

Adjusting voting requirements for the renewal of emergency medical service levies.

By Senate Committee on Government Operations, Tribal Relations & Elections (originally sponsored by Senators Prentice and Regala).

Senate Committee on Government Operations, Tribal Relations & Elections
House Committee on Ways & Means

Background: The Legislature has established rate maximums and aggregate rate maximums for varied taxing districts that derive their funding from regular property tax levies. The state property tax levy is limited to $3.60 per $1,000 of assessed value. Levies of the remaining taxing districts are generally divided into two types: senior taxing districts and junior taxing districts. Senior taxing districts are cities and counties. Junior taxing districts include library districts, fire protection districts, and port districts, among others.

If combined levy rates of senior and junior taxing districts exceed $5.90 – levy rates of junior taxing districts are reduced first, then levy rates of the senior districts are reduced, according to statutorily set priorities, until combined levy rates fit within the $5.90 limit. This process is called prorationing.

The following levies are outside of the $5.90 limit, but are still subject to the 1 percent constitutional limit:

- voter approved emergency medical services (EMS) taxes;
- taxes to acquire conservation futures;
- voter approved taxes for affordable housing;
- voter approved metropolitan part district taxes;
- King County ferry district taxes for passenger-only ferries; and
- voter approved county criminal justice taxes.

An emergency medical care and services levy (EMS levy) can be imposed for six years, ten years, or permanently. The EMS levy must be approved by a majority of at least three-fifths of the registered voters. The maximum levy rate is $0.50 per $1,000.

Summary: A permanent EMS tax levy or the initial imposition of a six-year or ten-year EMS levy requires a three-fifths majority to pass. The continuation of a six- or ten-year EMS levy requires approval of a majority of registered voters.

Votes on Final Passage:

Senate	32	17
House	72	26

Effective: June 7, 2012

SSB 5412
C 54 L 12

Providing remedies for whistleblowers in the conveyance work industry.

By Senate Committee on Labor, Commerce & Consumer Protection (originally sponsored by Senators Keiser, Kohl-Welles, Kline, Roach, Conway, Hobbs and Chase).

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

Background: A conveyance is an elevator, escalator, dumbwaiter, belt manlift, automobile parking elevator, moving walk, or other elevating device. Current law recognizes that the use of unsafe and defective conveyances creates a substantial probability of serious and preventable injury to employees who use or work on this equipment as well as to the public who may be exposed to unsafe conditions. Prevention from injury and protection of employees and the public from unsafe conditions are in the best interest of the citizens of Washington.

Employees who work on conveyances must document training and experience and be familiar with safety hazards. Employees must perform work in compliance with laws and regulations relating to conveyances. The law establishes the minimum standards for personnel performing conveyance work.

In any lawsuit alleging damages caused by failure of a conveyance, conformity with Labor and Industries regulations is evidence that the conveyance work, operation, and inspection is reasonably safe.

Summary: Employees working for elevator contractors should be protected from retaliatory actions by employers when they report in good faith, practices which may violate state law, regulation, or employer policies. A whistleblower is defined as an employee who reports practices that violate the law or policies of their employer.

An employee of an elevator contractor who has been subjected to retaliatory action as the result of being a whistleblower has remedies for this action through the Human Rights Commission. The identity of a whistleblower must remain confidential. A whistleblower who communicates to an appropriate governmental agency in good faith, is immune from liability for claims based upon the communication to the agency or organization regarding any matter reasonably of concern to that agency.

The definition of workplace reprisal or retaliatory action includes discharge of, or discrimination against, an employee of an elevator contractor who has reported or filed a complaint related to the safe operation, inspection, installation, repair, or maintenance of elevators, lifting devices, and moving walks.

Votes on Final Passage:

Senate	30	19
House	56	42

Effective: June 7, 2012

E2SSB 5539
C 189 L 12

Concerning Washington's motion picture competitiveness.

By Senate Committee on Ways & Means (originally sponsored by Senators Kohl-Welles, Prentice, White, Kilmer, Brown and McAuliffe).

Senate Committee on Labor, Commerce & Consumer Protection
Senate Committee on Ways & Means
House Committee on Ways & Means
House Committee on Community & Economic Development & Housing

Background: The Washington Legislature created the Motion Picture Competitiveness Program in 2002 with the intent of maintaining Washington's position as a competitive location for filming motion pictures, television, and television commercials. The Motion Picture Competitiveness Program allows taxpayers that contribute to an incentive fund to receive a credit against their business and occupation tax for the full amount contributed. Qualifying production companies that film in Washington can apply for payment from the incentive fund.

The Department of Community, Trade, and Economic Development (now the Department of Commerce) was directed to adopt criteria for an approved motion picture competitiveness program with the sole purpose of revitalizing the state's economic, cultural, and educational standing in the national and international market of motion picture production. The Department of Commerce (Department) was also directed to adopt rules, within established criteria, for awarding incentive payments to production companies. Additionally, the Department was required to create and annually collect surveys from the production companies receiving the incentives, and to provide statistical reports to the Legislature based on the information in the surveys.

The 2006 legislation, SSB 6558, called for the creation of a nonprofit corporation to administer the incentive payments to production companies. Washington Filmworks, the nonprofit corporation, processes the production companies' applications for incentive payments pursuant to the Department rules.

The tax credit is set to expire July 1, 2011. SSB 6558 directed the Joint Legislative Audit and Review Committee (JLARC) to review the effectiveness of the program and make a recommendation to the Legislature by December 1, 2010, regarding the effectiveness of the motion picture competitiveness program. The JLARC review found the following:

1. Washington's share of film industry employment has remained relatively consistent even as more states

compete for film work. Currently, 44 states provide film incentives.

2. Due to weaknesses in reporting requirements, data reported by the production companies regarding the tax revenue and job impacts of the incentive were unreliable.

Using other sources, JLARC determined the following impacts:

1. For calendar years 2007 through 2009, JLARC estimated $837,000 in sales tax revenues from expenditures by production companies receiving incentives.
2. There was an increase in film industry jobs in Washington from 2002 through 2008, with a decline in 2009. Between 2002 and 2009, the average Washington film industry salary was $3,000 to $10,000 lower than the average salary for all Washington industries.
3. Trade unions paid worker health and retirement benefits in 83 percent of the productions receiving incentive money. Washington Filmworks required production companies in the remaining projects to provide evidence that the company provided benefits.
4. JLARC estimated that each dollar spent in Washington by the film industry yields $1.99 of economic activity in the state and local economies. Production companies receiving incentive payments spent $36 million in Washington since the beginning of the program through 2009, which results in a calculated economic impact of $72 million. This impact does not include any potential effects from tourism nor does it include the lost economic activity that could result from the loss of state revenues through the tax credit.

The JLARC review made the following two recommendations:

1. Because Washington has maintained its position as a competitive location for filming, the Legislature should continue this preference and reexamine the preference at a later date to determine its ongoing effectiveness in encouraging filming in Washington.
2. If the Legislature desires information on the revenue and economic impacts of the tax credit, it should require more stringent reporting and clarify what entity is responsible for maintaining the information.

Summary: The approved Motion Picture Competitiveness Program's sole purpose to revitalize the state's economic, cultural, and educational standing in the national and international market of motion picture production is expanded to also include assisting and providing services for attracting the film industry.

The definition of "motion picture" is changed to encompass recorded audio-visual production intended for distribution to the public for exhibition in public and/or private settings by means of any and all delivery systems and/or delivery platforms now or hereafter known.

The provision allowing the Motion Picture Competitiveness Program funding to be used for a tax credit marketer to market the tax credits is removed.

The maximum funding of up to 30 percent of total actual investment of at least $300,000 per television episode produced in Washington is increased to 35 percent when six or more episodes of a series are produced in Washington.

For motion pictures and episodic services, up to 15 percent of the total actual investment for costs associated with non-state labor may be used as long as 85 percent of the production's labor force are Washington residents. The Filmworks board may establish additional criteria to maximize the use of in-state labor.

The program may annually allocate up to 10 percent of the qualifying program contributions to provide funding support for filmmakers who are Washington residents, new forms of production, and emerging technologies of:

1. up to 30 percent of the actual investment for a motion picture with an actual investment lower than the $500,000 investment required for a motion picture; or
2. up to 30 percent of the actual investment of an interactive motion picture intended for multiplatform exhibition and distribution.

One member representing Washington interactive media or the emerging motion picture industry is added to the Filmworks board.

The annual calendar year credit limit is $3.5 million.

The Motion Picture Competitiveness Program in collaboration with the Department and the Department of Revenue and in consultation with JLARC must develop a survey form and instructions. The survey must be designed to acquire data to allow the state to better measure the effectiveness of the program and to provide transparency of the program. The instructions must provide sufficient detail to ensure consistent reporting.

The last date during which business and occupation tax credits may be earned for contributions is moved from July 1, 2011, to July 1, 2017.

The date that the Motion Picture Competiveness Program must develop a survey and instructions for recipients of funds is changed from November 1, 2011, to November 1, 2012.

Votes on Final Passage:

Senate	30	16
Senate	40	8
House	92	6

Effective: June 7, 2012

ESSB 5575
C 22 L 12

Recognizing certain biomass energy facilities as an eligible renewable resource.

By Senate Committee on Agriculture, Water & Rural Economic Development (originally sponsored by Senators Hatfield, Delvin, Eide, Schoesler, Haugen, Shin, Kilmer, Hobbs, Becker, Honeyford, Conway and Sheldon).

Senate Committee on Agriculture & Rural Economic Development
Senate Committee on Agriculture, Water & Rural Economic Development
House Committee on Environment

Background: Approved by voters in 2006, the Energy Independence Act, also known as Initiative 937 (I-937), requires electric utilities with 25,000 or more customers to meet targets for energy conservation and for using eligible renewable resources. Utilities that must comply with I-937 are called qualifying utilities.

Energy Conservation Assessments and Targets. Each qualifying electric utility must pursue all available conservation that is cost-effective, reliable, and feasible. By January 1, 2010, each qualifying utility must assess the conservation it can achieve through 2019, and update the assessments every two years for the next ten-year period. Beginning January 2010, each qualifying utility must meet biennial conservation targets that are consistent with its conservation assessments.

Eligible Renewable Resource Targets. Each qualifying utility must use eligible renewable resources or acquire equivalent renewable energy credits, or a combination of both, to meet the following annual targets:

- at least 3 percent of its load by January 1, 2012, and each year thereafter through December 31, 2015;
- at least 9 percent of its load by January 1, 2016, and each year thereafter through December 31, 2019; and
- at least 15 percent of its load by January 1, 2020, and each year thereafter.

Eligible Renewable Resource. The term eligible renewable resource includes wind; solar; geothermal energy; landfill and sewage gas; wave and tidal power; and certain biodiesel fuels. The following biomass is also classified as an eligible renewable resource: animal waste and solid organic fuels from wood, forest, or field residues and dedicated energy crops. The following biomass is not an eligible renewable resource: wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic; black liquor by-product from paper production; wood from old growth forests; and municipal solid waste.

Electricity produced from an eligible renewable resource must be generated in a facility that started operating after March 31, 1999. The facility must either be located in the Pacific Northwest, or the electricity from the facility must be delivered into the state on a real-time basis. Incremental electricity produced from efficiency improvements at hydropower facilities owned by qualifying utilities is also an eligible renewable resource, if the improvements were completed after March 31, 1999.

Renewable Energy Credit (REC). A REC is a tradable certificate of proof, verified by the Western Renewable Energy Generation Information System, of at least one megawatt hour of an eligible renewable resource where the generation facility is not powered by fresh water. Under I-937, a REC represents all the nonpower attributes associated with the power. RECs can be bought and sold in the marketplace, and they may be used during the year they are acquired, the previous year, or the subsequent year.

Summary: Changing the Definition of Eligible Renewable Resource. The following biomass fuels are added as eligible renewable resources under I-937:

- organic by-products of pulping and the wood manufacturing process;
- untreated wooden demolition or construction debris;
- yard waste;
- food waste and food processing residuals;
- animal manure (replacing the term animal waste);
- liquors derived from algae; and
- qualified biomass energy.

Qualified biomass energy means electricity produced from a biomass energy facility that: (1) commenced operation before March 31, 1999; (2) contributes to the qualifying utility's load; and (3) is owned either by: (a) a qualifying utility; or (b) an industrial facility that is directly interconnected with electricity facilities that are owned by a qualifying utility and capable of carrying electricity at transmission voltage.

Allowing the Limited Use of Qualified Biomass Energy to meet I-937 Targets. Beginning January 1, 2016, only a qualifying utility that owns or is directly interconnected to a qualified biomass energy facility may use qualified biomass energy to meet its I-937 compliance target.

A qualifying utility may no longer use electricity and associated RECs from a qualified biomass energy facility if the associated industrial pulping or wood manufacturing facility ceases operation other than for purposes of maintenance or upgrade.

An industrial facility that hosts a qualified biomass energy facility may only transfer or sell RECs associated with its facility to the qualifying utility with which it is directly interconnected. The qualifying utility may only use an amount of RECs from qualified biomass energy to meet an I-937 target that is equivalent to the proportionate amount of the load created by the industrial facility. A qualifying utility that owns a qualified biomass energy facility may not transfer or sell RECs associated with

qualified biomass energy to another person, entity, or qualifying utility.

Findings. Various findings are made concerning the environmental benefits of biomass, the declining economic health of the wood products industry, and the limited use of qualified biomass energy.

Votes on Final Passage:

Senate	28	19
Senate	45	1
House	89	9

Effective: June 7, 2012

E2SSB 5620

C 23 L 12

Requiring the certification of dental anesthesia assistants.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Becker, Keiser and Parlette).

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

Background: Dentists are licensed and subject to discipline by the Dental Quality Assurance Commission (DQAC). The practice of dentistry includes the performance of maxillofacial surgery, which is a specialty that includes the diagnosis and surgical and adjunctive treatment of diseases, injuries, and defects of the hard and soft tissues of the oral and maxillofacial region. Licensed dentists may also perform conscious sedation and general anesthesia under certain circumstances. For example, to administer moderate or general anesthesia, a dentist must obtain a permit of authorization from DQAC. In order to obtain a permit, the dentist must meet education and training requirements that vary depending on the type of anesthesia involved. When a dentist administers an anesthetic to a patient, a trained individual must be present to monitor the patient's cardiac and respiratory functions (for deep sedation and general anesthesia, the dentist may serve as the monitor). A monitor must have at least 14 hours of training in the use of certain equipment, basic sciences, evaluation and preparation of patients with systemic diseases, anesthetic drugs and techniques, anesthesia equipment and monitoring, and office anesthesia emergencies.

If the dentist does not have an anesthesia permit, another licensed dentist, a certified nurse anesthetist, or a physician anesthesiologist may provide the anesthesia services. The person who provides the services is responsible for the anesthetic management of the patient. Dental assistants and expanded function dental auxiliaries may not administer any general or local anesthetic.

Summary: No person may practice or represent himself or herself as a certified dental anesthesia assistant (CDAA) without being certified by DQAC. A CDAA may work only under the supervision of an oral and maxillofacial surgeon or a dental anesthesiologist. CDAAs may not represent themselves as dental assistants unless they meet the standards for registration under chapter 18.260 RCW.

Under close supervision, a CDAA may initiate and discontinue an intravenous line for a patient being prepared to receive intravenous medications, sedation, or general anesthesia and may adjust the rate of intravenous fluid infusion only to maintain and keep the line open. Under direct visual supervision, a CDAA may draw up and prepare medications, follow instructions to deliver medication into an intravenous line upon verbal command, adjust an intravenous line beyond a keep open rate, adjust an electronic device to provide medications, and administer emergency medications. The responsibility for monitoring a patient and determining the selection of the drug, dosage, and timing of all anesthetic medications rests solely with the oral and maxillofacial surgeon or dental anesthesiologist.

In order to qualify for certification, a CDAA must complete a DQAC-approved dental anesthesia assistant training course, including intravenous access or phlebotomy; be trained on starting and maintaining intravenous lines; complete a DQAC-approved basic life support/cardiac pulmonary resuscitation course; and provide proof that the office where the dentist will work possesses a valid general anesthesia permit.

CDAAs are subject to the Uniform Disciplinary Act and are under the authority of DQAC.

Votes on Final Passage:

Senate	46	2
House	97	0

Effective: June 7, 2012

SSB 5627

C 24 L 12

Concerning service members' civil relief.

By Senate Committee on Judiciary (originally sponsored by Senators Hobbs, Murray, Kilmer and Shin; by request of Washington State Bar Association).

Senate Committee on Judiciary
House Committee on Judiciary

Background: Under current law, military service means a service member under a call to active service authorized by the President of the United States or the Secretary of Defense for a period of more than 30 consecutive days. Military service members and service members' dependents are provided protection against default judgments, judgments given as a result of the defendant's failure to appear.

Summary: Military service includes National Guard members under a call to service authorized by the Governor for a period of more than 30 consecutive days.

Protection against default judgments is provided to service members, service members' dependents, and National Guard members under a call to active service authorized by the Governor of the state of Washington.

Votes on Final Passage:

Senate	44	0
House	96	0

Effective: June 7, 2012

SSB 5631

C 25 L 12

Removing obsolete provisions in statutes administered by the department of agriculture.

By Senate Committee on Agriculture, Water & Rural Economic Development (originally sponsored by Senators Swecker, Hatfield, Haugen and Shin).

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

Background: The Washington Department of Agriculture (WSDA) administers a wide range of programs relating to consumer protection, livestock, crops, pesticide regulation, and many others. Efficient administration requires periodic updating of these laws.

Summary: Theaters that sell popcorn must continue to disclose, at the point of sale, whether the flavoring is butter or is butter-like. A definition of butter in a section that no longer exists is replaced with its own definition of butter.

In the Commercial Feed Act, a reference is updated to the federal Food, Drug, and Cosmetic Act as to whether particular color additives are unsafe.

Authorized uses of the Grain Inspection Revolving Account are changed. The account continues to be used for paying expenses directly incurred by the grain inspection program. Authority for the account to be used during the 1993-95 biennium for departmental administrative expenses, and for up to 5 percent for research and promotion work including rate studies relating to wheat and wheat products, is removed.

A reference to a repealed a section of law is replaced with a reference to the current code that has to do with what happens when stray livestock are impounded.

Certain pesticides must be distinctly denatured as to color, taste, odor, or form, if required by rule of WSDA.

The requirements that WSDA annually publish results of official pesticide samples is repealed.

The requirement that dealers who sell gasoline with greater than 1 percent by volume of ethanol or methanol must place a label on the dispensing device is repealed.

Votes on Final Passage:

Senate	48	0
Senate	48	0
House	98	0

Effective: June 7, 2012

ESB 5661

C 190 L 12

Regarding derelict fishing gear.

By Senators Nelson, Pridemore, Swecker, White, Morton and Fain.

Senate Committee on Natural Resources & Marine Waters
House Committee on Agriculture & Natural Resources

Background: Role of the Department of Fish and Wildlife (DFW). DFW serves as manager of the state's fish and wildlife resources. Among other duties, DFW must classify wildlife and establish the basic rules and regulations governing the time, place, manner, and methods used to harvest or enjoy fish and wildlife.

Northwest Straits Commission. Congress created the Northwest Straits Marine Conservation Initiative (Conservation Initiative) in 1998 as a conservation and restoration program serving the northwest portion of Puget Sound. The Conservation Initiative is charged with establishing community-based marine stewardship, conducting citizen-driven scientific studies on marine species and their habitat, and restoring marine habitat. The Conservation Initiative has established seven Marine Resource Committees (MRCs), one for each of the following counties: Clallam, Island, Jefferson, San Juan, Skagit, Snohomish, and Whatcom. Each of these MRCs are citizen-based, with representatives from local government; tribal government; and the scientific, economic, recreational, and conservation communities.

Derelict Fishing Gear Database and Reporting. Current law requires DFW to work in partnership with the Northwest Straits Commission, the Department of Natural Resources, and other interested parties to ensure maintenance of a database containing information on known derelict fishing gear and shellfish pots.

A person who loses or abandons commercial fishing gear or shellfish pots is encouraged to report the location and gear type lost to DFW within 48 hours.

Summary: Requires Reporting of Lost Commercial Net Gear. A person who loses or abandons commercial net fishing gear must report the location and gear type lost to DFW within 24 hours. As under current law, a person who loses or abandons shellfish pots is encouraged to report the loss.

By December 31, 2012, DFW must work with interested tribes to develop a program to assist coordination and communication on the location of lost or abandoned fishing nets from tribal fisheries.

Votes on Final Passage:

Senate	47	1	
House	98	0	(House amended)
Senate	49	0	(Senate concurred)

Effective: June 7, 2012

ESSB 5715

C 149 L 12

Requiring adoption of core competencies for early care and education professionals and child and youth development professionals.

By Senate Committee on Early Learning & K-12 Education (originally sponsored by Senators Kohl-Welles, McAuliffe, Litzow, Harper and Kline).

Senate Committee on Early Learning & K-12 Education
House Committee on Early Learning & Human Services
House Committee on Education Appropriations & Oversight

Background: In 2009 the Legislature directed the Professional Development Consortium (PDC) to develop recommendations for a statewide system of preparation and professional development for the early learning workforce. The December 2010 report provides recommendations to build policy support, build organizational capacity, and advance professional development of staff in early learning settings. One of the recommendations is to adopt the Washington State Core Competencies for Early Care and Education, which addresses caregivers and teachers working with children from birth to age eight.

In 2007 the Legislature directed the Department of Early Learning (DEL) to design and implement a voluntary quality rating and improvement system (QRIS). Seeds to Success, Washington's QRIS model, is designed to support licensed child care providers in improving the quality of child care they offer children and families. DEL and Thrive by Five Washington are testing the system in five communities around the state

In 1985 Washington created the state-funded Early Childhood Education and Assistance Program (ECEAP), a comprehensive whole child, family-focused, preschool program designed to help low-income and at-risk children and their families succeed in school and life. In 2010 there were 8053 ECEAP slots funded at $6,662 per child. DEL administers ECEAP, and directly contracts with service providers.

Early Support for Infants and Toddlers (ESIT) provides services to children from birth to age three who have disabilities and/or developmental delays. Eligible infants and toddlers and their families are entitled to individualized, quality early intervention services in accordance with the federal Individuals with Disabilities Education Act (IDEA), part C. ESIT is a program within DEL.

Summary: By December 31, 2012, DEL must adopt core competencies for early care and education professionals and child and youth development professionals and develop an implementation plan. DEL must incorporate the core competencies into all appropriate professional development opportunities including, but not limited to, QRIS, ECEAP, child care licensing, and ESIT. The purpose of the core competencies is to serve as a foundation for what early care and education professionals and child and youth development professionals need to know and do to provide quality care for children. The core competencies must be reviewed and updated every five years.

The Legislature finds that adopting statewide core competencies for early care, education, and child and youth development professionals is important because the competencies also recognize existing standards met by the national nonprofit agencies providing after school services as relevant and sufficient.

Votes on Final Passage:

Senate	38	9
House	68	28

Effective: June 7, 2012

SSB 5766

C 174 L 12

Addressing fire protection district commissioners.

By Senate Committee on Government Operations, Tribal Relations & Elections (originally sponsored by Senators Roach and Pridemore).

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

Background: A fire protection district is a political subdivision of the state, typically located in an unincorporated area, with responsibility to provide fire prevention and suppression services and emergency medical response. A fire protection district has all the powers and duties of a municipal corporation, including taxation, eminent domain, and the authority to enter into contracts.

The affairs of a fire protection district are managed by a board of fire commissioners composed of three registered voters residing in the district. If the three-member board determines by resolution that it is in the best interest of the district to increase the number of commissioners from three to five, or if the board is presented with a petition signed by 10 percent of the registered voters residing within the district, the board must submit a resolution to the county legislative authority, requesting that an election be held to determine whether the number of the commissioners should be increased.

If voters approve a ballot proposition authorizing the creation of commissioner districts, three-commissioner districts must be created for a fire protection district with

three commissioners, and five-commissioner districts must be created for a fire protection district with five commissioners.

Summary: The board of fire commissioners for a fire protection district with an annual budget of $10 million or more may increase the number of commissioners to seven.

The process for filling positions is enumerated in the act.

When a board of fire commissioners that has commissioner districts has been increased to seven, the board of fire commissioners must divide the fire protection district into seven-commissioner districts before it appoints the additional fire commissioners.

Fire commissioner districts can decrease the size of their board by resolution or by election from seven to five or five to three.

Votes on Final Passage:

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

Effective: June 7, 2012

ESSB 5895

C 35 L 12

Regarding certificated employee evaluations.

By Senate Committee on Ways & Means (originally sponsored by Senator Murray).

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

Background: Teacher and Principal Evaluation Systems. Certain aspects of performance evaluation for certificated school employees are specified in statute. Consequences such as probation or nonrenewal of contract are based on performance judged not satisfactory. Before 2010 one set of evaluation criteria was specified for teachers and other certificated instructional staff (CIS) and one set for administrators. Beyond the minimums provided in statute, the details of the process and criteria for evaluation are subjects of collective bargaining.

Legislation enacted in 2010 directed development of revised evaluation systems specifically for teachers and principals, including eight new evaluation criteria for teachers, eight criteria for principals, and a four-level rating system that uses a continuum of performance based on the extent the criteria have been met.

The revised evaluation systems have been implemented first in eight pilot school districts and a consortium of small rural school districts, beginning with a design phase in 2010-11 and trial implementation in 2011-12. The Office of the Superintendent of Public Instruction (OSPI), along with a steering committee of organizations representing teachers, principals, administrators, and parents, has been overseeing implementation of the Teacher Principal Evaluation Pilot.

The pilot districts have been using research-based frameworks that describe the attributes and characteristics of teaching and leadership based on the evaluation criteria and based on levels of performance. OSPI was directed to recommend in a July 2011 report whether a single statewide evaluation model should be required. The preliminary recommendation was that districts should be encouraged to select from a limited number of state-approved models, with a state approval process for districts who wished to use a different system.

Revised teacher and principal evaluation systems must be implemented in all school districts beginning with the 2013-14 school year. State requirements for the evaluation of other CIS and other administrators have not changed.

Probation. For teachers and other CIS whose performance is judged not satisfactory, a probationary period of 60 school days must be established, along with a program for improvement in specific areas of deficiency. An employee may be removed from probation if that employee has demonstrated improvement to the satisfaction of the evaluator in the areas identified in the improvement program. Lack of improvement is grounds for a finding of probable cause for nonrenewal of contract.

Evaluation Periods. Evaluations of teachers and other CIS must be conducted annually. However, after a teacher or CIS has four years of satisfactory evaluations, the school district may use a short form of evaluation, a locally-bargained professional growth option, a regular evaluation, or some combination. A regular evaluation must be conducted at least once every three years unless the local bargaining agreement extends this time period. A teacher under the revised system will be eligible for a short form of evaluation after four years at one of the top two evaluation ratings.

Evaluation Training. School districts must require any supervisor with responsibility for evaluation to have training in evaluation procedures, and a supervisor may not evaluate a teacher without having received such training.

Provisional and Continuing Contract Status. Except for superintendents, all school district employees are hired on a one-year contract. Teachers and other CIS are considered provisional employees during the first three years of employment or during the first year in a new district if they have worked at least two years in another district. While there are some procedures and due process requirements for non-renewal of a provisional employee's contract, it is not necessary for the district to show probable cause as a justification. All other certificated staff, including administrators, are considered to have continuing contract status where probable cause must be shown for nonrenewal.

Teacher and Principal Certification. The Professional Educator Standards Board (PESB) has established two levels of certification: residency, which is achieved after

completion of an approved preparation program; and professional, which is a second-tier certification achieved after three years of experience and a specified process of additional professional development. For renewal of professional certificates, instead of a certain number of hours of continuing education, PESB is moving toward requiring teachers and principals to establish individualized professional growth plans (PGPs) under which a variety of planned activities may occur that are intended to improve their knowledge and skills.

Summary: Teacher and Principal Evaluation Systems. The following labels are established for the four levels of the teacher and principal rating systems:

- Level 1: Unsatisfactory.
- Level 2: Basic.
- Level 3: Proficient.
- Level 4: Distinguished.

Each teacher and principal receives one of the four performance ratings for each of the eight evaluation criteria, and an overall rating for the entire evaluation. The Office of Superintendent of Public Instruction (OSPI) must adopt rules that describe the ratings and set a common method for calculating the comprehensive and focused summative evaluation ratings. Student-growth data must be a substantial factor in evaluating performance for at least three of the eight evaluation criteria for both teachers and principals. This student-growth data may include the teacher's performance as an individual or as a member of a team, when relevant.

OSPI must identify up to three preferred instructional frameworks and three leadership frameworks to support the new evaluation system. Each school district must use one of the preferred frameworks for teachers and one for principals.

Beginning with the 2015-16 school year, evaluation results for certificated classroom teachers and principals are used as one of multiple factors in making human resource and personnel decisions. Human resource decisions are defined to include (but not be limited to) staff assignment, including the consideration of an agreement to an assignment by an appropriate teacher, principal, and superintendent; and reduction in force. Clarification is included that the bill does not limit the ability to collectively bargain how the multiple factors are used in making human resource or personnel decisions, with the exception that evaluation results must be a factor.

School districts are encouraged to recognize teachers and principals with Distinguished ratings.

Transition to the new evaluation system begins no later than the 2013-14 school year, until all classroom teachers and principals are being evaluated under the revised evaluation systems no later than the 2015-16 school year. The use of evaluation results as one of multiple factors in human resource and personnel decisions begins in the 2015-16 school year. The act details which teachers and principals must transition to the new evaluation system first.

Probations. Additional days of probation may be added to the required 60 days for certificated classroom support personnel and teachers as long as the probationary period is concluded before May 15 of that year. However, for teachers with five or more years of experience receiving a performance rating less than Level 2, the probationary period may be extended into the second year. If the teacher does not make progress in the second year and move from Level 2, the district must implement the employee-dismissal process.

For teachers and principals who have been transitioned to the new evaluation system, not satisfactory is defined, for purposes of probation, as:

- a summative comprehensive evaluation performance rating at Level 1; or
- a summative comprehensive evaluation performance rating at Level 2 if the teacher or principal has a continuing contract with five or more years' experience and if the rating is received for either two consecutive years or two out of three years.

A teacher cannot leave provisional status and gain continuing-contract status until the teacher receives at least a Level 2 rating.

Evaluation Periods. All teachers and principals must be evaluated each year. Every four years, the evaluation must be comprehensive and use all eight criteria. In the intervening years, evaluations are focused, zeroing in on a specific evaluation criterion for professional development.

Annual, comprehensive evaluations must be given in the following cases:

- new teachers and principals in the first three years of employment;
- new principals in the first year of employment, if previously employed as a principal by another district in Washington for three or more consecutive school years; and
- teachers or principals receiving a Level 1 or Level 2 rating in the previous year.

School districts are encouraged to conduct comprehensive evaluations of principal performance annually.

A group of teachers or a group of principals may focus on the same criteria and share professional growth activities. A teacher or principal may be transferred from a focused evaluation process to a comprehensive evaluation process because they have requested to receive a comprehensive evaluation or because the evaluator requires that a comprehensive evaluation be conducted. Professional growth activities under focused evaluations may be used to fulfill PGP requirements for professional certificate renewal.

Evaluation Training. Principals and administrators who are evaluators must engage in professional

development to implement the revised evaluation system before evaluating teachers.

Subject to funds appropriated, OSPI must develop a professional development program to support implementation of the revised evaluation systems. The professional-development program must include an online training package. Required components and topics of the program are specified.

Principal Certification. After August 31, 2013, residency principal candidates must show knowledge of evaluation research, use of student-growth data and multiple measures, and Washington's requirements and have practiced evaluation skills. Beginning in September, 2016, PESB must incorporate evaluation training as a requirement for continued certification.

Votes on Final Passage:

Senate	46	3
House	82	16

Effective: June 7, 2012

SB 5913

C 26 L 12

Increasing the permissible deposit of public funds with credit unions.

By Senators Prentice, Hobbs and Benton.

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

Background: Credit unions are nonprofit corporations that promote thrift and create a source of credit for their members at reasonable rates of interest. Seven or more natural persons who reside in Washington may apply to the Director of the Department of Financial Institutions for permission to organize as a credit union. Upon the Director's endorsement that the proposed articles of incorporation and bylaws are consistent with legal requirements, and at the Director's determination that the proposed credit union is feasible, the formation of the credit union may proceed. One of the requirements of the bylaws is a statement of the credit union's field of membership. A credit union's field of membership is the limitation of membership to those having a common bond of occupation or association, or to groups within a well-defined neighborhood, community, or rural district.

The powers of a credit union are specified in statute. These powers include receiving deposits, making loans, and paying dividends and interest, among others. The National Credit Union Share Insurance Fund (NCUSIF) has insured deposits in credit unions of up to $250,000 since September 2010.

Public funds are those monies belonging to or held for the state, its political subdivisions, municipal corporations, agencies, courts, boards, commissions, or committees, and includes monies held in trust. During the 2010 legislative session, credit unions were authorized to receive public deposits up to the lesser amount of $100,000 or the maximum deposit insurance by NCUSIF.

Summary: State and federally chartered credit unions are public depositaries only for the purpose of receiving public deposits, which may total no more than the federal deposit insurance limit. The maximum amount of deposit applies to all funds attributable to any one depositor of public funds in any one credit union. Credit unions are subject to the Public Deposit Protection Commission's regulatory authority and reporting requirements when acting as a public depositary.

Votes on Final Passage:

Senate	43	2
House	80	16

Effective: June 7, 2012

ESSB 5940

C 3 L 12 E 2

Concerning public school employees' insurance benefits.

By Senate Committee on Ways & Means (originally sponsored by Senators Hobbs, Ericksen, Keiser, Tom, Kastama and Zarelli).

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

Background: In 2010 the State Auditor's Office conducted a performance review of the public school employees' health benefits purchased by 295 school districts. The report became available to legislators during the 2011 legislative session and included three main recommendations: streamline the benefits array of school employees to improve efficiency, transparency, and stability; standardize coverage levels for more affordable and equitable health care benefits; and reduce costs by restructuring the health benefits array. Legislation passed in the 2011 special session (section 213 of the state budget) directed the Health Care Authority (HCA) to develop a proposal for consolidating the purchase of school district benefits to improve administrative efficiency, transparency, and equity. The HCA report, delivered in December 2011, identified that over $1 billion in public funds is spent each year on school employee benefits for 109,000 employees and the additional 94,000 dependents that are enrolled in benefits.

The state provides funding to school districts to support the purchase of health benefits for employees. For the 2011-13 fiscal biennium, the state provides $768 per full-time equivalent employee (FTE). The amount of the school funding rate is commonly passed through as an allocation to each school district employee through bargaining agreements. In addition, some school districts have, in

some instances, bargained local funds that are added to the state allocation.

At the district level, the actual distribution of the health benefit allocation is determined through collective bargaining. There are no state mandated maximum or minimum amounts that a district must spend per employee or FTE. In many districts, the amount provided for health benefits is pro-rated based on the amount of time an employee works; in some districts employees may be eligible for benefits beginning at 10 percent of full-time employment; while in other districts, employees working at least half-time are provided the same benefit as a full-time employee.

School district employee contributions vary by district, and often by bargaining unit within districts. Similarly, benefits may be purchased by bargaining unit or other groups of employees; each bargaining unit or group of bargaining units may receive funding in separate funding pools. Recent studies indicate more than 1,000 funding pools are operated in Washington's 295 school districts. Employee premiums may vary significantly among districts and funding pools. There is also substantial variation in the share of the costs employees pay between those insuring only themselves, and those insuring families. Full-time school district employees that are insuring only themselves on average pay about 4 percent of the cost of benefits, while those full-time school district employees that insure their families on average pay about 43 percent of the cost.

During study of the school district health benefit system in 2011, the HCA stated that it was unable to collect some of the needed demographic, payroll, and benefits data. The HCA identified a number of the obstacles to data collection that it found and would need to be dealt with to enable analysis of the effectiveness of the administration and purchasing systems employed by districts. Among the obstacles to data transparency identified were (1) variations in district budget practices; (2) contracts with third party administrators that made it difficult to assess administrative costs; and (3) contracts with benefits carriers which allow the carriers to withhold information about the make-up of premiums, including components of administrative fees, and claims information at the school district, employee bargaining group, or individual member level.

The Office of the Insurance Commissioner oversees Washington's insurance industry, ensuring that companies, agents, and brokers follow state law.

Summary: School districts must modify their benefits for employees to require every employee to pay a minimum premium for the medical benefit coverage, subject to collective bargaining, and ensure that employees selecting a richer benefit plan pay a higher premium. School districts offering medical, vision, and dental benefits must (1) offer a high deductible health plan option with a health savings account similar to that required for state employees; (2) make progress toward employee premiums for full family coverage that are not more than three times the premiums for employees purchasing single coverage, unless a different target is developed in future reports; and (3) offer employees at least one comprehensive health benefit plan in which the employee share of the premium for a full-time employee does not exceed the share of premiums paid by state employees (approximately 15 percent). All school district contracts must be held to responsible procurement or contracting standards, and school districts must make progress on promoting health care innovations, cost savings, and reduced administrative costs.

School districts and school district employee health benefit providers are required to annually submit specified financial and enrollment information on the health benefit plans operated for district employees to the Office of the Insurance Commissioner (OIC), on a schedule determined by the OIC. The information is protected from public disclosure, as with all other similarly reported data. If a school district does not comply with the reporting requirements for two reporting periods, the Superintendent of Public Instruction is required to limit the school district's authority to offer employee benefits to those offered through the state HCA.

School district benefit providers that do not comply with the data reporting requirements are subject to the enforcement actions of the OIC. Similarly, the authority to operate in the state is removed from any individual or joint local government self-insured health and welfare benefits plan formed by a school district that does not comply with the data reporting requirements contained in the act. The Attorney General must take all necessary action to terminate the operation of an out-of-compliance self-insured health and welfare benefits program.

Beginning December 1, 2013, the OIC must submit an annual report to the Legislature containing specific information and analysis on school district health benefit plans. The report must include information on detailed financial and performance data such as premium expenses, claims expenses, claim reserves, and administrative expenses including compensation paid to brokers, detailed enrollment data. The OIC may adopt rules for the data submission requirements, and may contract with a consultant to complete the analysis and reporting responsibilities. The commissioner must consult with school district representatives to ensure the data and reports from the benefit providers will give school districts sufficient information to enhance the district's ability to manage their benefit program and seek competitive alternatives for health insurance coverage.

By June 1, 2015, the HCA must submit a report to the Governor, Legislature, and the Joint Legislative Audit and Review Committee (JLARC), with analysis of the OIC reports, including the development of a specific target to realize the goal of greater equity between premium costs for full-family coverage and employee only coverage, and review of the appropriateness of the three-to-one ratio of

employee premium costs. The HCA must also review the advantages and disadvantages to the state, school districts, and school employees of various approaches to consolidated purchasing of school employee health benefits, and options to achieve the legislative goals, with analysis of the costs for the state and school employees, impacts for existing purchasing programs, and a proposed timeline for any recommended actions.

By December 31, 2015, JLARC must submit a report to the Legislature indicating the progress by school districts and their benefit providers in achieving a list of established goals and performance expectations. The report must include a recommendation on the specific target to realize the goal for greater affordability for full family coverage and greater equity in premium costs, and the status of each school districts' progress in achieving the established goals. In the 2015-2016 school year, JLARC must determine which districts have met the requirements for the benefit offerings, premiums and competitive contracting standards, and must rank order the performance, and then provide performance grants to the highest performing districts to reduce employee health insurance co-payments and deductibles, from a future $5 million appropriation to be made by the Legislature.

If JLARC determines districts and their benefit providers have not made adequate progress on the established goals, JLARC must report to the Legislature with advantages, disadvantages, and recommendations on why progress has not been made and any reasons for insufficient progress; what remedies would help remove barriers to improvement; and whether purchasing of school district benefits should be consolidated through various approaches. The report must include recommendations for any Legislative action necessary for implementation, and the Legislature must take all steps necessary to implement the recommendations unless an alternative strategy is adopted during the 2016 Legislative session.

Votes on Final Passage:

First Special Session

Senate	29	17

Second Special Session

Senate	25	20
House	53	45

Effective: July 11, 2012

SB 5950

C 240 L 12

Regulating nonstate pension plans offered by towns.

By Senators Roach and Conway.

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

Background: An employee of a local government entity may be eligible for membership in one of a variety of retirement systems established in, or authorized by, state law. The Public Employees' Retirement System (PERS) provides benefits for regularly compensated public employees and officials of state agencies and subdivisions and most local government employees. Individuals employed as full-time, fully-compensated law enforcement officers and fire fighters are eligible for membership in the statewide Law Enforcement Officers' and Fire Fighters' Retirement System (LEOFF). Additionally, the cities of Seattle, Tacoma, and Spokane are authorized by statute to sponsor their own retirement systems. Some other cities, towns, and municipal corporations offer other retirement plans to their employees; however, towns have been prohibited by statute from establishing new pension plans since 1990. Defined contribution retirement plans established prior to that time are authorized, though towns are prohibited from making changes to those plans. Defined benefit plans sponsored by towns are not authorized.

Summary: Towns may participate in non-state defined benefit pension plans only where participation in the plan commenced prior to January 1, 1999, and where no material changes in the terms or conditions of the plan were made after June 7, 1999.

Votes on Final Passage:

Senate	47	0	
House	96	2	(House amended)
Senate	49	0	(Senate concurred)

Effective: June 7, 2012

SSB 5966
C 150 L 12

Establishing the office of the health care authority ombudsman.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Fraser and Swecker).

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

Background: The Office of the Insurance Commissioner (OIC) licenses and regulates insurance carriers offering products in Washington. Insurance laws govern these licensed carriers or health plans, but do not govern self-insured plans offered by employers, consistent with federal ERISA law. The state Health Care Authority (HCA) and Public Employees Benefits Board (PEBB) program contract with licensed health plans and self-insure. Special provisions have been provided that subject the state's self-insured plan to many of the insurance laws for licensed health plans. Health plans are required to track appeals and keep a log for three years that must be made available to the Insurance Commissioner, and each plan must identify and evaluate any trends in appeals.

In addition, Legislation passed in 2010 (SSB 6584) requires the HCA to report to the Legislature annually with a summary of complaints and appeals made by PEBB members within the following categories: customer service; quality of a health service; or the availability of a service. The first annual report was submitted this fall.

Summary: The volunteer position within OIC must assist retirees enrolled in PEBB with questions and concerns, assist the PEBB program with identification of retiree concerns, and maintain access to updated program information. The volunteer must be trained as part of the existing volunteer training provided to the statewide health insurance benefit advisors program.

Votes on Final Passage:

Senate	47	0
House	83	15

Effective: June 7, 2012

ESSB 5969
C 5 L 11 E 2

Concerning the establishment of procedures for the professional licensing of military spouses after relocation to Washington.

By Senate Committee on Government Operations, Tribal Relations & Elections (originally sponsored by Senators Kilmer, Becker, Carrell, Hobbs, Shin, Swecker, Conway, Eide, Rolfes, Harper, Kastama, Fain, Hatfield, King, Haugen, McAuliffe, Hargrove, Nelson, Tom, Pridemore, Keiser, Sheldon, Prentice, Hewitt, Zarelli, Baumgartner, Padden, Chase, Kline, Frockt, Brown, Kohl-Welles, Ranker, Murray, Regala and Parlette).

Senate Committee on Government Operations, Tribal Relations & Elections

Background: The Department of Licensing (Department) regulates certain businesses and professions. Each regulated business and profession has a separate set of laws and separate licensing requirements. Some businesses and professions are under the authority of the Director of the Department while others are under a board or commission charged with regulating the particular business or profession.

Licensing requirements for professions vary considerably. Some licenses require college-level coursework and experience. Other professions might require an examination, a surety bond, minimum safety standards, or other requirements, but do not require that the applicants have specific training or experience to be licensed.

Summary: Each professional authority responsible for licensing, certifying, registering or issuing a permit to perform a professional service in this state is required to establish procedures to expedite the issuance of a license, certificate, or permit to a person who:

- is certified or licensed in another state to perform professional services in that state;
- whose spouse is the subject of a military transfer to Washington; and
- who left employment in the other state to accompany the person's spouse to Washington.

The procedure must include a process for issuing the person a license; certificate; registration; or permit, if, in the opinion of the regulating authority, the requirements for licensure; certification; registration; or obtaining a permit in the other state are substantially equivalent to that required in Washington.

Each professional authority is required to develop a method to authorize a person who meets the established criteria to perform services by issuing the person a temporary license, certificate, registration, or permit for a limited period of time. The temporary license allows the person to perform services regulated by the authority while completing any specific requirements that may be required in this state that were not required in the other state, unless the authority finds that the requirements of the other state are substantially unequal to the standards in this state.

Authority is defined as any board, commission, or other authority for issuance of a license, certificate, registration, or permit.

Votes on Final Passage:

Second Special Session

Senate	47	0
House	95	0

Effective: March 14, 2012

ESB 5974
C 3 L 11 E 2

Including examinations by a national multidisciplinary science, technology, engineering, and mathematics program on the master list of postsecondary courses fulfilled by proficiency examinations.

By Senators Tom, Litzow, Kilmer, Fain, Hewitt, Chase and Kohl-Welles; by request of Governor Gregoire.

Senate Committee on Ways & Means

Background: Postsecondary Course Credit in High School. Various education programs allow high school students to earn postsecondary course credit while also earning credit toward high school graduation, including:

- Running Start, which allows students to take courses on college campuses that count toward both high school and college graduation;
- College in the High School, which permits students to complete college-level work while staying on their high school campuses;
- Tech Prep, which allows students to take professional technical courses on their high school campuses;
- Advanced Placement and International Baccalaureate Programs, which allow students to take college-level courses while staying on their high school campuses with the requirement that students must pass a standardized examination in order to obtain college credit; and
- Running Start for the Trades, which prepares students to enter apprenticeships immediately after high school graduation.

The institutions of higher education are required to collaboratively develop a master list of postsecondary courses that can be fulfilled by taking the advanced placement, international baccalaureate, or other recognized college-level proficiency exams and meeting the qualifying examination score or demonstrated competencies for lower-division general education requirements or postsecondary professional technical requirements.

Project Lead the Way. Project Lead The Way (PLTW) is a national organization that provides science, technology, engineering, and mathematics curricular programs for middle and high schools in the United States, as well as a professional development component for teachers. The curricula are developed to enhance student learning by providing a hands-on, problem-solving approach.

In Washington State, there are currently 7,150 students served through PLTW engineering programs at 44 middle schools and 63 high schools, and PLTW biomedical-science programs at 18 high schools. Training for teachers is provided by Seattle University and Washington State University-Spokane.

Summary: Expands the list of college-level proficiency exams that are recognized as a method for fulfilling postsecondary courses by adding examinations by a national multidisciplinary science, technology, engineering, and mathematics program to the list.

Votes on Final Passage:

Second Special Session

Senate	47	0
House	87	8

Effective: March 14, 2012

ESSB 5978
PARTIAL VETO
C 241 L 12

Concerning medicaid fraud.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Pflug, Keiser, Frockt, Conway and Kohl-Welles).

Senate Committee on Health & Long-Term Care
Senate Committee on Ways & Means
House Committee on Judiciary
House Committee on Ways & Means

Background: Through the Medicaid program, the state and federal governments will spend an estimated $8.8 billion per year during the 2011-13 biennium to provide medical, dental, behavioral health, and long-term care to an average of 1.2 million low-income Washingtonians each month. The Medicaid Fraud Control Unit in the Office of the Attorney General (AG) investigates cases of suspected fraud.

Under the Federal False Claims Act, entities that submit false or fraudulent claims for federal government funds may be liable for a civil penalty of between $5,500 and $11,000. A person, known as a qui tam relator, may bring an action on behalf of the United States Government. Qui tam relators share in the proceeds of recoveries awarded to the United States Government. Shares vary between 10 and 30 percent of the recoveries, depending on the level of relator participation and are determined by the court. The Deficit Reduction Act amended the Social Security Act and provided that states are eligible for a ten percentage point rebate with respect to medical assistance recoveries made under state action if: the state establishes liability for false or fraudulent claims relating to its medical assistance program, the state enacts a state false claims act that is at least as effective in rewarding and facilitating qui tam actions for false or fraudulent claims as the federal law provides, actions are filed under seal for 60 days with review by the AG, and the state establishes a civil penalty that is not less than the amount provided in the Federal False Claims Act. Twenty-seven states have enacted State False Claims Acts and have undergone review by the Office of the Inspector General.

Summary: Medicaid Program Provisions. The Director of the Health Care Authority (HCA) and the AG may

assess civil penalties of up to three times the amount wrongfully obtained. The Medicaid Fraud Penalty Account is established. All receipts from civil penalties collected by the HCA and the AG and all receipts received under judgments and settlements that originated under the Federal or State False Claims Acts must be deposited into the account. The account is subject to appropriation, and may only be used for Medicaid services, fraud detection and prevention activities, recovery of improper payments, and for other Medicaid fraud enforcement activities.

In order to be paid for Medicaid services, providers of durable medical equipment must also be providers under the federal Medicare program.

A person who presents a false Medicaid claim for payment or approval is subject to a civil penalty of between $5,500 and $11,000 and treble damages received by the state. This penalty may be reduced to double damages if the person cooperates with the AG's investigation. If the person is found to have fraudulently billed for services, their insurer is not obligated to pay claims on the person's behalf. The AG is to diligently investigate false Medicaid claims and may bring civil actions. The AG may contract with private attorneys and local governments in bringing fraud actions. Whistleblowers who report to the HCA that their employer has fraudulently obtained or attempted to obtain Medicaid benefits or payments may not be subject to workplace reprisal or retaliatory action.

State False Claims Act. A State False Claims Act is created, permitting qui tam actions. A person, known as a relator, may bring a civil action on both their own behalf and that of the state alleging submission of a false Medicaid billing. The relator must serve a copy of the complaint on the AG and the complaint must be filed under seal. The AG may intervene in the qui tam action and the relator may continue as a party to the action. If the AG does not intervene, the relator may proceed with action unless dismissed by the court. A qui tam action may not be brought if it is based on a proceeding in which the AG is already a party. The court may dismiss an action if the action is publicly disclosed in a federal criminal, civil, or administrative hearing in which the AG is a party or in a government report or by the news media. If the relator has been retaliated against, the relator is entitled to relief necessary to make the employee whole; this includes reinstatement, two times the amount of back pay with interest, and special damages. The AG is to report annually on the number of cases brought under qui tam actions and their results, delineated between those brought by the AG and those brought by relators without AG participation.

If the AG Intervenes in the Qui Tam Action. The AG may move to dismiss the action if the relator has been given notice and opportunity for a hearing or settle the action if the court determines that the settlement is fair and reasonable. The court may put limitations on the relator's participation if the court determines that such participation would interfere with the action or is repetitious, irrelevant, or to harass. The court may limit the number of witnesses called by the relator and the amount of their participation. If the defendant shows that unrestricted participation of the relator would be for purposes of harassment or cause undue burden or expense, the court may limit participation by the relator. The relator will receive between 15 percent and 25 percent of the proceeds of the action or settlement, depending on the extent of the relator's participation and as determined by the court. If the court determines that the action is based on information other than that provided by the relator, the relator may be awarded no more than 10 percent of the proceeds. Payments to the relator must be from the proceeds and the relator is due reasonable expenses, plus reasonable attorneys' fees and costs. All expenses, fees, and costs will be awarded against the defendant.

If the AG Does Not Intervene in the Qui Tam Action. As requested by the AG, the relator must serve copies of all pleadings and depositions on the AG. The court may permit the AG to intervene at a later date upon a showing of good cause. The relator will receive between 25 percent and 30 percent of the proceeds of the action or settlement, as determined by the court. The relator must also receive an amount for reasonable expenses, attorneys' fees, and costs. All expenses, fees, and costs will be awarded against the defendant. If the defendant prevails, the court may award to the defendant reasonable attorneys' fees and expenses if the court finds the claim was clearly frivolous, clearly vexatious, or brought primarily for the purposes of harassment.

The Joint Legislative Audit and Review Committee must conduct a sunset review of the Medicaid Fraud False Claims Act. The Medicaid Fraud False Claims Act terminates on June 30, 2016.

Votes on Final Passage:

Senate	36	11	
House	56	42	(House amended)
Senate	40	9	(Senate concurred)

Effective: June 7, 2012

Partial Veto Summary: The Governor removed the emergency clause which would have made the act effective immediately.

VETO MESSAGE ON ESSB 5978

March 30, 2012

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 218, Engrossed Substitute Senate Bill 5978 entitled:

"AN ACT Relating to medicaid fraud."

Engrossed Substitute Senate Bill 5978 creates a new State Medicaid Fraud False Claims Act. The federal Deficit Reduction Act of 2005 provides that the federal government will give to the state ten percent of any funds recovered as part of Medicaid enforcement actions brought under a state law comparable to the federal False Claims Act.

The emergency clause in Section 218 providing for Engrossed

Substitute Senate Bill 5978 to take effect immediately is not necessary. The bill will be effective ninety days after the adjournment of the session at which it was enacted, which will be June 7, 2012. There is no need to provide an earlier effective date. The Legislature has not yet provided funding to implement the provisions of this bill; the Health Care Authority and the Attorney General's Office will need time to prepare for implementation; and the State can request federal approval under the Deficit Reduction Act of 2005 in a timely manner without the emergency clause.

For these reasons, I have vetoed Section 218 of Engrossed Substitute Senate Bill 5978.

With the exception of Section 218, Engrossed Substitute Senate Bill 5978 is approved.

Respectfully submitted,

Christine O. Gregoire
Governor

SB 5981
C 61 L 12

Changing seed dealer license fees.

By Senators Schoesler, Hatfield and Honeyford.

Senate Committee on Agriculture, Water & Rural Economic Development
House Committee on General Government Appropriations & Oversight

Background: The Department of Agriculture administers the Washington State Seed Act (Seed Act). The Seed Act conducts a range of activities including seed quality testing, seed certification, and issuance of sanitary certificates required for the export of seeds. The Seed Act also follows the guidance of regulations of the federal Seed Act pertaining to seed labeling, methods of sampling, and tolerances.

The Seed Act is funded by fees charged to the industry. The fees charged include a combination of inspection and licensing fees. Inspection fees are set by rule, and license fees are set by statute. The current dealers license fee is $25 for each location. Inspection fees and license fees are placed into a separate account in the agricultural local fund.

Summary: The seed dealers license fee is increased to $125.

Votes on Final Passage:

Senate	40	7
House	89	7

Effective: June 7, 2012

SSB 5982
C 242 L 12

Creating the joint center for aerospace technology innovation.

By Senate Committee on Economic Development, Trade & Innovation (originally sponsored by Senators Kastama, Shin, Hobbs, Harper, Eide, Kilmer, Conway, Sheldon, Haugen, Kohl-Welles, Frockt, Keiser, Fain, Tom, Chase and McAuliffe; by request of Governor Gregoire).

Senate Committee on Economic Development, Trade & Innovation
Senate Committee on Ways & Means
House Committee on Higher Education
House Committee on Ways & Means

Background: Global competition in the aerospace industry has intensified in the past decades. In response, a number of states have developed mechanisms to strengthen academic/industry collaboration to support the aerospace industry. Advocates for increased growth of the aerospace industry in the state believe that Washington needs to become a global center for aerospace research, education, and technology transfer.

Summary: The Joint Center for Aerospace Technology Innovation is created to pursue joint industry-university research that can be used in aerospace firms, enhance the education of engineering students, and work with the aerospace industry to identify research needs and opportunities to transfer off-the-shelf technologies. The center will operate under the joint authority of the University of Washington and Washington State University; all baccalaureate institutions will have access to the center in order to meet aerospace industry needs.

The center will have a board of directors appointed by the Governor, representing a cross section of the aerospace industry and higher education. The board is to:

- hire an executive director;
- identify research areas to benefit the aerospace industry in Washington;
- identify entrepreneurial researchers and the steps the universities will take to recruit such researchers;
- assist firms in integrating existing technologies into their operations;
- align the center's activities with those of Impact Washington and Innovate Washington;
- ensure that students enrolled in an aerospace engineering curriculum have direct experience with aerospace firms;
- assist researchers and firms in guarding intellectual property;
- promote collaboration between industry and faculty; and
- develop non-state support for research.

By June 30, 2013, the board is to develop an operating plan that includes specifics on how the center will accomplish its duties. The board is to provide a biennial report to the Legislature and the Governor. The center may solicit funds from a variety of sources to carry out its obligations.

Votes on Final Passage:

Senate	44	0	
House	95	1	(House amended)
Senate	49	0	(Senate concurred)

Effective: June 7, 2012

SSB 5984
C 4 L 12

Concerning local government financial soundness.

By Senate Committee on Ways & Means (originally sponsored by Senators Murray, Zarelli, Parlette, Kilmer, Fraser, Harper, Kohl-Welles and Chase).

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

Background: A public facilities district (PFD) is a municipal corporation with independent taxing authority. A PFD may be created by a county, city, group of cities, or a group of cities and a county. A PFD is governed by an appointed board of directors. PFDs are authorized to acquire, build, own, and operate sports facilities, entertainment facilities, convention facilities, or recreational facilities. PFDs may impose a variety of taxes to fund the facility, including lodging, admissions, parking, and sales taxes. These tax revenues, together with revenues generated by the facility, may be used to secure general obligation bonds issued by the PFD.

In December 2011 the Greater Wenatchee Regional Events Center Public Facilities District in Chelan County defaulted on $42 million of bond anticipation notes that had been issued by the PFD.

Summary: An independent financial review of a PFD is required prior to the formation of a PFD, the issuance of debt by a PFD, or the lease, purchase, or development of a facility by a PFD. The independent financial review must be conducted by the Department of Commerce through the Municipal Research and Services Center. The independent financial review must analyze the potential costs and the adequacy of the revenues for the proposed action by the PFD. The costs of the independent financial review must be borne by the PFD or the local government proposing the formation of the PFD. Upon completion, the independent financial review msut be submitted to the State Treasurer, State Auditor, the PFD, participating local governments, and appropriate committees of the Legislature. The independent financial review of debt issuances by a PFD is not required if the PFD is refinancing existing debt.

If a PFD has defaulted on debt, the jurisdiction in which the public facility is located – the anchor jurisdiction – may impose a councilmanic sales tax of two-tenths of 1 percent for the purposes of refinancing the debt. This is in addition to any sales tax imposed by the PFD.

After the effective date of the act, a PFD may not agree to restrict its taxing authority. This provision is prospective, not retroactive.

Votes on Final Passage:

Senate	32	14
House	62	36

Effective: March 1, 2012 (Sections 5 and 6)
June 7, 2012

SSB 5988
C 4 L 11 E 2

Making imperative changes to the foreclosure fairness act to ensure mediators' participation.

By Senate Committee on Financial Institutions, Housing & Insurance (originally sponsored by Senators Hobbs, Litzow, Fain, Keiser, Frockt, Chase and Kline).

Senate Committee on Financial Institutions, Housing & Insurance

Background: Uniform Mediation Act. The Uniform Mediation Act (UMA) governs mediations and provides for confidentiality and privilege against disclosure.

Dispute Resolution Centers. Under the Dispute Resolution Center (DRC) statute, employees and volunteers of a DRC are immune from suit in any civil action based on any proceedings or other official acts performed in their capacity as employees or volunteers, except in cases of willful or wanton misconduct.

Foreclosure Fairness Act. Earlier this year, the Legislature passed 2SHB 1362 which is known as the Foreclosure Fairness Act (Act). This Act, among other things, creates a mediation process for homeowners in an owner-occupied residential property who are facing foreclosure. A homeowner may only be referred to mediation by a housing counselor or attorney. The Act provides a timeline for the mediator to schedule the mediation, specifies what documents are needed at the mediation, and directs the mediator to provide a certification that includes the date, time, and location of the mediation; the names of the parties who participated; whether a resolution was reached; whether the parties participated in the mediation in good faith; and a description of the net present value test used. This mediator's certification is needed before the trustee can record the Notice of Sale, unless the certificate is not received by the trustee ten days after it was due in which case the trustee can record the Notice of Sale.

Mediations that occur under the Act are not governed by UMA.

The Act specifies that prior to scheduling a mediation session, the mediator shall require that both parties sign a waiver stating that neither party may call the mediator as a live witness in any litigation pertaining to the foreclosure action between the parties. Although the mediator may not be called as a live witness, the mediator's certification may be deemed admissible evidence in such litigation.

Summary: The requirement that the mediator have both parties sign a live-witness waiver is eliminated and the live-witness waiver language is instead added to the statute. DRC mediators are provided with immunity while acting as a foreclosure mediator, except in cases of willful or wanton misconduct. In addition to the mediator's certification being admissible evidence, any and all information and material used as part of the mediation may be considered admissible evidence, subject to court rules, in any litigation relating to a foreclosure action between the parties.

Votes on Final Passage:

Second Special Session

Senate	47	0
House	95	1

Effective: December 20, 2011

ESSB 5991

C 55 L 12

Extending mandatory child abuse reporting requirements to specified employees of institutions of higher education.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Kohl-Welles, Carrell, Tom, Hill, Hargrove, Conway, Haugen, Fraser, Litzow, Kline, Fain, Roach and Frockt).

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

Background: When the following persons have reasonable cause to believe that a child has suffered abuse or neglect, they must report the incident to either law enforcement or the Department of Social and Health Services (DSHS): physician; county coroner; law enforcement officer; professional school personnel; registered or licensed nurse; social service counselor; psychologist; pharmacist; Department of Early Learning employee; licensed or certified child care provider; juvenile probation officer; placement and liaison specialist; responsible living skills program staff; DSHS employees; HOPE center staff; state family and children's ombudsman employee, or any volunteer in the ombudsman's office.

The reporting requirement also applies to a variety of other persons in specific situations:

- Department of Corrections (DOC). DOC personnel who, as a result of observations made in the course of their employment, have reasonable cause to believe that a child has suffered abuse or neglect must report the incident to law enforcement or DSHS.
- Adults with Whom Child Resides. An adult who has reasonable cause to believe that a child who resides with them has suffered severe abuse must report the incident to law enforcement or DSHS. Severe abuse means any single act of abuse that causes physical trauma of sufficient severity that, if left untreated, could cause death; any single act of sexual abuse that causes significant bleeding, deep bruising, or significant external or internal swelling; or more than one act of physical abuse that causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness.
- Guardians ad Litem (GAL). Any GAL or court appointed special advocate appointed in dependency, domestic relations, or guardianship cases who, in the course of their representation of children in these actions, have reasonable cause to believe the child they represent has been abused or neglected must report the incident to law enforcement or DSHS.
- Person in Supervisory Capacity. Any person who, in an official supervisory capacity with a profit or nonprofit organization, has reasonable cause to believe that a child has been abused or neglected by a person over whom he or she regularly exercises supervisory authority, must report the incident to the proper law enforcement agency. This requirement applies only when the alleged abuser is employed by, contracted by, or volunteers with the organization and counsels, coaches, trains, or educates a child or children as part of the employment, contract, or voluntary service. Official supervisory capacity means a position, status, or role created, recognized, or designated by any organization or entity whose scope includes overseeing, directing, or managing another person who is employed by, contracted by, or volunteers with the organization or entity.
- Any Other Person. Any person who has reasonable cause to believe that a child has suffered abuse or neglect may, but is not required to, report the incident to law enforcement or DSHS.

Persons mandated to report suspected child abuse or neglect must do so at the first opportunity but in no case longer than 48 hours after there is reasonable cause to believe the child has suffered abuse or neglect.

Summary: Administrative, academic, and athletic department employees, including student employees, of state and private institutions of higher education must report suspected child abuse or neglect if they have reasonable cause to believe that a child has suffered abuse or neglect. The report would be made to either law enforcement or DSHS.

All employees of state higher education institutions who are not considered academic or athletic department employees must report suspected child abuse or neglect immediately to the appropriate administrator or supervisor, as designated by the institution, if they have reasonable cause to believe a child has suffered abuse or neglect. The administrator or supervisor to whom the report is made, if not already a mandated reporter, must report the incident to a mandated reporter designated by the institution to accept such reports.

State higher education institutions must ensure that employees, whether mandated reporters or not, have knowledge of their reporting responsibilities through whatever means are most likely to succeed in providing this information to affected employees.

Votes on Final Passage:

Senate	49	0
House	84	12

Effective: June 7, 2012

SSB 5995

C 191 L 12

Authorizing urban growth area boundary modifications for industrial land by certain counties.

By Senate Committee on Government Operations, Tribal Relations & Elections (originally sponsored by Senators Delvin and Hewitt).

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

Background: The Growth Management Act (GMA) is the comprehensive land use planning framework for county and city governments in Washington. Enacted in 1990 and 1991, GMA establishes numerous planning requirements for counties and cities obligated by mandate or choice to fully plan under GMA. It also establishes a reduced number of directives for all other counties and cities.

GMA includes numerous requirements relating to the use or development of land in urban and rural areas. GMA directs jurisdictions that fully plan under GMA to adopt internally consistent comprehensive land use plans that are generalized, coordinated land use policy statements of the governing body. Comprehensive plans are implemented through locally-adopted development regulations, both of which are subject to review and revision requirements prescribed in GMA.

Additionally, counties that fully plan under GMA (planning counties) must designate urban growth areas (UGAs) or areas within which urban growth must be encouraged and outside of which growth can occur only if it is not urban in nature. Planning counties and the cities within these counties must include areas and densities within their UGAs that are sufficient to permit the urban growth projected to occur in the county or city for the succeeding 20-year period.

The Interlocal Cooperation Act allows public agencies to enter into agreements with one another for joint or cooperative action. Any power, privilege, or authority held by a public agency may be exercised jointly with one or more other public agencies having the same power, privilege, or authority. A public agency for purposes of interlocal agreements includes any agency, political subdivision, or unit of local government.

Summary: A city planning under GMA may request that a county amend the UGA within which the city is located. A city's request to the county to amend the UGA should be done as part of the county's annual comprehensive plan amendment process and must meet the county's application deadline for that year's comprehensive plan amendment process. The county must make a decision regarding the request as part of the county's annual comprehensive plan amendment process. These requests are subject to certain conditions, including that the request:

- may only occur in counties located east of the crest of the Cascade Mountains with a population of more than 100,000 and less than 200,000;
- must be for the purpose of increasing the amount of territory within the amended UGA that is zoned for industrial purposes and the additional land is needed to meet the city's and county's documented needs for additional industrial land to serve their planned population growth;
- may not increase the amount of territory within the amended UGA more than 7 percent of the total area within the city;
- must be preceded by a completed development proposal and phased master plan for the area to be added to UGA and a capital facilities plan with identified funding sources to provide the public facilities and services needed to serve the area; and
- are null and void if the development proposal has not been partially or wholly implemented within five years of the amendment or if the area has not been annexed within five years of the amendment to the UGA.

Counties and cities may enter into interlocal agreements for planning costs incurred by the county in accordance with a request to amend UGA for this purpose. Requests by a city to a county to amend the UGA must be done before December 31, 2015.

Votes on Final Passage:

Senate	46	0	
House	94	2	(House amended)
Senate	48	0	(Senate concurred)

Effective: June 7, 2012

SSB 5997
C 243 L 12

Regarding the Olympic natural resources center.

By Senate Committee on Energy, Natural Resources & Marine Waters (originally sponsored by Senator Hargrove).

Senate Committee on Energy, Natural Resources & Marine Waters
House Committee on Higher Education

Background: Acting on a recommendation made by the Commission on Old Growth Alternatives for Washington's Forest Trust Lands, the Washington State Legislature created the Olympic Natural Resources Center (ONRC) as part of the University of Washington in 1991. The mission of the ONRC is to conduct research and education on natural resource management practices that integrate ecological and economic values.

To assist the ONRC in achieving its mission, the Legislature directed the Governor to appoint an 11-member ONRC Policy Advisory Board. Under current law, the ONRC Director has the authority to appoint a scientific or technical committee.

The ONRC Policy Advisory Board was eliminated in an omnibus bill (HB 2617) as of July 1, 2010. Since then, the ONRC co-directors have requested that the members of the former Policy Advisory Board continue in an advisory capacity as the ONRC Advisory Committee.

The School of Forest Resources' name changed to the School of Environment and Forest Sciences on January 1, 2012.

Summary: The language creating the ONRC Policy Advisory Board is restored with members chosen by and serving at the pleasure of the Governor. Four-year terms are established for the members of the board, and board members are eligible for reappointment.

The ONRC statutes are updated to reflect the recent name change of the College of Forest Resources to the School of Environmental and Forest Sciences, and the organizational change of the College of Ocean and Fishery Sciences from a college to a school.

Votes on Final Passage:

Senate	49	0	
House	53	43	(House amended)
Senate	41	5	(Senate concurred)

Effective: June 7, 2012

SSB 6002
C 244 L 12

Making adjustments to the school construction assistance formula.

By Senate Committee on Ways & Means (originally sponsored by Senators Kilmer, Parlette, Morton and Shin).

Senate Committee on Ways & Means
House Committee on Capital Budget

Background: School Construction Assistance Program. Washington provides financial assistance to school districts for the construction of new schools and modernization of existing facilities through the School Construction Assistance Program (SCAP) administered by the Office of Superintendent of Public Instruction (OSPI). Appropriations for SCAP are provided in the state capital budget. A school district must first secure local funding before it becomes eligible for state financial assistance. Once the local share is secured, the state allocates funding to districts based on a set of space and cost standards adopted by OSPI and a statutory funding assistance percentage based on the relative wealth of the district as measured by assessed property values divided by student enrollment.

As part of SCAP, an annual enrollment projection report is calculated for all 295 school districts to assist in determining eligibility and state funding assistance percentages for school construction assistance. The enrollment projections are used to determine if there is sufficient need for new classroom space or for modernizing existing space. Current practice counts students enrolled in Alternative Learning Experience (ALE) programs whether or not those students ever attend a class in the school building. The enrollment projections are also used to determine the funding assistance percentage.

Alternative Learning Experience Program Enrollments. ALE programs are public school alternative options that are primarily characterized by learning activities that occur away from regular public school classrooms, including those learning experiences provided digitally via the internet or other electronic means. Other away-from-classroom settings include programs with flexible hours, such as contract-based learning, or those set at home through parent partnership programs.

2011-13 Capital Budget Proviso and OSPI Report. Proviso language in the 2011-13 Capital Budget (Engrossed Substitute House Bill 2020, Section 5006) directed OSPI to review the impact of students enrolled in ALE programs on the calculation of student enrollment projections for determining school district eligibility for SCAP funds and report its findings and recommendations to the Legislature no later than December 31, 2011. In its December 2011 report to the Legislature, OSPI found that including students enrolled in ALE programs in the calculation of student enrollment projections does have a significant impact on the state funding assistance awarded to school districts with school construction projects. OSPI

recommended continuing to include in-district ALE enrollments when determining eligibility for state assistance through SCAP but exclude out-of-district ALE enrollments from the calculation.

Kindergarten Enrollment Counts. Since 2003 capital budget appropriations have directed OSPI to count kindergarten students as full time students for SCAP funding formula.

Summary: ALE students who reside outside of a school district are excluded from the school construction funding formula for determining state assistance. School districts may calculate an alternative adjustment that counts out-of-district ALE students who use district classroom facilities offset by in-district ALE students who don't. Kindergarten students included in enrollment counts must be counted as full-time headcount students.

Votes on Final Passage:

Senate	45	1
House	96	0

Effective: March 30, 2012

SSB 6005

C 27 L 12

Exempting certain vehicles from the written estimate requirement for auto repair facilities.

By Senate Committee on Labor, Commerce & Consumer Protection (originally sponsored by Senators Carrell, Delvin, Fain, Sheldon, Hill and Benton).

Senate Committee on Labor, Commerce & Consumer Protection
House Committee on Business & Financial Services

Background: In 1993 RCW 46.71.025 was enacted to require auto repair shops to provide customers with the opportunity to receive a written estimate of the cost of repair before providing parts or labor. A customer may require the repair facility to obtain oral or written authorization to exceed the written price estimate or may waive their right to receive a written price estimate. The repair facility may not charge the customer more than 110 percent of the total shown on the written price estimate unless the repair facility obtains either oral or written authorization from the customer before providing additional parts or labor.

Summary: An exception to the written estimate requirement is provided for vehicles that qualify for a horseless carriage license plate as defined in RCW 46.04.199 or a collector vehicle license plate as defined in RCW 46.04.1261. The exception also extends to parts cars and street rod vehicles as defined in RCW 46.04.572, and custom vehicles as defined in RCW 46.04.161.

A customer seeking repair services for one of the vehicles listed under this subsection may still request a written estimate from the auto repair facility.

Votes on Final Passage:

Senate	47	0
House	96	0

Effective: January 1, 2013

SB 6030

C 28 L 12

Addressing license suspension clerical errors.

By Senators Shin, Kline, Delvin and Regala.

Senate Committee on Judiciary
House Committee on Judiciary

Background: There are many consequences when a person is convicted of driving or being in physical control of a motor vehicle while under the influence of intoxicating liquor or drugs. Washington law provides increasingly severe penalties based upon the person's blood alcohol level or refusal of the test and the number of prior offenses within seven years. The consequences include incarceration; electronic home monitoring; installation of an ignition interlock device; fines; costs; assessments; alcohol assessment and treatment; and suspension, revocation, or denial of the driving license.

When a person enters a plea of guilty or nolo contendere or there is a court finding of guilt for driving or being in physical control of a motor vehicle while under the influence of intoxicating liquor or drugs, the court must immediately forward notice to the Department of Licensing (DOL); DOL must revoke that person's license. The duration of the license revocation depends upon the person's blood alcohol level or refusal of the test and the number of prior offenses.

Summary: If a court finds that the required notice to DOL has been delayed for three years or more due to a clerical or court error, the court may order that the person's driver license not be revoked, suspended, or denied for that offense. Upon receipt of the order, DOL must not revoke, suspend, or deny the license, permit, or nonresident privilege of the person for that offense.

Votes on Final Passage:

Senate	46	0
House	96	0

Effective: June 7, 2012

SSB 6038
C 245 L 12

Requiring rules to address school construction assistance for schools in shared or colocated facilities.

By Senate Committee on Early Learning & K-12 Education (originally sponsored by Senators Delvin and McAuliffe).

Senate Committee on Early Learning & K-12 Education
House Committee on Education
House Committee on Capital Budget

Background: The Office of Superintendent of Public Instruction (OSPI) has rules to determine school district eligibility for state funding assistance for school construction. Eligibility for state assistance is based on several factors, including the amount of square footage calculated for instructional space in each school facility. The rules also exempt many areas not related to direct instruction or instructional support.

Summary: OSPI must adopt rules to ensure that a host school district of a shared or co-located facility is not penalized when calculating state school construction assistance.

Votes on Final Passage:

Senate	47	0
House	98	0

Effective: June 7, 2012

SSB 6041
C 151 L 12

Regarding lighthouse school programs.

By Senate Committee on Early Learning & K-12 Education (originally sponsored by Senators McAuliffe, Litzow, Rolfes and Hobbs).

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

Background: In 2010 the Legislature directed the Office of Superintendent of Public Instruction (OSPI) to designate up to three schools at the middle and high school levels with a focus on project-based science, technology, engineering, and mathematics (STEM) instruction to serve as lighthouse programs. The designated lighthouse schools are to provide technical assistance to other schools and communities that want to create schools with a STEM focus. The Legislature provided $150,000 in the 2010 Supplemental Operating Budget to fund the technical assistance.

Summary: OSPI must designate elementary schools as STEM lighthouse programs in addition to the schools designated at the middle and high school levels. A STEM lighthouse account is created to support the lighthouse schools to serve as resources to other schools and communities that want to create STEM schools. Revenues to the account may include gifts from the private sector, federal funds, and appropriations by the state Legislature. OSPI may authorize expenditures from the account.

The limitation of "up to three" for designated lighthouse schools is removed. A technical change to remove the word designated is made.

Votes on Final Passage:

Senate	47	0
House	95	2

Effective: June 7, 2012

SSB 6044
C 246 L 12

Concerning the supply of water by public utility districts bordered by the Columbia river to be used in pumped storage projects.

By Senate Committee on Energy, Natural Resources & Marine Waters (originally sponsored by Senator Honeyford).

Senate Committee on Energy, Natural Resources & Marine Waters
House Committee on Agriculture & Natural Resources

Background: Public Utility Districts (PUDs). Formed in 1931 by Initiative 1, PUDs are municipal corporations authorized to provide electricity, water and sewer services, and wholesale telecommunications. There are 28 operating PUDs in Washington, 15 of which border the Columbia River. While PUDs are generally authorized to buy and sell electricity and water, they may not sell water to a privately owned utility for the production of electric energy.

Pumped Storage. Pumped storage projects generate electricity by moving water between two bodies of water at different elevations. During times of low electricity demand, less-expensive electricity is used to pump water to an upper reservoir, which is released during periods of high electricity demand to generate electricity in the same manner as a conventional hydropower facility.

Summary: Authorizing PUDs to Sell Water for Pumped Storage Projects. A PUD bordered by the Columbia River may supply any water, as authorized by a previously perfected water right under its control, to be used in a pumped storage generating facility. Among other conditions, contracts concerning the sale of these resources must be approved by a vote of a PUD's commissioners after a minimum of ten days public notice.

Votes on Final Passage:

Senate	44	0	
House	98	0	(House amended)
Senate	47	0	(Senate concurred)

Effective: June 7, 2012

SB 6046
C 116 L 12

Addressing the powers and duties of the gambling commission.

By Senators Prentice, Delvin, Conway, Kohl-Welles, King, Shin and Chase; by request of Gambling Commission.

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

Background: Under current state law, the Washington State Gambling Commission has authority to issue licenses that are valid for one year to a variety of entities to conduct gambling-related activities. Gambling-related activities include bingo games, raffles, amusement games, social card games, pull-tabs, and punchboards. Gambling-related activities also include selling, distributing, manufacturing, or supplying gambling-related devices for use within Washington State. Licenses may be issued to approved charitable and nonprofit organizations; individuals, associations or organizations selling food or drink for on-premises consumption; or other approved individuals, associations or organizations.

Washington State Business Licensing Service (BLS) is a program of the Department of Revenue. BLS registers businesses, renews licenses, and provides related services for approximately 40,000 businesses monthly. The Washington State Gambling Commission is currently exploring the possibility of using BLS, which allows one-stop shopping for licenses issued by state and local governments.

Summary: The Washington State Gambling Commission is authorized to issue certain gambling-related licenses that are valid for up to 18 months.

Votes on Final Passage:

Senate	49	0
House	96	0

Effective: June 7, 2012

SB 6059
C 43 L 12

Establishing the veterans' raffle.

By Senators Conway, Kastama, Shin, Kohl-Welles and Roach.

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

Background: The Washington Lottery was established in 1982. Lottery revenues are used for the following purposes:

- Washington Opportunity Pathways Account;
- stadium bonds;
- problem gambling education;
- economic development; and
- General Fund.

In 2006 the Legislature established the Veterans Innovations Program (VIP) within the Department of Veterans Affairs. The purpose of the VIP is to provide crisis and emergency relief, education, training, and employment assistance to veterans and their families. The VIP terminates on June 30, 2016.

In 2011 the Legislature established the veterans' raffle. The Lottery Commission was directed to conduct an annual statewide raffle to benefit veterans and their families. The veterans' raffle tickets go on sale on Labor Day with a drawing to occur on Veteran's Day, November 11, of each year.

All revenues received from the sale of the tickets, less amounts paid out in prizes and actual administrative expenses related to the veteran lottery games, must be deposited into the VIP Account for purposes of serving veterans and their families.

Summary: The provision requiring the veterans' raffle tickets to go on sale beginning on Labor Day with a drawing to occur on Veteran's Day, November 11, of each year is removed.

Votes on Final Passage:

Senate	44	0
House	96	0

Effective: June 7, 2012

SSB 6073
C 77 L 12

Concerning sales and use taxes related to the state route number 16 corridor improvements project.

By Senate Committee on Ways & Means (originally sponsored by Senators Kilmer, Regala, Rolfes and Carrell).

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

Background: Retail sales and use taxes are imposed by the state, most cities, and all counties. Retail sales taxes are imposed on retail sales of most articles of tangible personal property and some services including state construction projects. If retail sales taxes were not collected when the property or services were acquired by the user, then use taxes apply to the value of most tangible personal property and some services when used in this state. Use tax rates are the same as retail sales tax rates.

A new suspension bridge was built next to the old Tacoma Narrows Bridge. The new bridge on State Route 16 opened July 16, 2007. The old bridge retrofit was completed in the spring of 2008. The old span takes drivers westbound on two general purpose lanes and one carpool lane. The new bridge carries eastbound traffic on two general purpose lanes, one carpool lane and a fourth drop lane. The Tacoma Narrows Bridge toll project has a sales and use tax deferral. The taxes are deferred for five years after tolls on the new project started. Beginning in December 2012, the deferred tax becomes due and is payable in ten annual installments.

Tolls are expected to increase this year due to lower than anticipated toll receipts, increased debt service payments coming due, a mandated minimum fund balance, and deferred sales taxes coming due.

Summary: State sales and use taxes imposed on the Tacoma Narrows Bridge project, for which a deferral has been granted, are to begin repayment after 11 years instead of five.

Votes on Final Passage:

Senate	45	3
House	72	26

Effective: June 7, 2012

ESB 6074
PARTIAL VETO
C 2 L 12 E 2

Funding capital projects.

By Senators Kilmer, Parlette and Shin; by request of Governor Gregoire.

Senate Committee on Ways & Means

Background: Washington State 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. Approximately one-half of the capital budget is financed by these state-issued general obligation bonds; and the balance is funded by dedicated accounts, trust revenue, and federal funding sources. The primary two-year budget is passed in the odd-numbered years, and a supplemental budget making adjustments to the two-year budget often is passed during the even-numbered years. The current capital budget covers the period from July 1, 2011, through June 30, 2013.

Summary: Supplemental capital budget appropriations of $377 million are made for the 2011-13 biennium, including all appropriation increases and decreases. State agencies are authorized to enter into alternative financing contracts for projects totaling $188 million.

Votes on Final Passage:

Second Special Session

Senate	44	1
House	85	13

Effective: April 23, 2012

Partial Veto Summary: The Governor vetoed $150,000 for the Loan Consolidation Board Project, a total authorization of $3.1 million for the Lake Sammamish Concession and Event Facility project, and a proviso requiring the Department of Commerce to develop a competitive grant program for facilities at zoos, aquariums, and technical and science centers.

VETO MESSAGE ON ESB 6074

April 23, 2012

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning, without my approval as to Sections 1020, 3017, 6001(5)(b), and 6002, Engrossed Senate Bill 6074 entitled:

"AN ACT Relating to funding capital projects."

Section 1020, pages 16-18, Office of Financial Management, Loan Program Consolidation Board

This proviso creates a loan program consolidation board to recommend a plan to consolidate under a single financing authority all existing state lending programs, including infrastructure and student loan programs. There have been five prior studies reviewing consolidation of infrastructure programs within the last six years. The most recent study was completed by the Public Works Board following the 2011 legislative session and provides ample information for a potential consolidation. Additionally, I do not

believe it is appropriate for student loan programs to be comingled with infrastructure programs targeted to local governments and community groups. The Student Achievement Council is tasked to convene a work group on the higher education loan program and can better focus on reforming that program to meet the needs of today's students. For these reasons, I have vetoed Section 1020.

Section 3017, page 36, and Section 6001(5)(b), page 55, State Parks and Recreation Commission, Lake Sammamish Concession and Event Facility

The State Parks and Recreation Commission is provided $1 million in general obligation bonds and authorization to enter into a certificate of participation financing contract for $2.1 million to build a concession and event facility at Lake Sammamish. It is not anticipated that the revenue initially generated by the event center will be adequate to cover the associated debt and operating costs. Additionally, other revenue generated by the State Parks and Recreation Commission is not stable enough to cover these costs if facility revenues are inadequate. For these reasons, I have vetoed Section 3017 and Section 6001(5)(b), but I encourage the commission to resubmit this project for consideration for the next supplemental capital budget if the revenue outlook improves.

Section 6002, pages 55-56, Department of Commerce

The Department of Commerce is directed to work with stakeholders to develop recommendations for a competitive grant program to assist zoos, aquariums, and technology and science centers in acquiring, constructing, or rehabilitating their facilities. A funding mechanism for these organizations was the subject of legislation that failed to pass this session.

For this reason, I have vetoed Section 6002, but I encourage the organizations to continue to work with legislators, rather than the department, to address their concerns with developing a capital funding program for their facility needs.

Although I am approving the remainder of the capital budget, I am concerned about the long-term implications of over-appropriating the State and Local Toxics Control Accounts, the Aquatic Lands Enhancement Account, and other natural resource accounts in both the capital and operating budgets. I have directed the Office of Financial Management to work with the Department of Ecology and the Recreation and Conservation Office to develop a plan to manage these accounts to prevent a cash deficit. However, there is a risk that lower revenue collections or accelerated project costs could create the need to suspend projects to balance the accounts. While I value the economic activity and jobs that are created in the capital budget, I ask the Legislature to return to budgeting practices that result in sustainable capital plans with positive fund balances.

With the exception of Sections 1020, 3017, 6001(5)(b), and 6002, Engrossed Senate Bill 6074 is approved.

Respectfully submitted,

Christine O. Gregoire
Governor

SSB 6081
C 78 L 12

Authorizing counties and ferry districts operating ferries to impose a vessel replacement surcharge on ferry fares sold.

By Senate Committee on Transportation (originally sponsored by Senators Haugen, Swecker, Ranker, King, Hatfield, Becker, Ericksen, Nelson, Regala and Shin).

Senate Committee on Transportation
House Committee on Transportation

Background: Under current law, counties may construct, operate, and maintain ferries, and related capital facilities necessary to operate the ferries, on certain waters within or bordering their boundaries. The ferry service may be free or for toll.

Additionally, counties may create ferry districts, which are separate taxing districts created within the county to operate passenger-only ferry service. Ferry districts are authorized to impose regular and excess property taxes, and may provide the ferry service free or for toll.

Summary: Counties operating ferry service, either directly or through a county ferry district, may impose a vessel replacement surcharge on ferry fares. The surcharge must at least be equal to the surcharge amount included in Washington State ferry fares, which is currently $0.25 per fare. Revenue generated from the surcharge may be used only for the construction or purchase of ferry vessels. The surcharge must be clearly indicated, if possible on the fare media itself.

Votes on Final Passage:

Senate	44	3	
House	81	16	(House amended)
Senate			(Senate refused to concur)
House	80	17	(House receded)

Effective: June 7, 2012

SB 6082
C 247 L 12

Regarding the preservation and conservation of agricultural resource lands.

By Senators Haugen, Swecker, Hatfield, King, Ericksen, Honeyford, Shin and Parlette.

Senate Committee on Agriculture, Water & Rural Economic Development
House Committee on Environment

Background: The State Environmental Policy Act (SEPA) was enacted in 1971. One of the stated purposes of the act includes a state policy which will encourage productive and enjoyable harmony between man and his environment. In SEPA's preamble, the Legislature

recognizes that man depends on his biological and physical surroundings for food, shelter, and other needs.

SEPA requires that the lead agency make a threshold determination based on a list of questions, and based on the responses to the questions an environmental impact statement (EIS) may be required. EIS evaluates whether a particular major action has a probable significant adverse environmental impact.

Under SEPA, specific questions must be evaluated by governmental agencies before making decisions. Among the questions to be evaluated are the impact on: air, water, earth, plants, animals, energy requirements, the effect on potential solar energy production, noise, recreation, aesthetics, glare, and numerous other factors. The environmental checklist does not include questions relating to impacts on agricultural lands, nor the ability of agricultural landowners to continue farming.

The Growth Management Act (GMA) was enacted in 1990. Local governments that plan under the GMA are to designate and protect agricultural lands of long term commercial significance. All goals are to be considered by local governments when developing regulations and there is no prioritization among the planning goals. GMA contains 13 goals including the goals of:

- maintaining and enhancing the natural resource-based industries: agriculture, timber and fisheries;
- conserving productive agricultural lands and discouraging incompatible uses; and
- protection of the environment and designation and protection of critical areas.

In 2007 the Office of Farmland Preservation (OFP) and the Farmland Preservation Task Force were created. These entities are charged with monitoring the retention and conversion of agricultural lands. OFP is also charged with analyzing major factors that have led to past declines in the amount and use of agricultural lands and that will likely affect retention and economic viability of these lands in the future, including pressures to convert land to non-agricultural use.

Summary: The Department of Ecology is required to conduct rulemaking by December 31, 2013, to review and consider whether the current environmental checklist ensures consideration of potential impacts to agricultural lands of long-term commercial significance. The review and update must ensure that the checklist is adequate to allow consideration of impacts on adjacent agricultural properties, drainage patterns, agricultural soils, and normal agricultural operations.

Votes on Final Passage:

Senate	48	0	
House	63	34	(House amended)
Senate	35	12	(Senate concurred)

Effective: June 7, 2012

SB 6095
C 117 L 12

Making technical corrections to gender-based terms.

By Senator Kohl-Welles; by request of Statute Law Committee.

Senate Committee on Labor, Commerce & Consumer Protection
House Committee on Judiciary

Background: Since 1983 state law has required that all statutes be written in gender-neutral terms, unless a specification of gender is intended. In 2007 the Legislature passed ESB 5063, an act relating to removing gender references. The act changed gender-specific terms to gender-neutral terms in several chapters of the Revised Code of Washington (RCW), including those chapters dealing with firefighters, police officers, bondspersons, and material suppliers. The Legislature directed the Code Reviser, in consultation with the Statute Law Committee, to develop and implement a plan to correct gender-specific references in the entire RCW. The Code Reviser must make annual legislative recommendations to make the RCW completely gender-neutral by June 30, 2015.

Summary: Gender-specific terms and references are made gender-neutral in several RCW Titles. For example, references to his are changed to his or her and clergyman is changed to member of the clergy. Titles relating to public service are included and made gender-neutral throughout. Other code sections are included, such as sections that contain public health and safety regulations, to modify specific references to man or men.

Votes on Final Passage:

Senate	44	0
House	66	32

Effective: June 7, 2012

SB 6098
C 118 L 12

Revising fingerprinting requirements for licensing of private investigators and private security guards.

By Senators Rolfes, Hargrove, Fain and Kohl-Welles.

Senate Committee on Labor, Commerce & Consumer Protection
House Committee on Business & Financial Services

Background: The Department of Licensing (Department) regulates certain businesses and professions. Each regulated business and profession has a separate set of laws.

Private Investigator. Private investigators and private investigator agencies are regulated by the Department. A private investigator is an individual who is licensed by the Department and is employed by a private investigator

agency for the purpose of investigations, escort or body guard services, or property loss prevention activities. A private investigator agency is a licensed person or entity engaged in the business of detecting, discovering, or revealing information. To obtain a private investigator license, an applicant must:

- be at least 18 years of age;
- be a citizen of the United States or a resident alien;
- not have been convicted of a crime in any jurisdiction, if the Department determines that the applicant's particular crime directly relates to the applicant's capacity to perform the duties of a private investigator;
- be employed by or have an employment offer from a licensed private investigator or be licensed as a private investigator agency;
- satisfy the training requirements established by the Department;
- submit a set of fingerprints;
- pay the required fee; and
- submit a fully completed application for each company of employment.

Private Security Guard. Private security guards and private security companies are regulated by the Department. A private security guard is an individual who is licensed by the Department and is principally employed as a security officer or guard, a patrol or merchant patrol service officer or guard, an armed escort or bodyguard, an armored vehicle guard, a burglar alarm response runner, or a crowd control officer or guard. A private security company is a licensed person or entity engaged in the business of providing the services of private security guards on a contractual basis. To obtain a private security guard license, an applicant must:

- be at least 18 years of age;
- be a citizen of the United States or a resident alien;
- not have been convicted of a crime in any jurisdiction, if the Department determines that the applicant's particular crime directly relates to the applicant's capacity to perform the duties of a private security guard;
- be employed by or have an employment offer from a licensed private security company or be licensed as a private security company;
- satisfy the training requirements established by the Department;
- submit a set of fingerprints;
- pay the required fee; and
- submit a fully completed application for each company of employment.

Summary: If an applicant for a private investigator license or a private security guard license has already been issued a license as a private security guard or a private investigator within the last 12 months, the applicant is not required to submit to a separate background check to become licensed.

Votes on Final Passage:

Senate	47	0
House	96	0

Effective: June 7, 2012

SSB 6100

C 29 L 12

Updating the administration of the sexual assault grant programs.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Hargrove and Roach).

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

Background: The Office of Crime Victims Advocacy (OCVA) within the Department of Commerce administers state General Fund and federal grant programs to provide services to victims of sexual assault. Programs administered by OCVA include Sexual Assault Services, Victims of Crime Act, Sexual Assault Services Program, Rape Prevention and Education Program, and Community Health Block. These programs provide services for approximately 12,000 new victims of sexual assault each year and ensure that every geographic county has a community sexual assault program that provides an array of services available at no cost around the clock to victims of sexual assault in their community.

The Revised Code of Washington contains provisions related to services for victims of sexual assault that dates back to 1979. In some instances, language has become outdated or no longer reflects the work that is actually performed by OCVA.

Summary: Statuary references are updated to standardize and remove outdated or redundant language describing OCVA's mission and activities providing services for victims of sexual assault. Language requiring formation of a peer review committee to advise OCVA about eligibility for services is removed. New practice principles are articulated for professionals who work with sexual assault victims.

Votes on Final Passage:

Senate	47	0
House	96	0

Effective: June 7, 2012

ESSB 6103
C 137 L 12

Concerning the practice of reflexology and massage therapy.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Keiser and Fraser).

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

Background: Reflexology involves applying varying amounts of pressure at specified points on the body, most often on the hands, feet, and ears. These points correspond to distinct areas throughout the body.

Legislation was enacted in 2002 exempting reflexologists from any health profession credentialing requirement. Prior to that, reflexology was included in the definition of massage under the Massage Practice Act. In order to practice reflexology, practitioners had to be licensed as massage therapists under chapter 18.108 RCW.

Summary: No one may practice reflexology or represents himself or herself as a reflexologist unless certified as a reflexologist or licensed as a massage practitioner by the Department of Health (DOH). The requirement that reflexologists be certified is placed in chapter 18.108 RCW, the statute which regulates the licensing of massage practitioners. A person represents himself or herself as a reflexologist when that person uses any term that implies a reflexology technique or method.

To qualify for certification, an applicant must complete a course of study in reflexology approved by DOH and pass an exam administered or approved by DOH. DOH may certify an applicant without exam if the applicant has (1) practiced reflexology as a licensed massage practitioner for at least five years prior to the bill's effective date; (2) successfully completed approved training prior to the act's effective date and applies for certification within one year of the act's effective date; or (3) holds a credential from another state and the Secretary of Health (Secretary) determines that the state's credentialing standards are substantially equivalent to Washington State's standards.

Exemptions from the certification requirement are provided for licensed massage practitioners and other credentialed providers performing services within their scope of practice; students enrolled in an approved education, training, or apprentice program; individuals giving reflexology to members of their immediate family; individuals practicing reflexology at an athletic department of any institution which is maintained with public funds, approved by DOH, or that is a nonprofit organization holding a specific license; and individuals who have completed an approved somatic education training program.

It is unlawful to advertise the practice of reflexology using any term that implies reflexology technique or method in any public or private publication or communication by a person not certified as a reflexologist or licensed as a massage practitioner. A person certified as a reflexologist must conspicuously put their name and certification number on all advertisements and the reflexologist's credential must be displayed in the principal place of business. A person certified as a reflexologist is prohibited from adopting the title of massage practitioner unless also licensed as a massage practitioner.

In order to ascertain violations of chapter 18.108 RCW or the Uniform Disciplinary Act for health professions, the Secretary may inspect the premises of any reflexology or massage business establishment during business hours. If access is denied, the Secretary may apply to any court of competent jurisdiction for a warrant authorizing entry to the establishment for these purposes. These provisions do not require advanced notice of an inspection.

Reflexologists are placed under the Uniform Disciplinary Act for health professions and the Regulation of Health Professions Act. The Secretary is provided with disciplining authority. DOH may adopt any rules necessary to implement this act.

Various technical and clarifying changes are made to the massage licensure statute including providing for consistent use of terms and deleting obsolete examination provisions.

Votes on Final Passage:

Senate	33	16	
House	88	10	(House amended)
Senate	36	11	(Senate concurred)

Effective: June 7, 2012
July 1, 2013 (Sections 1-19)

SSB 6105
C 192 L 12

Concerning the prescription monitoring program.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Parlette, Hatfield, Conway, Becker, Keiser and Shin).

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

Background: In 2007 legislation was enacted requiring the Department of Health (DOH) to implement a prescription drug monitoring program to monitor the prescribing and dispensing of schedule II through schedule V controlled substances. Under the program, dispensers must electronically report information to DOH about each prescription dispensed. Dispensers include practitioners or pharmacies that deliver schedule II through schedule V controlled substances to the ultimate user. The data

submission requirements of this program do not apply to medications administered in single doses to patients receiving inpatient services or to medications dispensed to offenders in Department of Corrections institutions.

Summary: DOH, in collaboration with the Veterinary Board of Governors, must adopt alternative reporting requirements for veterinarians. The alternative reporting requirements must allow veterinarians to report: (1) either electronically or non-electronically; (2) only data relevant to veterinary practices and the public protection goals of the prescription drug monitoring program; and (3) no more frequently than once every three months and no less than once every six months.

The reporting requirements for dispensers apply to drug prescriptions that are for more than one day use.

Votes on Final Passage:

Senate	44	0	
House	96	0	(House amended)
Senate	47	0	(Senate concurred)

Effective: June 7, 2012

SB 6108

C 30 L 12

Clarifying the location at which the crime of theft of rental, leased, lease-purchased, or loaned property occurs.

By Senators Harper and Fain.

Senate Committee on Judiciary
House Committee on Public Safety & Emergency Preparedness

Background: A person commits the crime of theft of a rental, leased, lease-purchased, or loaned property if the person, with intent to deprive the owner or owner's agent, wrongfully obtains or exerts unauthorized control over, or by deception gains control over personal property that is rented, leased, or loaned by written agreement to the person. This applies to rental agreements that provide that a renter may return the property at any time within the rental period and pay only for the time the renter retained the property in addition to a minimum rental fee.

Intent can be found when the renter fails to return or make arrangements with the owner to return the property within 72 hours after receipt of proper notice, or when the renter presented identification to the owner that is materially false, fictitious, or not current with respect to name, address, place of employment, or other appropriate items.

Proper notice is a written demand that is mailed, via certified or registered mail, by the owner or owner's agent after the due date of the rental, lease, lease-purchased, or loan period either to the (1) address the renter, lessee, or borrower gave when the contract was made; or (2) renter, lessee, or borrower's last known address if later furnished in writing by the renter, lessee, or borrower.

The classification of this crime is dependent upon the replacement value of the property. It is a class B felony if the property is valued at $5,000 or more, a class C felony if the property is valued between $750 and $5,000, and a gross misdemeanor if the property is valued at less than $750.

Summary: The location at which a person is deemed to have committed the crime of theft of rental, leased, lease-purchased, or loaned property is either at the (1) physical location where the written agreement was executed; or (2) address at which the proper notice may be mailed to the renter, lessee, or borrower.

Votes on Final Passage:

Senate	48	0
House	96	0

Effective: June 7, 2012

SSB 6112

C 75 L 12

Concerning the use of alternative traction devices on tires under certain conditions.

By Senate Committee on Transportation (originally sponsored by Senators Eide, King, Haugen, Fain and Shin).

Senate Committee on Transportation
House Committee on Transportation

Background: The definition of tire traction devices in RCW 46.37.420 includes tire chains or metal studs imbedded within a tire. All traction devices used on tires must conform to rules adopted by the Washington State Patrol (WSP.)

Summary: Alternative traction devices on tires, in addition to tire chains and metal studs, are allowed to prevent a vehicle from skidding in slippery conditions, subject to conformance with rules adopted by the WSP.

Votes on Final Passage:

Senate	49	0
House	96	0

Effective: June 7, 2012

SSB 6116
C 175 L 12

Concerning on-site sewage program management plans.

By Senate Committee on Government Operations, Tribal Relations & Elections (originally sponsored by Senators Fraser, Swecker, Pridemore, Ranker and Murray).

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

Background: The Washington State Board of Health (BOH) has authority to adopt rules for the design, construction, installation, operation and maintenance of on-site sewage (OSS) system with design flows of less than 3500 gallons per day. The BOH rules require property owners to complete an evaluation of their OSS system once every three years for gravity drain field systems and annually for all other types of systems.

Local boards of health must identify failing septic tank drain fields. A local board of health may adopt more restrictive standards for OSS systems than adopted by the BOH. A local board of health may grant a waiver from specific requirements adopted by the BOH for OSS systems if the local board of health determines that the waiver is consistent with the BOH standards.

OSS systems located in marine recovery areas designated by the Washington State Department of Health (Department) or a local board of health are subject to enhanced OSS system regulations including inspections, inventory and identification, and monitoring to ensure protection of public health and Puget Sound water quality. The local boards of health in 12 Puget Sound counties must develop an OSS system management plan specifically to address shellfish growing areas and degraded marine water quality. The Department approves each county's marine recovery area management plan.

Summary: A local board of health in the 12 counties bordering Puget Sound currently implementing an OSS program management plan may impose and collect reasonable rates or charges to pay for the actual cost of administration and operation of the OSS management plan. A local board of health may contract with the county treasurer to collect the rates or charges imposed.

A local board of health does not have the authority to impose a lien on real property for failure to pay rates and charges imposed. A local board of health may not impose and collect rates and charges related to the implementation of an OSS program management plan beyond the powers currently vested in a local board of health to establish fee schedules for issuing or renewing licenses or permits, or for other activities authorized by the law and rules of the BOH.

Votes on Final Passage:

Senate	48	0	
House	55	41	(House amended)
Senate	34	13	(Senate concurred)

Effective: June 7, 2012

SSB 6121
C 31 L 12

Requiring the office of student financial assistance to provide a financial aid counseling curriculum for institutions of higher education.

By Senate Committee on Higher Education & Workforce Development (originally sponsored by Senators Frockt, Tom, Kastama, Shin and Kline).

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

Background: In Washington, two- and four-year institutions of higher education currently offer a range of online and in-person financial aid orientation options.

Under current law, the Higher Education Coordinating Board (HECB), which administers the State Need Grant (SNG) program, is required to consider counseling as a paramount function of SNG and other state student financial aid programs, and in most cases could only be properly implemented at the institutional levels. Additionally, HECB must display all available student financial aid programs (except federal student loans and aid granted outside the financial aid package) if it develops a one-stop college information web-based portal to include financial, academic, and career planning information.

Currently, federal law requires a school to ensure that federal loan borrowers fulfill entrance and exit counseling requirements in person, by an audio-visual presentation, or electronically.

SNG program assists needy and disadvantaged students by offsetting a portion of their higher education costs. To be eligible, a student's family income cannot exceed 70 percent of the state's median family income, currently $57,000 for a family of four.

Summary: By, July 1, 2013, the Office of Student Financial Assistance must provide a financial aid counseling curriculum to all higher education institutions participating in the SNG program. The curriculum must be available via a website. The curriculum must include, but not be limited to:

- an explanation of SNG program rules;
- information on scholarships and work study options;
- an overview of student loan options and consequences;
- an overview of financial literacy;
- average salaries for a range of jobs;

- perspectives from students who are or were recipients of financial aid, including loans; and
- contact information for local financial aid resources and the Federal Student Aid Ombudsman's Office.

By the 2013-14 academic year, higher education institutions must take reasonable steps to ensure that each SNG recipient receives information outlined in the bill by directly referencing or linking to the website on the Conditions of Award statement provided to each recipient. Institutions may also require non-SNG students to participate in all or portions of the counseling.

Votes on Final Passage:

Senate	48	0
House	96	0

Effective: June 7, 2012

SB 6131
C 119 L 12

Regarding the regulation of mercury.

By Senators Chase, Delvin and Kline.

Senate Committee on Environment
House Committee on Environment

Background: The Legislature has enacted several measures regulating mercury. The use of mercury components in a number of consumer products is prohibited and mercury-containing lights must be recycled. Additionally, the sale or purchase of bulk mercury is prohibited beginning June 30, 2012. Bulk mercury is defined as including any elemental, nonamalgamated mercury and does not include products containing mercury collected for recycling or disposal at permitted disposal facilities.

The sale, purchase, and delivery of bulk mercury is prohibited. However, the prohibition does not apply to dangerous waste recycling facilities; treatment, storage, and disposal facilities; and sales to research and industrial facilities approved by the Department of Ecology (DOE). These facilities must submit an annual inventory of their purchases and uses of bulk mercury to DOE.

The restrictions on mercury do not apply to prescription drugs regulated by the federal Food, Drug, and Cosmetic Act or to biological products regulated by the Food and Drug Administration.

Summary: The definition of bulk mercury is revised to exclude mercury-added products. The restrictions on mercury do not apply to devices regulated by the federal Food, Drug, and Cosmetic Act.

The provision that dangerous waste recycling facilities; treatment, storage, and disposal facilities; and sales to research and industrial facilities must submit an annual inventory of their purchases and uses of bulk mercury to DOE is deleted.

Votes on Final Passage:

Senate	48	0
House	98	0

Effective: June 7, 2012

SB 6133
C 32 L 12

Requiring training for eligibility for certain electrician certifications.

By Senators Conway, Roach, Kohl-Welles, Nelson, Kline and Keiser.

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

Background: To become a certified electrician, a person must start as an electrical trainee. An electrical trainee must obtain an electrical training certificate. The certificate, which must be renewed biennially, allows the trainee to learn the electrical construction trade while under the direct supervision of a certified electrician. To renew the certificate, the trainee must complete 32 hours of approved classroom training, which increases to 48 hours on July 1, 2013.

An applicant for a journeyman certificate of competency or a specialty electrician certificate of competency must have worked in the electrical construction trade for a minimum of 2000 to 8000 hours, depending on the certificate applied for.

Summary: An applicant for a journeyman certificate of competency or a specialty electrician certificate of competency must complete a minimum of 24 to 96 hours of classroom training, depending on the number of work hours required for certification, to be certified.

Votes on Final Passage:

Senate	25	24
House	56	42

Effective: July 1, 2013

SB 6134
C 248 L 12

Allowing department of fish and wildlife enforcement officers to transfer service credit.

By Senators Delvin, Conway, Sheldon and Hewitt.

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

Background: The Public Employees' Retirement System (PERS) provides benefits for all regularly compensated public employees and appointed officials unless they fall under a specific exemption from membership, such as qualification for another of the state retirement systems.

Covered employees include all state agencies and subdivisions, and most local government employees not employed by the cities of Seattle, Tacoma, and Spokane. All members of PERS first employed in eligible positions since 1977 are members of PERS Plan 2 or PERS Plan 3. PERS 2 is a defined benefit plan that provides a retirement allowance based on 2 percent of final average salary for each year of service, and a normal retirement age of 65. Early retirement benefits are available beginning at age 55, with reductions depending on the member's age and years of service. PERS 3 is a hybrid defined benefit and defined contribution retirement plan. PERS 3 members contribute to an individual defined contribution account. Employer contributions support a 1 percent of final average salary benefit for each year of service, with a normal retirement age of 65. Early retirement benefits are similar to those offered in PERS 2.

The Law Enforcement Officers' and Fire Fighters' Retirement System (LEOFF) provides retirement benefits to full-time general authority law enforcement officers and firefighters throughout Washington. To be eligible for LEOFF as a law enforcement officer an employee must: (1) work for a governmental entity that meets the definition of a general authority law enforcement agency; (2) be a general authority law enforcement officer; and (3) meet the training and other job requirements. All employees first employed in LEOFF eligible positions since 1977 have been enrolled in LEOFF Plan 2, which allows for an unreduced retirement allowance at age 53. LEOFF 2 allows early retirement beginning at age 50 for members with 20 years of service with a 3 percent benefit reduction for each year that a member retires early.

The Department of Fish and Wildlife (DFW) was changed from a limited authority law enforcement agency to a general authority law enforcement agency under legislation enacted in 2002. This permits the agency to commission officers to enforce all the traffic and criminal laws of the state, much like Washington State Patrol troopers, in addition to the special enforcement powers granted to DFW enforcement officers in the state Wildlife Code.

While DFW enforcement officers met all the requirements of LEOFF membership when DFW was reclassified as a general authority law enforcement agency, they were specifically excluded from LEOFF membership until legislation enacted in 2003 made new DFW enforcement officers eligible for enrollment in LEOFF 2. In 2003 the Legislature also authorized the transfer of current DFW enforcement officers belonging to PERS 2 or 3 to LEOFF 2 for the purpose of future service only. Enforcement officers who transferred from PERS to LEOFF became dual members of PERS 2 or 3 and LEOFF 2. Dual members are eligible to receive a retirement benefit from both of the plans that they belong to and may combine service credit earned in all portability covered systems for the purpose of qualifying for benefits. The highest base salary may also be used to calculate the benefits from both systems for a member of two plans.

In 2009 the Legislature authorized the transfer of prior service credit earned by DFW enforcement officers in PERS 2 or 3 to LEOFF 2. Members of LEOFF 2 who wished to transfer prior service credit from PERS 2 or 3 were required to apply for the transfer by December 31, 2009. Any member who elected to transfer service credit from PERS 2 to LEOFF 2 must pay an amount equal to the difference between the retirement system contributions that the member made in PERS 2 and the contributions that the member would have paid in LEOFF Plan 2, plus interest, by June 30, 2014. A member choosing to transfer service credit from PERS 3 to LEOFF 2 must pay an amount equal to the greater of: (1) the full balance of the member's defined contribution account; or (2) the amount of contributions that the member would have paid had the service been rendered in LEOFF 2, plus interest. On June 30, 2014, the Department of Retirement Systems (DRS) must transfer from PERS 2 or 3 to LEOFF 2 the service credit of any member who has met the transfer requirements, along with the associated member and employer contributions and interest.

Summary: The date on which the Department of Retirement Systems may transfer from PERS 2 or 3 to LEOFF 2 the prior service credit of a DFW enforcement officer who has completed the required transfer payment is changed to June 30, 2012. The deadline for a DFW enforcement officer to complete the required transfer payment remains June 30, 2014.

A reference to another statute is corrected in the section authorizing the transfer for service credit from PERS 2 or 3 to LEOFF 2.

Votes on Final Passage:

Senate	48	0	
House	96	0	(House amended)
Senate	47	0	(Senate concurred)

Effective: June 7, 2012

SSB 6135

C 176 L 12

Regarding enforcement of fish and wildlife violations.

By Senate Committee on Energy, Natural Resources & Marine Waters (originally sponsored by Senators Hargrove, Swecker, Rolfes, Delvin, Regala, Ranker, Shin and Fraser; by request of Department of Fish and Wildlife).

Senate Committee on Energy, Natural Resources & Marine Waters
House Committee on Agriculture & Natural Resources
House Committee on General Government Appropriations & Oversight

Background: Title 77 RCW constitutes the majority of the statutes that direct the functions and authorities of the Washington Department of Fish and Wildlife (WDFW).

There are a myriad of legal concepts within the 26 chapters that constitute Title 77. These include how and when a citizen may be convicted of a fish or wildlife crime, under what conditions WDFW can issue a license to engage in fish and wildlife related activities, and how WDFW manages the land and species under its jurisdiction.

WDFW Law Enforcement. The three state agencies generally considered to be responsible for the enforcement of the state's natural resources laws are the State Parks and Recreation Commission (Parks Commission), the Department of Natural Resources (DNR), and WDFW. Each agency is directed to enforce the statutory provisions related to its own agency.

Of the three agencies, only the enforcement officers of WDFW are general authority peace officers. This status authorizes WDFW to enforce all criminal laws in the state. By contrast, DNR and the Parks Commission employ limited authority peace officers. These are officers of an agency whose job it is to apprehend or detect persons committing infractions or violating criminal laws relating to limited subject areas.

In addition to WDFW law enforcement officers, Title 77 may be enforced by ex officio officers. These are commissioned general law enforcement officers from cities, counties, the state, or the federal government. The term also includes includes the enforcement personnel of the United States Fish and Wildlife Service, National Marine Fisheries Service, United States Forest Service, and enforcement officers of DNR and the Parks Commission when they are on DNR-managed lands or a state park.

WDFW Crimes in the Courts. Under the Sentencing Reform Act, crimes are ranked and courts use the Sentencing Grid to determine the sentencing range for each crime based on the crime's seriousness level and the defendant's prior felonies. The sentencing grid ranks seriousness levels between one – the least serious – and 15 – the most serious. All WDFW felonies are unranked class C felonies; this means that they are not included in the sentencing grid. An unranked class C felony carries a possible jail term of 0 to 365 days.

Bail forfeiture or the payment of a fine has been used as a final disposition in criminal matters and is common for fish and wildlife crimes. Under this system, if a defendant fails to appear for trial, bail is forfeited and the case is resolved. However, beginning July 1, 2012, a bail forfeiture is no longer considered a final disposition unless the offender also enters a guilty plea or is found guilty.

Currently, certain fish and wildlife crimes are required to be charged as a separate offense prohibiting the value of multiple animals or animal parts to be aggregated, or added together, to secure a higher charge.

Resident and Non-resident Status. Many licenses issued by WDFW for hunting and fishing are priced at different levels depending on whether or not the purchaser is a Washington resident. To qualify as a resident, a person must have maintained a permanent place of abode in Washington for the 90 days immediately preceding license application and establish a formal intent to continue residing in Washington. The person must also not be licensed to fish or hunt as a resident of another state.

Additionally, a person under the age of 18 who lives in another state can qualify as a Washington resident if the minor has a parent who qualifies as a Washington resident and the minor is not licensed as a resident in another state.

Under current law, it is unlawful to purchase or use a license if one has used false information to do so.

Resident Orca Whales. In 2011 National Oceanic and Admospheric Administration Fisheries Service adopted new regulations under the Marine Mammal Protection Act and Endangered Species Act to protect all killer whales in inland waters of Washington. These regulations prohibit positioning a vessel within 400 yards of the path of, or coming within, a whale and requires vessels to stay at least 200 yards away from any killer whale.

State law currently prohibits approaching or causing a vessel to come within 300 feet, 100 yards, of a southern resident orca.

Summary: WDFW Law Enforcement. *Peace Officers Given Authority to Briefly Detain a Person Being Issued a Notice of Infraction (NOI).* Peace officers are allowed, when issuing an NOI, to detain a person long enough to identify the person, check for outstanding warrants, and complete and issue the NOI. The person receiving the NOI must also provide the officer with his or her name, address, and date of birth, including reasonable identification upon officer request. Failure to identify oneself is an infraction.

Ex Officio Officers Defined and Given Authority to Check Licenses and Equipment. The definition of an ex officio fish and wildlife officer is expanded, thereby adding new options for satisfying the requirements for becoming an ex officio officer for the purposes of enforcing fish and wildlife laws. In addition to being a commissioned general law enforcement officer, a person maybecome an ex officio officer by:

- being a limited authority officer with another state or federal agency that is operating under a mutual law enforcement assistance agreement with WDFW;
- being a qualified fish and wildlife officer from another state if the other state's agency is operating under a mutual law enforcement assistance agreement with WDFW; or
- being a tribal police officer in Washington who successfully meets the state's requirements for law enforcement certification if there is a mutual law enforcement assistance agreement with WDFW and the employing tribe and the tribe's law enforcement meets the state's requirements for general authority law enforcement status.

Additionally, ex officio officers, such as park rangers and DNR officers, have authority to temporarily stop people engaged in fishing, harvesting, or hunting activity to

check for valid licenses, tags, permits, stamps, catch record cards, and to inspect people's fish, shellfish, seaweed, wildlife, equipment, and watercraft for compliance.

Minimum Qualifications for WDFW Officers Defined. WDFW officers must pass a psychological and polygraph exam.

WDFW Crimes in the Courts. *The Sentencing Reform Act is Amended to Rank Certain WDFW Felonies.* Certain WDFW felonies are ranked with a seriousness level between one and three. The grid shows the minimum and maximum jail or prison time for the crime as well as the mid-point of that range.

The following is added to the list of crimes with a ranked seriousness level of three:
- unlawful taking of endangered fish or wildlife; and
- unlawful trafficking in fish, shellfish, or wildlife in the first degree.

The following is added to the list of crimes with a ranked seriousness level of two:
- commercial fishing without a license;
- engaging in unlicensed fish dealing activity;
- unlawful participation of non-Indians in an Indian fishery;
- unlawful purchase or use of a license; and
- unlawful trafficking in fish, shellfish, or wildlife in the second degree.

The following is added to the list of crimes with a ranked seriousness level of one:
- spotlighting big game;
- suspension of WDFW privileges;
- unlawful fish and shellfish accounting;
- unlawful release of deleterious exotic wildlife;
- unlawful use of a net to take fish;
- unlawful use of prohibited aquatic animal species; and
- violating commercial fishing areas or times.

Activities not Involving High Stakes Resources are Decriminalized. Fifteen new infractions are added to the current three based on activities that do not involve protected or endangered species, big game, or other high stakes resources. Examples of new infractions include:
- wasting fish and wildlife valued at less than $250;
- failing to have a fishing license on a person when one is owned;
- taking seaweed unlawfully, but having less than double the daily personal collection limit;
- maliciously taking the eggs of a protected bird;
- attempting, unsuccessfully, to hunt wildlife that is not classified as game;
- failing to report trapping activity;
- posting "no hunting" signs on property not owned by the poster;
- violating the terms of scientific collection permits; and
- holding a hunting or fishing contest using live wildlife.

Corresponding changes are made to the relevant criminal statutes to reflect the civil nature of certain acts. This includes the revocation of four statutes.

The Definition of Conviction is Clarified, and Other Statutes are Amended to Reflect the Change. In order to reflect a recent court decision, the definition of "conviction" is changed from including unvacated paid bail forfeitures to final conviction.

Penalties for Unlawful Trafficking are Strengthened. Separate counts of unlawful trafficking transactions may be aggregated under one count if those transactions are part of a common scheme or plan. First and second degree unlawful trafficking are ranked as class B and C felonies, respectively.

Seizure and Forfeiture. *When WDFW Can Seize Unlawfully Taken Fish And Wildlife Is Amended.* WDFW is allowed to seize fish, shellfish, or wildlife unlawfully taken to be forfeited to the state upon any finding by a Washington court, except direct dismissals or exonerations. Upon forfeiture, WDFW may retain the fish and wildlife for official use, release the property to another law enforcement agency, donate the property, or sell the property and deposit the proceeds into the Fish and Wildlife Enforcement Reward Account.

If a court outcome does not allow seized fish and wildlife to be forfeited to the state, then WDFW must either return the seized fish or wildlife or return the value of the fish or wildlife if it has been donated or sold.

A new section is added to allow WDFW to seize any animal unlawfully hunted or retrieved from the property of another if the person trespassed on the premises.

Wildlife Issues. *Penalties for Taking Protected Birds are Strengthened.* Criminal wildlife penalty assessments and two-year license revocations are created for a person convicted of unlawfully taking protected fish or wildlife. In addition to the underlying criminal sanctions, a $2,000 assessment is required if certain species are killed, including the ferruginous hawk, common loon, bald eagle, or peregrine falcon. The assessment must be doubled if the person kills one of the identified species within five years of conviction of another significant wildlife-related crime or if the person killed the animal with the intent of deriving economic profit. The assessment money is dedicated to the Fish and Wildlife Enforcement Reward Account.

Unlawful Hunting On, or Retrieving Wildlife From, the Property of Another is a New Crime. This new crime, prosecutable as a misdemeanor, applies if a person knowingly enters onto or remains unlawfully on the premises of another for the purpose of hunting or retrieving hunted wildlife. A person cited for this violation may use a defense that the premises in question was open to the public

when the hunting occurred, that the person reasonably believed the landowner would have allowed the access, or the person reasonably believed that the lands in question were public lands. A person cited for this violation may also use a defense that the intent was to retrieve wildlife in order to avoid a violation of the unlawful waste of fish or wildlife statute. In addition to prosecution for a misdemeanor, a person convicted of this new crime faces license revocation and the suspension of hunting privileges for two years.

The Crime of Unlawful Use of a Dog is Expanded. The crime includes using a dog to harass, kill, or attack wildlife, in addition to pursuing. The species protected from unlawful dog use is expanded from just deer and elk to include moose, caribou, and mountain sheep. WDFW is now required to base its actions on a reasonable belief that a dog is pursuing, harassing, attacking or killing a snow bound deer in which case it may (1) lawfully take a dog into custody; or (2) if necessary to avoid repeated harassment, injury or death to the specified wildlife listed, destroy the dog.

Hunting Licenses may be Revoked for Shooting a Person or Livestock While Hunting. If a hunter shoots another person or domestic livestock with a firearm, bow, or crossbow in a manner likely to injure or kill – or who does injure or kill – another person or domestic livestock, the director of WDFW must revoke the hunting privileges of the shooter for three years for a shooting that could or does result in an injury. The privilege revocation must be extended to ten years if the shooting results in a human death. Additionally, the language allowing for suspension-appeal hearings is made identical to language in other WDFW statutes.

Unlawful Possession of a Rifle or Shotgun in a Motor Vehicle is Amended. Unlawful possession of a rifle or shotgun in a motor vehicle includes unlawful possession of a rifle or shotgun upon an off-road vehicle and allows for a rifle or shotgun to be discharged upon a motor vehicle or an off-road vehicle if the engine is turned off and not parked on or beside the maintained portion of a public road.

Unlawful Intentional or Negligent Feeding of a Large Wild Carnivore is Added as a New Crime. A civil infraction is created for any person whom a WDFW enforcement officer or local animal control authority has probable cause to believe is negligently feeding; attempting to feed; or attracting bears, cougars, or wolves by placing food, food waste, or any other substance in a manner that may cause a public safety risk. Similar activity done intentionally is a misdemeanor. It is also a misdemeanor to fail to correct an issue giving rise to a negligent civil infraction within 24 hours.

The prohibition on animal feeding is not enforceable against a person engaged in forest practices, hunting, trapping, or farming using generally accepted farming practices. Also exempt are scientific permit holders, fish and wildlife enforcement officers conducting authorized wildlife capture activities together with fish and wildlife employees acting under WDFW's authority, and waste management facilities.

Fisheries Issues. *A New Act is Added to the Crime of Unlawful Recreational Fishing in the First Degree.* The new act, which can trigger prosecution, is possession of a salmon or steelhead during a closed season. The same crime in the second degree can be prosecuted if a person pursues fish without first obtaining the proper license and catch reporting documentation.

The Crime of Unlawful Use of Fish Buying and Dealing Licenses is Renamed. The new name is unlawful fish and shellfish catch accounting. In addition to the new name, a new act is added to the list of prosecutable acts. The new act is the failure to sign a fish receiving ticket or failure to provide the required information on the ticket.

Resident and Non-resident Status. *WDFW's Definition of Resident is Amended.* The definition of resident for the purposes of hunting and fishing licenses is amended to add specificity as to how one can demonstrate that the person has a permanent place of abode in Washington and has intent to remain a resident of Washington. A permanent place of abode can be demonstrated through the use of a Washington address for tax purposes, being a registered voter, using Washington for the state of residence for the purposes of holding public office, and being the custodial parent of a child in a Washington school. Intent to remain a resident of Washington can be shown by the possession of a Washington driver's license, a state-issued identification card, or the ownership of a motor vehicle licensed in Washington.

Members of the Armed Forces, and their spouses, can also demonstrate resident status. Military personnel temporarily stationed in Washington can claim residency by providing a copy of military orders showing the temporary station. Permanently-stationed military personnel must show an official document listing Washington as the state of legal residence.

The existing crime of unlawful purchase or use of a license in the second degree is expanded to include the act of purchasing a Washington resident license from the WDFW while holding a resident license from another state or country.

Resident Orca Whales. *Distance Requirements and Exemptions are Amended to Match Federal Law.* It is unlawful to cause a vessel or other object to approach within 600 feet (200 yards) of a southern resident orca or to position a vessel to be in the path of a whale within 1,200 feet (400 yards). Vessel is defined and includes aircraft, canoes, fishing vessels, kayaks, tour boats, and whale watching boats among others. It is also unlawful to feed a southern resident orca.

There are several exemptions to the distance requirement, including the following: a federal government or

state, tribal, or local vessel engaged in official duties involving law enforcement, search and rescue, or public safety; operation of a vessel in conjunction with a vessel traffic service under federal law; lawful engagement in a treaty Indian or commercial fishery; emergency situations that pose an imminent threat to persons, the vessel, or the environment; or engaging in activity pursuant to a permit, including scientific research and rescue or cleanup efforts overseen, coordinated, or authorized by a volunteer stranding network.

Technical Changes. Several technical changes are made including:

- The definition of "ex officio fish and wildlife officer" is clarified to show when the definition applies to commissioned officers of the federal government, other states, counties, municipalities, and tribes.
- The following terms are also defined: "anadromous game fish buyer," "fish buyer," "fur dealer," "natural person," "taxidermist," and "wildlife meat cutter."
- The term "license, permit, tag, or approval" rather than just "licenses" is used throughout the Unlawful Purchase or Use of a License statute for consistency.
- Under the Unlawful Purchase or Use of a License statute, it is prima facie evidence of a violation if a person buys or possesses a Washington resident license when that person already has a resident license from another state or foreign country.

Votes on Final Passage:

Senate	46	2	
House	96	0	(House amended)
Senate			(Senate refused to concur)
House	97	0	(House receded/amended)
Senate	48	0	(Senate concurred)

Effective: June 7, 2012

SSB 6138

C 79 L 12

Exempting certain vehicles from the allowable maximum length restriction for vehicles operated on public highways.

By Senate Committee on Transportation (originally sponsored by Senator Ericksen).

Senate Committee on Transportation
House Committee on Transportation

Background: The Federal Highway Administration defines a truck or straight truck as a non-articulating, cargo-carrying, commercial, motor vehicle. Straight trucks are subject to federal weight and width requirements, but not to federal length requirements. The regulations on the length of these commercial trucks remains with the states.

Presently a person cannot legally operate any vehicle, including straight trucks, in the state of Washington having an overall length in excess of 40 feet. This restriction does not apply to: (1) a municipal transit vehicle; (2) auto stage, private carrier bus, school bus, or motor home with an overall length not to exceed 46 feet; or (3) an articulating auto stage with an overall length not to exceed 61 feet. Oregon has set a maximum length for straight trucks of 40 feet and Idaho has a maximum length of 45 feet.

Summary: Auto recycling carriers up to 42 feet in length, that were manufactured prior to 2005, are exempt from the state maximum vehicle length limit.

Votes on Final Passage:

Senate	45	0	
House	96	0	(House amended)
Senate	48	0	(Senate concurred)

Effective: June 7, 2012

2SSB 6140

C 193 L 12

Concerning local economic development financing.

By Senate Committee on Ways & Means (originally sponsored by Senators Kilmer, Becker, King, Regala, Conway, Shin and Chase).

Senate Committee on Economic Development, Trade & Innovation
Senate Committee on Ways & Means
House Committee on Community & Economic Development & Housing
House Committee on Capital Budget

Background: Most states have legislation allowing state and local governments to issue tax free revenue bonds to finance private investment in the aid of job creation and diversification of their economic base. In 1981 it was unclear whether tax-exempt financing would be constitutional in this state – a state constitutional amendment and implementing legislation passed that year allowing municipalities to create public corporations with authority to issue tax free revenue bonds for industrial development. A number of financing authorities have subsequently been created to facilitate financing of facilities such as higher educational facilities, health care facilities, and housing facilities. These financing authorities have not relied on the 1981 constitutional amendment.

In 1989 the Washington Economic Development Finance Authority (WEDFA) was created. WEDFA is authorized to issue taxable and nontaxable nonrecourse revenue bonds to provide businesses and farm enterprises access to capital at terms and rates comparable to large corporations. The state Supreme Court ruled, in a case challenging WEDFA's authority to issue bonds in a manner inconsistent with the terms of the 1981 constitutional amendment, that the limitations of the amendment apply

only to bonds issued pursuant to its implementing legislation and do not limit any other types of bonds that legally can be issued. The court ordered the State Treasurer to sign the bond issuance resolution at issue in the case. Since then, WEDFA has issued millions of dollars in both taxable and nontaxable revenue bonds.

Public corporations created under the 1981 implementing legislation do not have the authority to issue taxable revenue bonds and are unable to participate in some recently developed federal programs designed to assist local businesses and economic development projects.

Summary: Municipalities with public corporations issuing industrial revenue bonds prior to 2012 may create economic development finance authorities to provide nonrecourse revenue bond financing, on a taxable or nontaxable basis, for a variety of economic development activities. It is illegal for directors, officers, agents, or employees of an authority to have any interest in property, services, or materials used in connection with any economic development activity financed by the authority – a violation of this provision is a gross misdemeanor.

Prior to issuing the bonds, the authority must obtain a letter of credit certifying the credit worthiness of the borrower. (This does not apply if the bonds are privately placed with an institutional investor.) The local governments creating the authority may not invest in the bonds issued by the authority.

The finances of an authority are subject to examination by the creating municipality and the State Auditor's Office. Authorities may receive no appropriation of state funds and municipalities may not provide money or property in aid of an authority. Authorities are not municipal corporations or political subdivisions of the state.

Authorities are authorized to participate fully in federal and other governmental economic development finance programs and conduct a finance program for new product development.

Authorities must establish operating procedures and a general plan of economic development finance. Authorities may exercise a variety of powers, including acquiring property, soliciting grants and loans, acting as an agent for governmental agencies, and establishing guidelines for the participation by banking organizations in programs conducted by an authority.

Authorities may not act as a bank or engage in financing carried out by the state's Housing Finance Commission, Health Care Facilities Authority, or Higher Education Facilities Authority. Bonds issued by an authority are not considered a debt, and do not pledge the faith and credit, of the state or creating municipality. Such bonds are payable solely from revenue derived as a result of economic development activity funded by the bonds and other private resources. Neither bond proceeds nor bond payments constitute public money or property and no tax funds or governmental revenue may be used to pay the principal or interest on the bonds.

All monies received by an authority must be held in trust to carry out the purposes of the act. An authority may enter into a trust agreement with entities authorized to conduct trust business in the state to perform obligations of the authority and act on its behalf. The bonds of an authority are securities and the holders of such bonds may protect their rights through legal processes.

Votes on Final Passage:

Senate	34	14	
House	88	9	(House amended)
Senate	33	15	(Senate concurred)

Effective: June 7, 2012

ESB 6141

C 33 L 12

Creating a lifelong learning program.

By Senators Kilmer, Tom, Shin, Kastama, Ericksen, Chase and Frockt.

Senate Committee on Economic Development, Trade & Innovation

House Committee on Labor & Workforce Development

Background: Lifelong Learning Accounts (LiLAs) are employee-owned educational savings accounts that help pay for education and training expenses. When a LiLA is set up, regular contributions by employees are matched by the employer. LiLAs can supplement an employer's existing tuition assistance program or serve as an education benefit for employers who are not able to offer a tuition assistance program.

The Council for Adult and Experiential Learning (CAEL), a national nonprofit organization, developed the concept and model for LiLAs as a way to help working adults gain greater access to education and training throughout their work lives. CAEL conducted several regional demonstration pilots and assisted in the establishment of a pilot program in Washington in 2008.

Summary: The Lifelong Learning Program (Program) is established at the Workforce Training and Education Coordinating Board (Board) to allow employees to create LiLAs. The Program is voluntary for employers and employees. The Board may partner with financial institutions and nonprofits to develop operating procedures, ensure adequate marketing, and coordinate career counseling services.

The Board may work with financial institutions to encourage their full engagement in activities, such as management of accounts and the provision of financial literacy training, that make the Program successful. The Board may also develop Program policies and system options.

Votes on Final Passage:

Senate	36	11
House	55	41

Effective: June 7, 2012

ESSB 6150

C 80 L 12

Addressing the driver's license, permit, and identicard system, including the administration of a facial recognition matching system.

By Senate Committee on Transportation (originally sponsored by Senators Haugen, King, Eide, Hobbs, Shin and Chase; by request of Department of Licensing).

Senate Committee on Transportation
House Committee on Transportation

Background: State law requires the Department of Licensing (DOL) to implement a highly accurate one-to-one biometric matching system within two years after Washington implements the provisions of the federal Real ID Act. The Real ID Act sets new standards for state issued driver licenses and identicards, and states must meet the federal standards by January 15, 2013. When the biometric driver license and identicard system is established, DOL must allow every person applying for an original, renewal, or duplicate driver license or identicard the option of submitting a biometric identifier. The fee for applying a biometric identifier to a driver license or identicard is $2.00. DOL may not disclose biometric information to the public or any governmental entity, except when authorized by court order. The statute is silent about the type of biometric DOL must use. Washington has not yet met all of the standards required in the Real ID Act.

In 2009 the Legislature authorized DOL to seek federal funds to implement a driver license and identicard biometric matching system pilot program. DOL successfully obtained federal funds and implemented a facial recognition pilot program. The Enhanced Driver License program also uses facial recognition technology to verify identity.

Facial recognition systems use a mathematical template based on the photograph of the applicant and compare the template against templates of photos currently in the system. The system then flags potential template matches for review by a DOL staff person. According to a recent survey of states by the American Association of Motor Vehicle Administrators, approximately 34 states use some form of facial recognition program.

A Washington State driver license, endorsement, or identicard is currently valid for up to five years. The fees associated with the issuance of a driver license, endorsement, and identicard are as follows:

- a driver license issued for five years is $25.00 or, if issued for a period other than five years, is $5.00 per year;
- a commercial driver license issued for five years is $61.00 or, if issued for a period other than five years, is $12.20 per year;
- an identicard issued for up to five years is $20.00 unless the applicant receives public assistance, in which case the cost is equal to the actual cost to produce the identicard;
- an initial motorcycle endorsement is $12.00;
- a motorcycle endorsement renewal issued for five years is $25.00 or, if issued for a period other than five years, is $5.00 per year;
- an instruction permit is $20;
- an original license examination is $20;
- a duplicate license is $15; and
- a DUI hearing is $200.

Summary: Facial recognition matching system is defined as a system that compares the biometric template derived from an image of an applicant or holder of a driver license, permit, or identicard with the biometric templates derived from the images in DOL's negative file.

DOL is authorized to implement a facial recognition matching system for all driver licenses, permits, and identicards to determine whether the person has been issued identification under a different name or names.

The results from the system are not available for public inspection and copying and may only be disclosed: (1) pursuant to a valid court order; (2) to a federal government agency, if specifically required under federal law; or (3) to a government agency, including a court or law enforcement agency, for use in carrying out its functions if the DOL has determined that person has committed certain prohibited practices and this determination has been confirmed by a hearings examiner. The results from the facial recognition matching system are not available for public inspection and copying under the Public Records Act.

DOL must provide specified public notices at driver licensing offices and on DOL's website that address how the facial recognition matching system works, all ways in which DOL may use the results, how an investigation based on results from the system would be conducted, and a person's right to appeal any determination made.

DOL must develop procedures to handle incidents when the facial recognition matching system fails to verify the identity of an applicant for a renewal or duplicate driver license or identicard. The procedures must allow the applicant to prove identity without using the facial recognition matching system.

DOL must report to the Governor and the Legislature annually regarding the facial recognition matching system, including the number of investigations initiated based on the results from the system; determinations that were confirmed and those overturned; and determinations that were referred to law enforcement. This requirement expires in 2017.

The authority for DOL to charge an applicant a $2.00 fee for submitting a biometric identifier is repealed. The requirement that DOL implement a biometric matching system within two years of implementing the provisions of Real ID Act is removed.

Beginning July 1, 2013, a Washington State driver license, endorsement, or identicard is valid for up to six years. From July 1, 2013, until June 30, 2021, DOL may issue a driver license or identicard for a period of other than six years in order to evenly distribute the yearly renewal rate. DOL may also issue a driver license that includes a hazardous materials endorsement for a period of other than six years in order to match the validity of certification from the federal transportation security administration.

The initial motorcycle endorsement fee is changed to reflect the issuance over a six-year period instead of five years, but the per year cost remains the same as is currently collected, $2 per year. The motorcycle endorsement renewal fee is also changed to reflect the issuance over a six-year period, but the per year cost remains the same as is currently collected, $5 per year.

Fees are increased on the listed state issued documents as follows:

Document	Current Fee	Current Cost Per Year	New Fee Level (Oct 2012 - June 2013) For 5 Years	New Fee Level (after July 2013) For 6 Years	New Cost Per Year
Driver's License - Original & Renewal	$25.00	$5.00	$45.00	$54.00	$9.00
Identicards - Original & Renewal	$20.00	$4.00	$45.00	$54.00	$9.00
Commercial Driver's License - Original & Renewal	$61.00	$12.20	$85.00	$102.00	$17.00

Document	RCW	Current Fee	New Fee Level
Driver's Instruction Permit (Application)	46.20.055	$20.00	$25.00
Driver's Instruction Permit (Renewal)	46.20.055	$20.00	$25.00
Driver's License Examination	46.20.120	$20.00	$35.00
Replacement Identicard or Driver's License	46.20.200	$15.00	$20.00
DUI Hearing	46.20.308	$200.00	$375.00

Votes on Final Passage:

Senate	29	19	
House	52	44	(House amended)
Senate			(Senate refused to concur)

Conference Committee

House	51	47	
Senate	29	20	

Effective: June 7, 2012
October 1, 2012 (Sections 5-13)

ESB 6155
C 56 L 12

Concerning third-party account administrators.

By Senators Kilmer, Carrell, Hobbs, Kastama, Regala, Fain, Conway and Keiser.

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

Background: State Statute. Under RCW 18.28.010(1), debt adjusting means the managing, counseling, settling, prorating, or liquidating of the indebtness of the debtor or receiving funds for the purpose of distributing said funds among creditors in payment or partial payment of obligations of a debtor.

In a recent state Supreme Court case, *Carlsen v. Global Client Solutions*, the court found that third-party payment servicers are debt adjusters and thus subject to the debt adjusting statute. A number of entities are excluded from the debt adjusting statute, including non-profits engaged in debt adjusting so long as the consumer is not charged a service fee in excess of $15 a month. A violation of the debt adjusting statute is a per se violation of the Consumer Protection Act (CPA).

Federal law. The Federal Trade Commission (FTC) is tasked with protecting consumers against unfair, deceptive, or fraudulent practices in the marketplace, among other things. Through recent changes in Telephone Sales Rule (TSR) (16 C.F.R. Part 310) the FTC asserted that independent entities that hold or administer a dedicated bank account who meet specified criteria may charge the consumer directly for the account. Otherwise, under the TSR debt adjusters may not charge a consumer for its services until a debt settlement is reached.

The Department of Financial Institutions (DFI) regulates money services businesses (money transmitters and currency exchangers) under the Uniform Money Services Act. Money transmission is the receipt of money for the purpose of transmitting or delivering the money to another location, whether inside or outside the United States. The transmission or delivery of the money can take place by any means, including wire, facsimile, or electronic transfer.

Consumer Protection Act. The CPA prohibits unfair methods of competition and unfair or deceptive acts or practices in the conduct of trade or commerce. The Attorney General may bring an action to enforce the provisions of the CPA. In addition, the CPA allows a person injured by a violation of the CPA to bring a private cause of action for actual damages, costs, attorneys' fees, and treble damages.

Summary: Debt adjusters. The 15 percent cap on fees that a debt adjuster may charge a debtor is clarified to also cover all fees including, but not limited, to fees assessed by financial institutions and third-party account administrators. It is clarified that third-party account administrators who are money transmitters are not debt adjusters. DFI is granted the authority to enforce this statutory cap on fees.

Any person or entity providing debt adjusting services in this state is to provide DFI with specified information by September 1, 2012. DFI is to summarize the information received and submit a report to the Legislature by December 1, 2012.

Third-Party Account Administrators (TPAA). Under the money transmitter statute, TPAAs must follow specific requirements when working with debt adjusters. TPAAs must be licensed as money transmitters and comply with the following requirements from the federal Telemarketing Sales Rule:

- the debtor's funds must be held in an account at an insured financial institution;
- the debtor owns the funds in the account, as well as any interest that accrues;
- a third-party account administrator may not be owned or controlled by, or in any way affiliated with, a debt adjuster;
- a third-party account administrator may not give or accept compensation for referrals involving a debt adjusters; and
- a debtor may withdraw from the service without penalty and receives all funds in the account within seven business days.

Additionally, certain records must be kept for five years and the books of TPAAs are open to inspection by DFI.

Also, a contract between a TPAA and a debtor must disclose the rate and amount of all charges and fees and include a statement regarding the 15 percent cap law under the Debt Adjuster statute.

Violation of these requirements constitutes a per se violation of the CPA. In addition, an injured person may bring a civil action to recover $1,000 or actual damages, whichever is greater.

Votes on Final Passage:

Senate	46	1	
House	97	0	(House amended)
Senate	45	0	(Senate concurred)

Effective: June 7, 2012

SB 6157
C 120 L 12

Requiring juvenile detention intake standards for juveniles who are developmentally disabled.

By Senators Delvin, Hargrove, Stevens, Benton, Ericksen and Parlette.

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

Background: A county juvenile detention facility is a facility for the physical confinement of a juvenile alleged to have committed an offense or an adjudicated offender subject to a disposition or modification order in juvenile court. Juvenile detention facilities may also include group homes, inpatient substance abuse programs, and juvenile basic training camps.

In 2011 a workgroup convened by the Developmental Disabilities Counsel and Juvenile Rehabilitation Administration within the Department of Social and Health Services met to study practices and policies relating to the confinement of youth with developmental disabilities within juvenile detention facilities.

Summary: Counties must develop an intake and risk assessment standard to determine whether a juvenile admitted to a county juvenile detention facility is developmentally disabled.

The assessment standard must be developed and implemented no later than December 31, 2012.

Votes on Final Passage:

Senate	47	0
House	98	0

Effective: June 7, 2012

SB 6159
PARTIAL VETO
C 249 L 12

Concerning a business and occupation tax deduction for amounts received with respect to dispute resolution services.

By Senators Hargrove, Regala, Harper and Padden.

Senate Committee on Ways & Means

Background: Business and Occupation (B&O) Tax. Washington's major business tax is the B&O tax. The B&O tax is imposed on the gross receipts of business activities conducted within the state, without any deduction for the costs of doing business. Revenues are deposited in the state General Fund. The main rates are 0.471 percent for retailing; 0.484 percent for manufacturing, wholesaling, and extracting; and 1.8 percent for professional and personal services, and activities not classified elsewhere until June 30, 2013, at which time the 0.3 percent rate surcharge expires and the B&O rate for service and other category is 1.5 percent thereafter. Nonprofit organizations pay B&O tax unless specifically exempt by statute.

Dispute Resolution Centers (DRC). DRCs may be established and operated by a municipality, county, or a nonprofit organization under chapter 7.75 RCW to resolve disputes in an informal and less costly setting than judicial forums. DRCs established under these statutes must provide dispute resolution services without charge or based on the participant's ability to pay. A DRC may accept contributions from counties and municipalities, agencies of the state and federal governments, private sources, and any other available funds.

Summary: A deduction from the B&O tax is provided to a DRC organized under chapter 7.75 RCW for amounts received as a contribution from federal, state, or local governments and nonprofit organizations for providing dispute resolution services. A nonprofit organization may deduct from the measure of tax amounts received from federal, state, or local governments for distribution to a DRC.

Votes on Final Passage:

Senate	48	1
House	96	2

Effective: June 7, 2012

Partial Veto Summary: Section 2, providing that the act applies both prospectively and retroactively, was vetoed.

VETO MESSAGE ON SB 6159

March 30, 2012

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, Senate Bill 6159 entitled:

"AN ACT Relating to a business and occupation tax deduction for amounts received with respect to dispute resolution services."

Senate Bill 6159 allows dispute resolution centers to deduct amounts they receive as contributions from federal, state, and local government or nonprofit organizations from the measure of the business and occupation tax. Nonprofit organizations may also deduct from the measure of tax amounts received from federal, state, or local governments for distribution to a qualified dispute resolution center.

Section 2 would apply this deduction from the measure of the tax both prospectively and retroactively. The retroactive application of the bill would reward delinquent taxpayers, while those who paid on time would not receive a refund under the prohibition on the gift of state funds in Article VIII, Section 5 of the Washington Constitution, as interpreted by the Washington Supreme Court.

For this reason, I have vetoed Section 2 of Senate Bill 6159.

With the exception of Section 2, Senate Bill 6159 is approved.

Respectfully submitted,

Christine O. Gregoire

Christine O. Gregoire
Governor

SSB 6167
C 44 L 12

Regarding dissemination of criminal identification system information.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Kohl-Welles, Padden, Roach and Chase).

Senate Committee on Human Services & Corrections
House Committee on Community & Economic Development & Housing

Background: The Washington State Patrol (WSP) is authorized to disclose conviction records at no cost when it relates to an authorized purpose concerning developmentally disabled persons, vulnerable adults, and minors. Information may be disclosed to:

- a business, organization, or individual person regarding a person seeking employment with a vulnerable population;
- the Washington Educator Standards Board regarding a person seeking a certificate; and
- a law enforcement agency, the attorney general, a prosecuting authority, or the Department of Social and Health Services regarding any person that may aid in the investigation and prosecution of an abuse case or to protect an adult or child from further abuse.

In the context of the statute, a business or organization is defined as a person; business; or organization licensed in this state, any agency of the state, or other governmental entity that educates, trains, treats, supervises, houses, or provides recreation to developmentally disabled persons, vulnerable adults, or children under sixteen years of age, or that provides child day care, early learning, or early learning childhood education services, including but not limited to public housing authorities, school districts, and educational service districts.

Summary: WSP is authorized to disclose conviction records of a prospective client or resident at no cost upon the request of a business or organization that qualifies as a nonprofit organization under the Internal Revenue Code and that provides emergency shelter or transitional housing for children, persons with developmental disabilities, or vulnerable adults. A client or resident is defined as a child, person with developmental disabilities, or vulnerable adult applying for housing assistance from a business or organization.

Votes on Final Passage:

Senate	47	2
House	96	0

Effective: June 7, 2012

SB 6171
C 81 L 12

Modifying the weight limitation for certain vessels exempt from the pilotage act.

By Senators Haugen, King and Shin.

Senate Committee on Transportation
House Committee on Transportation

Background: Under current law, the Board of Pilotage Commissioners (Board) must provide for the maintenance of efficient and competent pilotage service on the waters of the Puget Sound pilotage district and the Grays Harbor pilotage district. To this end, the Board examines the proficiency of potential pilots, licenses pilots, enforces the use of pilots, sets pilotage rates, investigates reported accidents involving pilots, keeps records of various matters affecting pilotage, and performs various other duties as required by law.

All non-exempt vessels navigating the Puget Sound and Grays Harbor pilotage districts must employ a licensed marine pilot. The Board may grant exemptions from the compulsory marine pilotage requirements to certain vessels, including yachts not heavier than 500 gross tons and not longer than 200 feet in overall length. The exemptions must not be detrimental to the public interest in regard to safe operation preventing loss of human lives, loss of property, and protecting the marine environment of the state.

Summary: The Board may grant an exemption from the compulsory marine pilotage requirements to any yacht not heavier than 750 gross tons and not longer than 200 feet in overall length.

Votes on Final Passage:

Senate	48	1
House	95	1

Effective: June 7, 2012

SB 6172
C 121 L 12

Revising franchise investment protection provisions.

By Senators Benton, Hobbs, Prentice, Keiser, Fain and Chase; by request of Department of Financial Institutions.

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

Background: The Franchise Investment Protection Act (FIPA) regulates the sale and registration of franchises. A franchise is an agreement that grants the right to engage in a business under a marketing plan prescribed by the franchisor, the operation of which is substantially associated with a particular trade name or symbol. To sell or offer to sell a franchise, the franchise must be registered with the

Department of Financial Institutions (DFI). An exception applies where the franchisor meets certain requirements and delivers an offering circular to the prospective franchisee at least ten business days prior to execution of the agreement. The offering circular must comply with DFI's guidelines, which are based on the North American Securities Administrators Association's (NASAA) Uniform Franchise Offering Circular. A franchise offering remains registered for one year and may be renewed by filing a renewal application 15 business days before the expiration of the registration.

It is unlawful for a person to sell a franchise that is registered or required to be registered without delivering the offering circular to the franchisee at least ten business days prior to execution of the agreement.

The Director of the DFI (Director) has the authority to issue a stop order to suspend or revoke a registration statement. The applicant has 15 days to request a hearing on entry of the stop order. In addition, the Director may issue a cease and desist order if it appears a person has violated or is about to violate FIPA. The order becomes final if the person does not request a hearing within 15 days of receiving notice.

In 2007 the Federal Trade Commission (FTC) adopted a rule applicable to the offer or sale of a franchise located in the United States. Terminology and deadlines in that rule differ from Washington law.

Summary: Various terms are amended and new definitions are added. The term disclosure document is substituted for the term offering circular. DFI's guidelines for preparation of the disclosure document must be based on guidelines of either FTC or NASAA. The term prospective franchisee is substituted throughout the law for the term offeree. Definitions are provided for the terms file, record, and prospective franchisee.

Specific deadlines are also amended. To qualify for an exception from registration, a franchisor must deliver a disclosure document to the prospective franchisee 14 calendar days prior to execution of the agreement. A franchisor may renew the registration by filing an application 20 calendar days before expiration of the registration.

A franchisor must furnish a prospective franchisee with a copy of the disclosure document at least 14 calendar days prior to payment or execution of a binding agreement. It is unlawful for the franchisor to unilaterally and materially alter the terms and conditions of a franchise agreement without furnishing the prospective franchisee with a copy of the revisions at least seven calendar days before he or she signs the agreement. Changes that arise out of negotiations initiated by the prospective franchisee do not trigger this period.

A person has 20 calendar days to request a hearing on a stop order or a cease and desist order.

Votes on Final Passage:

Senate	46	0
House	96	0

Effective: June 7, 2012

SB 6175
C 122 L 12

Establishing a government-to-government relationship between state government and federally recognized Indian tribes.

By Senators Pridemore, Swecker, Prentice, Shin, Sheldon, Kline and Chase.

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

Background: State governors have entered into agreements with federally-recognized Indian tribes to facilitate improved government-to-government relations. These agreements include:

- the Centennial Accord of 1989, intended to improve communication, promote cooperation, and resolve issues through negotiation rather than litigation;
- the New Millennium Agreement of 1999, reaffirming Centennial Accord principles and encouraging the Legislature to establish a structure addressing issues of mutual concern;
- the Out-of-State Accord of 2004, involving tribes in Oregon and Idaho with treaty rights in Washington, affirming principles in the 1989 and 1999 agreements and pledging periodic review of relations and discussion of issues.

The Governor's Office of Indian Affairs (GOIA) advises the Governor on matters involving tribes and serves as a liaison between the state and tribal governments.

Many state elected officials and agencies have designated officers to serve as tribal liaisons.

Summary: In establishing a government-to-government relationship with tribes, state elected officials and agencies must:

- make reasonable efforts to collaborate with tribes in developing policies and agreements and in implementing programs affecting tribes;
- develop a consultation process for issues involving tribes;
- designate a tribal liaison reporting to the head of the agency;
- ensure that tribal liaisons and agency directors receive training through GOIA or another provider that includes effective communication, collaboration, and cultural competency; and
- annually report to the Governor on activities involving tribes and implementation of these requirements.

Tribal liaisons must:

- assist the agency in developing and implementing policies promoting effective communication and collaboration;
- serve as a contact person with tribal governments;
- maintain communication; and
- coordinate training of agency employees.

At least annually, the Governor and other statewide elected officials must meet with tribal leaders to address issues of mutual concern.

The Governor must maintain a current list of tribal liaisons and tribal leaders with contact information that is available to the public.

Votes on Final Passage:

Senate	44	5
House	72	26

Effective: June 7, 2012

SSB 6187
C 250 L 12

Concerning health care claims against state and governmental health care providers arising out of tortious conduct.

By Senate Committee on Judiciary (originally sponsored by Senators Pflug, Harper and Frockt; by request of Attorney General).

Senate Committee on Judiciary
House Committee on Judiciary

Background: Currently, all claims against the state, or against the state's officers, employees, or volunteers, for damages arising out of tortious conduct except for claims involving injuries from health care must be presented to the risk management division of the Department of Enterprise Services. All claims, other than those arising from injuries from health care, are presented when a claim form is delivered to the risk management division on the standard tort claim form. The delivery of that claim form triggers a 60 days' notice of intent to file suit. Depending on the court's rules, the cause of action may be subject to mandatory mediation or arbitration. Some courts require mediation prior to a court date being set, others do not. If there is no court rule and the parties do not settle or elect to go through mediation or arbitration, the case may proceed to trial.

The current statute reads that a person may commence an action based upon a health care provider's professional negligence by giving the defendant 90 days' notice of intent to commence the action. All causes of action are subject to mandatory mediation prior to trial except for those actions subject to mandatory arbitration. A person has a right to trial by jury following an unsuccessful attempt at mediation or arbitration. However, the Washington State Supreme Court held that the notice requirement in the statute was unconstitutional because it violates the separation of powers doctrine as it conflicts with the judiciary's power to set court procedures. The case specifically dealt with a private entity. Whether this decision can be extended to those cases involving governmental entities is a question currently before the state Supreme Court.

Summary: All claims against the state, or against the state's officers, employees, or volunteers for damages arising out of tortious conduct, including claims involving injuries from health care must be presented to the risk management division of the Department of Enterprise Services.

Votes on Final Passage:

Senate	46	0
House	98	0

Effective: June 7, 2012

2E2SSB 6204
C 6 L 12 E 1

Modifying community supervision provisions.

By Senate Committee on Ways & Means (originally sponsored by Senator Hargrove; by request of Department of Corrections).

Senate Committee on Human Services & Corrections
Senate Committee on Ways & Means
House Committee on Public Safety & Emergency Preparedness
House Committee on Ways & Means

Background: In Washington, the court is required to sentence a person convicted of the following offenses to the corresponding terms of supervision with the Department of Corrections (DOC):

Sex offense	3 years
Serious Violent offense	3 years
Violent Offense	18 months
Crimes Against Persons	12 months
1st Felony Failure to Register	12 months
Certain Drug Offenses	12 months

Out of those populations, DOC must supervise persons convicted of a serious violent offense, a sex offense, or a failure to register, regardless of the offender's risk classification. DOC must supervise offenders convicted of the other listed offenses when the offender is assessed at a high risk to reoffend.

DOC currently supervises approximately 16,000 offenders. Offenders on community custody may be sanctioned for violating any condition or requirement of a sentence, including conduct that constitutes a new crime. An offender who commits a violation may be sanctioned with up to 60 days confinement or a variety of other sanctions, including work release, home detention, treatment, or other community based sanctions. DOC has

historically relied significantly on jail sanctions in response to violation behavior. During fiscal year 2011, DOC spent $38.5 million on jail sanctions, which translates to 17,193 jail bed days.

Research has shown that traditional surveillance-based supervision, without treatment, is not effective in reducing recidivism and has little effect on re-arrest rates of released offenders. In contrast, intensive supervision coupled with treatment geared to the risk and needs of the offender produces an average reduction in recidivism of 16 percent. Studies have also found that the threat of imprisonment generates a small general deterrent effect. Increasing the severity of a penalty does little to increase deterrence, but rather increasing the certainty of apprehension and punishment demonstrates a significant deterrent effect.

In 2004 Hawaii launched its Opportunity Probation with Enforcement program (HOPE) utilizing a system of immediate but graduated sentences. Technical infractions result in jail terms that occur in the same week as the violation, but last only a few days. A one-year, randomized controlled trial showed HOPE probationers were 55 percent less likely to be arrested for a new crime; 72 percent less likely to use drugs; and 53 percent less likely to have their probation revoked.

Summary: A new violation process for offenders on community custody is outlined. DOC will adopt rules creating a structured violation process that includes presumptive sanctions, aggravating and mitigating factors, and definitions for low-level and high-level violations. DOC must define aggravating factors that may present a current and ongoing foreseeable risk and therefore elevate an offender to a high-level violation process. DOC is not civilly or criminally liable for a decision to elevate or not elevate an offender's behavior to a high-level violation unless it acted with reckless disregard. For low-level violations, DOC may sanction an offender to one or more non-confinement sanctions. For second and subsequent low-level violations, DOC may sanction the offender to not more than three days in total confinement. After an offender has received five low level violation sanctions, all subsequent violations must be treated as high level violations. For high-level violations, DOC may sanction an offender to not more than 30 days in total confinement per hearing. An offender accused of committing a high-level violation is entitled to a hearing.

When an offender on community custody commits a new crime in the presence of a community corrections officer, the officer may arrest the offender and report the crime to local law enforcement or the local prosecuting authority. DOC will not hold the offender more than three days from the time of notice to law enforcement. If the offender has a specified underlying offense, the offender will be held in total confinement for 30 days from the time of arrest or until a prosecuting attorney files new charges against the offender, whichever occurs first.

As part of its implementation of the new sanctioning system, DOC must establish stakeholder groups, communicate with law enforcement, and periodically survey community custody officers for ideas and suggestions. DOC must report back to the Legislature at the end of 2012 and 2013.

Votes on Final Passage:

Senate	45	2	
First Special Session			
Senate	43	2	
House	77	21	(House amended)
Senate	45	2	(Senate concurred)

Effective: May 2, 2012 (Section 2)
June 1, 2012 (Sections 1, 3-9, and 11-14)
August 1, 2012 (Section 10)

SSB 6208

C 123 L 12

Regarding license fees under the warehouse act.

By Senate Committee on Agriculture, Water & Rural Economic Development (originally sponsored by Senators Schoesler and Hatfield).

Senate Committee on Agriculture, Water & Rural Economic Development
House Committee on General Government Appropriations & Oversight

Background: The Department of Agriculture is charged with administering the Grain Warehouse Act. Under that act, the department supervises the receiving, storage, weighing, and inspection of grain. It also is authorized to conduct audits of warehouses. Warehouses that store specified agricultural commodities are required to be licensed and bonded. Funding for administering the program is derived from the fees paid by licensees which are placed in a separate non-appropriated account.

Summary: The fees are increased for the following:

- terminal warehouses – the current fee of $1,350 is increased to $1,900;
- sub-terminal warehouses – the current fee of $1,050 is increased to $1,500;
- grain dealers – the current fee of $750 is increased to $1,750;
- exempt grain dealers – the current fee of $300 is increased to $500; and
- country warehouses – the current $500 fee is increased to $700.

Votes on Final Passage:

Senate	38	10
House	86	10

Effective: June 7, 2012

ESB 6215
C 152 L 12

Establishing an optional transportation benefit district rebate program for low-income individuals.

By Senators Frockt, Kline, Nelson, Kohl-Welles and Conway.

Senate Committee on Transportation
House Committee on Transportation

Background: A transportation benefit district (TBD) is a quasi-municipal corporation and independent taxing authority that may be established by a county or city for the purpose of funding transportation improvements within the district. Transportation improvement can include investments in city streets, county roads, new or existing highways of statewide significance, principal arterials of regional significance, high capacity transportation, and public transportation. A TBD may include areas within one or more than one county, city, port district, county transportation authority, or public transportation benefit area.

A TBD is authorized to impose the following taxes, fees, charges, and tolls:

- up to a $20 vehicle fee or up to $100 with approval of a majority of the voters in the district;
- impact fees on the construction of commercial buildings;
- a sales and use tax of up to 0.2 percent with approval of a majority of the voters in the district; and
- vehicle tolls on state routes, city streets, or county roads, within the boundary with approval of a majority of the voters in the district.

Summary: A TBD that includes a city with a population of 500,000 or more and that imposes a vehicle fee, sales and use tax, or tolls may establish a rebate program for the purpose of refunding low-income individuals up to 40 percent of the actual fee, tax, or toll paid by that individual. Low-income is defined as household income that is at or below 45 percent of the median household income, adjusted for household size, for the district in which the fees, taxes, or tolls were imposed.

A rebate program is established as an authorized use of vehicle fee, sales and use tax, and toll revenues collected by a transportation revenue district.

Votes on Final Passage:

Senate	29	20
House	55	42

Effective: June 7, 2012

SB 6218
C 124 L 12

Concerning escrow licensing requirement exceptions relating to the practice of law.

By Senators Frockt, Chase, Kline, Harper, Pflug and Hobbs; by request of Washington State Bar Association.

Senate Committee on Judiciary
House Committee on Judiciary

Background: It is unlawful for a person to engage in business as an escrow agent with respect to personal or real property transactions in Washington State unless the person has a valid license issued by the director of financial institutions. The license requirement does not apply to, among others, a person licensed to practice law in this state while engaged in the performance of the person's professional duties, provided that no separate compensation or gain is received for escrow services; and the service is provided under the same legal entity as the law practice. Any attorney who is engaged principally as an escrow agent must obtain a license.

Summary: The license requirement does not apply to a person licensed to practice law in this state if:

- the escrow transactions are performed by either the lawyer engaged in the practice of law or any employee under direct supervision of the lawyer;
- all escrow transactions are performed under a legal entity that is operated as a law practice; and
- all escrow funds are deposited to, maintained in, and disbursed from a trust account in compliance with rules enacted by the Washington Supreme Court that regulates the conduct of lawyers.

Votes on Final Passage:

Senate	48	0
House	97	0

Effective: June 7, 2012

SB 6223
C 57 L 12

Repealing the early supplemental security income transition project.

By Senators Regala, Hargrove and Stevens; by request of Department of Social and Health Services.

Senate Committee on Human Services & Corrections
House Committee on Health & Human Services Appropriations & Oversight

Background: In 2010 the Department of Social and Health Services (DSHS) implemented the Early Supplemental Security Income Transition Project (ESSITP) in King, Pierce, and Spokane counties. The purpose of the project is to move persons likely eligible for supplemental security income benefits (SSI) from the aged, blind, or

disabled (ABD) program and the medical program to SSI as quickly as possible. The program is to be implemented through performance-based contracts with managed health care systems providing medical care services or other qualified entities.

The entities with whom DSHS contracts are responsible for the following:

- systematically screening persons receiving medical benefits at the point of eligibility determination or shortly thereafter to determine if the person should be referred for medical or behavioral health evaluations to determine if they are likely eligible for SSI;
- sharing the results with DSHS;
- managing medical care services and ABD assistance incapacity evaluations to provide timely access to needed medical and behavioral health evaluations and standardizing health care providers' conduct of incapacity evaluations;
- maintaining a centralized appointment and clinical data system; and
- assisting persons receiving medical care services benefits with obtaining additional medical or behavioral health exams needed to meet the disability standard for SSI and with submission of applications for SSI benefits.

The performance goals of the program are as follows:

- screening persons receiving medical care services within 30 days of entering the program; and
- transferring 75 percent of persons receiving medical care services that appear likely to qualify for SSI to the ABD program within four months of applying for the ABD program.

The initial focus of the ESSITP is to be on persons who have been receiving medical care services or ABD assistance for 12 or more months.

DSHS is to report to the Governor and the Legislature, on whether the ESSITP is meeting the performance goals no later than December 1, 2011.

Summary: The statute establishing the ESSITP is repealed.

Votes on Final Passage:

Senate	44	0
House	96	0

Effective: June 7, 2012

SSB 6226

C 251 L 12

Concerning authorization periods for subsidized child care.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Frockt, Harper, Regala, Zarelli, Fain, Hargrove, Kohl-Welles and Keiser).

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

Background: Eligibility for subsidized child care – Working Connections Child Care (WCCC) – must currently be re-authorized every six months, unless the child is also enrolled in an Early Childhood Education and Assistance Program (EACAP), Head Start, or an early Head Start program, in which case re-authorizations need occur only every 12 months. If a change in circumstances occurs during the 12-month period, then the reauthorization would have to occur earlier than 12 months.

Summary: Eligibility for subsidized child care must be re-authorized every 12 months for all recipients of subsidized child care services, regardless of whether the child is also enrolled in EACAP, Head Start, or early Head Start. If a change in circumstances occurs, the reauthorization would have to occur earlier than 12 months. The 12-month certification applies only if enrollments in WCCC or child subsidies are capped.

An applicant or recipient of WCCC must provide DSHS the following information, if appropriate: (1) notification to DSHS within five days if the provider changes; and (2) notification to DSHS within ten days about any significant change related to the number of child care hours the applicant or recipient needs, cost sharing, or eligibility.

Votes on Final Passage:

Senate	48	0	
House	97	1	(House amended)
Senate	48	0	(Senate concurred)

Effective: July 1, 2012

ESSB 6237
C 153 L 12

Creating a career pathway for medical assistants.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Keiser, Conway, Kline, Frockt and Becker).

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

Background: Health Care Assistants. A certified health care assistant is authorized to provide assistance to certain licensed health care practitioners, such as physicians, nurses, and naturopaths. A licensed health care practitioner may delegate certain functions to the health care assistant such as administering skin tests, injections, and performing blood withdrawals. Each health care assistant is certified by the facility in which they are employed, or by the practitioner who delegates functions to the health care assistant, pursuant to standards adopted by the Department of Health (DOH) in rule. The facility or practitioner must submit a roster of certified health care assistants to DOH. Health care assistants are divided into seven different categories based on differing educational, training, and experiential requirements. The different tasks each category of health care assistant may perform are as follows (all health care assistants may administer vaccines):

- Category A: venous and capillary invasive procedures for blood withdrawal;
- Category B: arterial invasive procedures for blood withdrawal;
- Category C: intradermal, subcutaneous, and intramuscular injections for diagnostic agents and the administration of skin tests;
- Category D: intravenous injections for diagnostic agents;
- Category E: intradermal, subcutaneous, and intramuscular injections and the administration of skin tests;
- Category F: intravenous injections for therapeutic agents; and
- Category G: hemodialysis.

Medical Assistants. Medical assistants are personnel who provide administrative or clinical tasks under the supervision of other health care practitioners. Although a variety of national organizations certify medical assistants, they are currently not a credentialed health profession in Washington. In 2011 DOH completed a sunrise review of a proposal to credential medical assistants. In its report, DOH supported credentialing medical assistants, but also made recommendations regarding clarifying the current health care assistant credential. DOH recommended that existing health care assistant categories be blended with a medical assistant certification. Categories C and E would be replaced with a certified medical assistant credential. Categories A and B would be replaced with a certified phlebotomist credential. Category G would be replaced with a certified hemodialysis technician credential. DOH also recommended removal of the requirement that a credential holder obtain a new credential every time he or she leaves a facility or delegator.

Summary: Medical assistants must be certified or registered with DOH according to one of four categories. The category of certified health care assistant is eliminated and current health care assistants must be transitioned into one of the medical assistant categories. The four categories of medical assistants are: Medical assistant-certified; medical assistant-hemodialysis technician; medical assistant-phlebotomist; and medical assistant-registered. Only medical assistant-registered may be registered by DOH, all other categories must be certified. Certifications are transferable between practice settings while registrations are not transferrable to another health care practitioner, clinic, or group practice.

The Secretary of DOH (Secretary) must adopt rules on the minimum qualifications for medical assistants for all categories, including rules establishing minimum requirements necessary for a health care practitioner, clinic, or group practice to endorse a medical assistant. The medical quality assurance commission, the board of osteopathic medicine and surgery, the podiatric medical board, the nursing care quality assurance commission, the board of naturopathy, and the optometry board must identify other specialty assistive personnel not included in the four categories of medical assistants. This information must be submitted to the Legislature by December 15, 2012.

A medical assistant-certified is a person who is certified by DOH and performs tasks under the supervision of a health care practitioner. Tasks that may be performed include fundamental procedures, clinical procedures, specimen collection, diagnostic testing, patient care, administering medications, and administering intravenous injections. A medical assistant-hemodialysis technician is a person who performs hemodialysis when delegated and supervised by a health care practitioner. This category permits a person to administer drugs and oxygen to a patient and qualifications adopted by the secretary of DOH must be equivalent to the qualifications that currently exist for hemodialysis technicians. A medical assistant-phlebotomist is a person who performs capillary, venous, and arterial invasive procedures for blood withdrawal and other functions when delegated and supervised by a health care practitioner.

Before delegating a task to a medical assistant, the health care practitioner must determine that the task is within that health care practitioner's scope of practice, that the task is indicated for the patient, that the medical assistant is working under the appropriate level of supervision, that the medical assistant is competent to perform the task,

that the task is appropriate to delegate, and that, if performed improperly, the task would not present life-threatening consequences or danger to the patient.

New certifications for health care assistants may not be issued after July 1, 2013. Category A and B assistants are to be renewed as medical assistant-phlebotomist. Category C, D, E, or F health care assistants are to be renewed as medical assistant-certified. Category G assistants are to be renewed as medical assistant-hemodialysis technician.

The Secretary must develop recommendations regarding a career path plan for medical assistants. The plan must be developed in consultation with stakeholders, including health care practitioner professional organizations, organizations representing health care workers, community colleges, career colleges, and technical colleges. The purpose of the career path plan is to evaluate career paths for medical assistants and entry-level health care workers to transition by means of a career ladder into medical assistants or other health care professions. The plan must be reported to the Legislature by December 15, 2012.

Applicants with military training or experience satisfy training and experience requirements unless the Secretary determines that the military training or experience is not substantially equivalent to state standards.

Nursing technicians may work in a clinical setting.

Votes on Final Passage:

Senate	42	6	
House	97	1	(House amended)
Senate	43	5	(Senate concurred)

Effective: June 7, 2012
July 1, 2013 (Sections 1-12, 14, 16, and 18)
July 1, 2016 (Sections 15 and 17)

ESSB 6239

C 3 L 12

Concerning civil marriage and domestic partnerships.

By Senate Committee on Government Operations, Tribal Relations & Elections (originally sponsored by Senators Murray, Pflug, Hobbs, Litzow, Kohl-Welles, Ranker, Tom, Harper, Pridemore, Keiser, Kline, Regala, Eide, Rolfes, McAuliffe, Brown, Nelson, Chase, Fraser, Frockt, Conway, Kilmer and Prentice; by request of Governor Gregoire).

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

Background: Defense of Marriage Act. In 1998 the Legislature amended the marriage statutes to provide that marriage is a civil contract between a man and a woman, explicitly stating that marriage between persons other than a male and a female is prohibited.

State-Registered Domestic Partners. Same sex couples and opposite sex couples in which one person is at least 62 years of age or older, may enter into state-registered domestic partnerships. For all purposes under state law, registered domestic partners must be treated the same as married persons. Terms such as spouse, marriage, husband, and wife must be interpreted to apply equally to registered domestic partners as to married persons, to the extent the interpretation does not conflict with federal law.

Reciprocity. A legal union of two persons of the same sex that was validly formed in another jurisdiction, and that is substantially equivalent to a domestic partnership, must be recognized as a valid domestic partnership in Washington and must be treated as a domestic partnership registered in Washington, regardless of whether it bears the name domestic partnership.

Summary: Marriage. Marriage is a civil contract between two persons who are at least 18 years old and who are otherwise capable. A person cannot marry if that person has a spouse or registered domestic partner living at the time of such marriage, unless the registered domestic partner is the other party to the marriage.

The list of officers and persons, active or retired, who are authorized to solemnize marriages is amended to include imams, rabbis, or similar officials of any religious organization.

Religious Exemption. No regularly licensed or ordained minister or any priest, imam, rabbi, or similar official of any religious organization is required to solemnize or recognize any marriage.

A regularly licensed or ordained minister or priest, imam, rabbi, or similar official of any religious organization must be immune from any civil claim or cause of action based on a refusal to solemnize or recognize any marriage.

No state agency or local government may base a decision to penalize, withhold benefits from, or refuse to contract with any religious organization on the refusal of a person associated with such religious organization to solemnize or recognize a marriage.

No religious organization is required to provide accommodations, facilities, advantages, privileges, services, or goods related to the solemnization or celebration of marriage.

A religious organization must be immune from any civil claim or cause of action, including a claim pursuant to RCW 49.60, the state law against discrimination, based on its refusal to provide accommodations, facilities, advantages, privileges, services, or goods related to the solemnization or celebration of a marriage.

Recognize is defined as providing religious-based services that:

- are delivered by a religious organization, or by an individual who is managed, supervised, or directed by a religious organization; and

- are designed for married couples or couples engaged to marry and are directly related to solemnizing, celebrating, strengthening, or promoting a marriage, such as religious counseling programs, courses, retreats, and workshops.

Religious organization includes, but is not limited to, churches, mosques, synagogues, temples, nondenominational ministries, interdenominational and ecumenical organizations, mission organizations, faith-based social agencies, and other entities whose principal purpose is the study, practice, or advancement of religion.

Religious organization must be interpreted liberally to include faith-based social service organizations involved in social service directed at the larger community. Religious based educational institutions must not be required to provide accommodations, facilities, advantages, privileges, service, or goods related to the solemnization or celebration of a marriage.

Nothing in this act must be construed to alter or affect existing law regarding the manner in which a religious or nonprofit organization may be licensed to and provide adoption, foster care, or other child-placing services.

Domestic Partnerships. To enter into a state-registered domestic partnership the two persons must share a common residence, must be at least 18 years old, and one of the persons must be at least 62 years old.

Partners in a state-registered domestic partnership may apply and receive a marriage license and have such marriage solemnized so long as the parties are otherwise eligible to marry, and the parties to the marriage are the same as the parties to the state-registered domestic partnership. A state-registered domestic partnership is dissolved by operation of law by any marriage of the same parties to each other, as of the date of the marriage stated in the certificate.

Any state-registered domestic partnership in which the parties are the same sex, and neither party is at least 62 years old, that has not been dissolved or converted into marriage by the parties by June 30, 2014, is automatically merged into a marriage as of June 30, 2014.

If the parties to a state-registered domestic partnership have proceedings for dissolution, annulment, or legal separation pending as of June 30, 2014, the parties are not automatically merged into marriage and the dissolution, annulment, or legal separation of the state-registered domestic partnership must be governed by the statutes applicable to state-registered domestic partnerships in effect prior to June 30, 2014.

For the purposes of determining the legal rights and responsibilities involving individuals who had previously had a state-registered domestic partnership and have been issued a marriage license or are deemed married, the date of the original state-registered domestic partnership is the legal date of the marriage.

Reciprocity. If two persons in Washington have a legal union, other than a marriage, that was validly formed in another state or jurisdiction; provides substantially the same rights, benefits, and responsibilities as a marriage; and does not meet the definition of domestic partnership; the parties must be treated as having the same rights and responsibilities as married spouses in this state unless the relationship is otherwise prohibited by law or the parties become permanent residents of Washington and do not marry within one year after becoming permanent residents.

A legal union, other than a marriage, of two persons that was validly formed in another jurisdiction, and that is substantially equivalent to a domestic partnership must be recognized as a valid domestic partnership in Washington regardless of whether it bears the name domestic partnership.

Notice. The Secretary of State must send a letter to the mailing address on file of each same-sex, state-registered domestic partner notifying the person that the laws relating to state-registered domestic partners will change in relation to certain same-sex registered domestic partners. The notice must provide a brief summary of the new law and must clearly state that provisions related to certain same-sex registered domestic partnerships will change as of the effective dates of this act, and that those same-sex registered domestic partnerships that are not dissolved prior to June 30, 2014, will be converted to marriage as an act of law. The Secretary of State must send a second notice by May 1, 2014.

Votes on Final Passage:

Senate	28	21
House	55	43

Effective: June 7, 2012
June 30, 2014 – contingent (Sections 8 and 9)

SSB 6240
C 177 L 12

Modifying provisions relating to orders of disposition for juveniles.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Regala, Hargrove, Kline, Carrell and Harper).

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

Background: Deferred disposition is a disposition alternative for some juvenile offenders. In a deferred disposition, a guilty plea or finding of guilt is entered, the case is continued generally for up to one year, and the juvenile is placed on community supervision. If the juvenile complies with the conditions of supervision and pays full restitution, the guilty plea is vacated and the case is dismissed with prejudice. If the juvenile fails to comply with the

conditions of the community supervision, the court must enter the original disposition order.

A juvenile is ineligible for deferred disposition under the following circumstances: the current charge is for a sex or violent offense; the juvenile has a criminal history that includes any felony; the juvenile has a prior deferred disposition or deferred adjudication; or the juvenile has two or more prior adjudications.

The juvenile court may continue a case for disposition if a motion is made at least 14 days prior to commencement of the trial.

Summary: If a motion for a deferred disposition is made less than 14 days before trial but prior to commencement of the trial, the court may waive the 14-day requirement for good cause. A juvenile who agrees to a deferral of disposition must acknowledge the direct consequences of being found guilty and the direct consequences that will occur if an order of disposition is entered.

At the conclusion of the deferral period, if restitution has not been paid in full, the court may proceed to vacate the conviction if the court is satisfied the respondent made a good faith effort to pay. In this instance, the court must enter an order establishing the amount of restitution still owing and the terms and conditions of payment, which may include a payment plan extending up to ten years. The respondent remains under the court's jurisdiction for a maximum of ten years after the respondent turns 18. Prior to the expiration of the initial ten-year period, the juvenile court may extend the judgment for restitution an additional ten years. The court may relieve a respondent of the requirement to pay restitution to any insurance provider if the court is satisfied the respondent does not have the means to pay and could not reasonably acquire the means to pay over a ten-year period.

When vacating a deferred disposition, the court must also enter an order sealing the case if the juvenile is 18 years of age or older and restitution has been paid in full. When a case is vacated prior to a juvenile turning 18, the court must set an administrative hearing to seal the case no later than 30 days after the juvenile turns 18 if no further charges are pending and restitution has been paid in full.

A disposition in a single disposition order for two or more offenses runs consecutively. When disposition for two or more offenses is contained in separate disposition orders, multiple orders of detention must run consecutively, but the terms of community supervision will run concurrently.

Votes on Final Passage:

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

Effective: June 7, 2012

SSB 6242

C 154 L 12

Addressing specialty producer licenses.

By Senate Committee on Financial Institutions, Housing & Insurance (originally sponsored by Senators Hobbs and Litzow).

Senate Committee on Financial Institutions, Housing & Insurance

House Committee on Business & Financial Services

Background: The Office of Insurance Commissioner (OIC) licenses and regulates insurance producers, including specialty producer licenses. In 2002 the Legislature authorized the OIC to implement a regulatory scheme governing the insurance marketing practices of specified communications equipment retailers. To market insurance products in the state, a vendor of communications equipment must obtain a specialty producer license from the OIC. The license allows the vendor, and its employees or authorized representatives to market insurance covering communications equipment. Communication equipment includes cell phones, pagers, portable computers, and other devices designed to originate or receive communication signals.

Prior to a license being issued to a vendor, the vendor must be appointed as the agent of an authorized insurer. The operation of the communication equipment insurance program requires that the vendor affiliate with a state licensed insurance agent, who must supervise a training program for the vendor's employees.

Summary: Terms and Definitions. Various terms and definitions are amended. The term communication equipment is removed and replaced with portable electronics. Portable electronics is defined as personal, self-contained, easily carried by an individual, battery-operated, electronic communication, viewing, listening, recording, gaming, computing or global positioning devices and other similar devices and their accessories, and service related to the use of such devices.

Other amendments are made to incorporate the new terminology.

Scope of the Specialty Producer License. A vendor, its employees, and authorized representatives may sell insurance covering portable electronics on either a master, corporate, group, or individual policy at each location where the vendor engages in portable electronics transactions. A registry which identifies in-state vendor locations authorized to sell or solicit portable electronics insurance must be maintained and provided to OIC within ten days of the request for such information. An employee or authorized representative may sell or offer portable electronics insurance without being licensed if the vendor is licensed and in compliance with state law and the rules adopted by OIC.

Individuals employed by a licensed independent adjuster to collect claim information for electronics equipment shall also be exempt from the specialty producers licensure requirement under specified circumstances. The activity must be exclusive to claims originating from polices of insurance issued through a portable equipment program, and the individual must be employed and supervised by a licensed independent adjuster. The licensed independent adjuster must keep and maintain records of employees engaged in the claims collection activity, and is liable for any unlawful conduct its employees engage in while collecting claims.

Training Program. A training program must be provided for the employees of the licensed vendor who are directly engaged in selling or offering portable electronics insurance. Employees and authorized representatives must receive basic instruction about portable electronics insurance and the disclosures that must be made to customers. No employees or authorized representatives of a vendor of portable electronics may identify themselves as a nonlimited lines licensed insurance producer. A licensed independent adjuster must also provide approved training to employees engaged in claims collection for electronics equipment.

Votes on Final Passage:

Senate	48	0	
House	96	0	(House amended)
Senate	46	0	(Senate concurred)

Effective: June 7, 2012

ESSB 6251

C 138 L 12

Regulating advertising of commercial sexual abuse of a minor.

By Senate Committee on Judiciary (originally sponsored by Senators Kohl-Welles, Delvin, Eide, Chase, Pflug, Conway, Kline, Ranker, Stevens, Fraser, Regala, Nelson, Roach and Frockt).

Senate Committee on Judiciary
House Committee on Public Safety & Emergency Preparedness

Background: A 2008 Seattle human services department report estimated that there are 300 to 500 children being exploited for sex in the Seattle area alone each year. According to the Seattle police department, since the beginning of 2010, at least 22 children have been advertised online in the Seattle area for commercial sex and were recovered by the police department.

Summary: A person commits the offense of advertising commercial sexual abuse of a minor if the person knowingly publishes, disseminates, or displays or causes directly or indirectly to be published, disseminated, or displayed any advertisement for a commercial sex act that is to take place in the state and which includes the depiction of a minor.

Advertisement for a commercial sex act, commercial sex act, and depiction are defined.

It is a defense, which the defendant must prove by a preponderance of the evidence, that the defendant made a reasonable bona fide attempt to ascertain the true age of the minor depicted in the advertisement by requiring, prior to publication, dissemination, or display of the advertisement, production of an identification card or paper of the minor depicted in the advertisement. In order to invoke the defense, the defendant must produce for inspection by law enforcement a record of the identification used to verify the age of the person depicted in the advertisement.

Advertising commercial sexual abuse of a minor is a class C felony, punishable by up to one year of confinement and/or a fine of up to $10,000.

A federal severability clause is added.

Votes on Final Passage:

Senate	49	0
House	96	0

Effective: June 7, 2012

ESSB 6252

C 139 L 12

Addressing commercial sexual abuse of a minor, promoting commercial sexual abuse of a minor, and promoting prostitution in the first degree.

By Senate Committee on Judiciary (originally sponsored by Senators Kline, Zarelli, Kohl-Welles, Shin, Conway, Eide, Chase, Delvin, Litzow, Stevens, Fraser, Pflug, Regala, Nelson, Keiser and Roach).

Senate Committee on Judiciary
House Committee on Public Safety & Emergency Preparedness

Background: The state Criminal Profiteering Act provides civil penalties and remedies for a variety of criminal activities. Profiteering is defined to include the commission, or attempted commission, for financial gain, of any one of a number of crimes, including child selling or buying, sexual exploitation of children, and promoting prostitution. The act provides that a pattern of criminal profiteering activity means engaging in at least three acts of criminal profiteering within a five-year period. To constitute a pattern, the three acts must have the same or similar intent, results, accomplices, principals, victims or methods of commission, or be otherwise interrelated by distinguishing characteristics including a nexus to the same enterprise, and must not be isolated events. A pattern of profiteering is usually required before any of the special civil remedies apply, although single acts of trafficking in humans, leading organized crime, or the use of

proceeds from criminal profiteering may also trigger the available remedies.

An injured person, the Attorney General, or the county prosecuting attorney may file an action to prevent or restrain a pattern of criminal profiteering and recover up to three times actual damages as well as the costs of suit. A civil penalty of up to $200,000 may also be awarded. Each of the following may be subject to forfeiture:

- property used to commit the offenses;
- property acquired or maintained by profits from the offenses;
- property acquired or maintained by profits used to commit the offenses; and
- proceeds from the offenses.

The recovered money goes first to restitution to any person damaged by the acts, then to the state General Fund or county anti-profiteering revolving fund.

Summary: Commercial sexual abuse of a minor and promoting commercial sexual abuse of a minor are added to the list of criminal offenses that may constitute a pattern of criminal profiteering activity. A single act of commercial sexual abuse of a minor, promoting commercial sexual abuse of a minor, or promoting prostitution may trigger the criminal profiteering act remedies.

Votes on Final Passage:

Senate	49	0
House	96	0

Effective: June 7, 2012

SSB 6253

C 140 L 12

Concerning seizure and forfeiture of property in commercial sexual abuse of a minor, promoting commercial sexual abuse of a minor, and promoting prostitution in the first degree crimes.

By Senate Committee on Judiciary (originally sponsored by Senators Eide, Kline, Regala, Shin, Kohl-Welles, Litzow, Chase, Stevens, Nelson, Keiser, Roach and Conway).

Senate Committee on Judiciary
House Committee on Public Safety & Emergency Preparedness

Background: Civil forfeiture is an action brought against assets which are either the alleged proceeds of a crime or the alleged instrumentalities of crime. Instrumentalities of crime are property that was allegedly used to facilitate a crime. The assets, consisting of all tangible and intangible property, are subject to forfeiture and no property right exists in them. Washington has a number of civil forfeiture provisions, most notably in the Uniform Controlled Substances Act and for crime victim compensation. Property, acquired by a person convicted of a crime for which there is a victim may be subject to forfeiture. The proceeds of a forfeiture as crime victim compensation are first used to compensate the victim of the crime, then for reasonable legal expenses, and finally to the crime victim's compensation fund.

Summary: Civil forfeiture may be sought against the proceeds or property and instrumentalities used to facilitate the crimes of commercial sexual abuse of a minor, promoting sexual abuse of a minor, or promoting prostitution in the first degree. A conviction is required. The property is not subject to forfeiture to the extent of the interest of an owner used or acquired without the owner's knowledge or consent. Seized property is subject to the interest of a secured party without knowledge or who did not consent. A landlord may also assert a claim against the proceeds of the forfeiture.

The property may be seized pursuant to an arrest, or upon probable cause. The hearing regarding the forfeiture is before the chief law enforcement officer of the seizing agency, but may be removed to a court upon motion by any person asserting a claim or right to the property. The burden of proof is on the agency to establish, by a preponderance of the evidence, that the property is subject to forfeiture. A claimant who prevails in recovering seized property is entitled to reasonable attorney's fees. When property is forfeited, it must be sold and the proceeds deposited in the prostitution prevention and intervention account.

Votes on Final Passage:

Senate	49	0
House	97	0

Effective: June 7, 2012

ESB 6254

C 141 L 12

Changing promoting prostitution provisions.

By Senators Delvin, Hargrove, Kohl-Welles, Roach, Conway, Pflug, Ericksen, Carrell, Schoesler, Fain, Baumgartner, Fraser, Padden, Regala, Kline, Shin, Litzow, Eide, Chase, Stevens, Nelson and Keiser.

Senate Committee on Judiciary
House Committee on Public Safety & Emergency Preparedness

Background: Promoting prostitution in the first degree is committed if an individual knowingly advances prostitution by compelling another person, by threat or force, to engage in prostitution or profits from that act. It is a class B felony ranked at level III on the sentencing grid and results in one to three months incarceration and/or a $20,000 fine for a first offense. Promoting prostitution is also an act of criminal profiteering. Three acts of criminal profiteering within a five-year period may result in a civil action for the recovery of up to three times actual

damages, costs of suit, forfeiture of property used for or proceeds from the offense, and attorney fees.

Summary: Promoting prostitution in the first degree may also be committed if an individual knowingly advances prostitution by compelling a person with a mental or developmental disability to engage in prostitution or profits from that act. The disability must be one that renders the person incapable of consent.

Votes on Final Passage:

Senate	49	0	
House	96	0	(House amended)
Senate	48	0	(Senate concurred)

Effective: June 7, 2012

ESB 6255

C 142 L 12

Concerning victims of human trafficking and promoting prostitution.

By Senators Fraser, Kline, Eide, Kohl-Welles, Shin, Litzow, Chase, Stevens, Pflug, Regala, Nelson, Keiser, Roach, Conway, Holmquist Newbry and Frockt.

Senate Committee on Judiciary
House Committee on Public Safety & Emergency Preparedness

Background: A person is guilty of prostitution if such person engages, agrees, or offers to engage in sexual conduct with another person in return for a fee. Sexual conduct means sexual intercourse or sexual contact. Prostitution is a misdemeanor. Every person convicted of a misdemeanor or gross misdemeanor who has completed all terms of the sentence may apply for a vacation of the applicant's record of conviction for the offense. The offender's record cannot be cleared if:

1. there are any criminal charges against the applicant pending in any court of this state or another state, or in any federal court;
2. the offense was a violent offense or an attempt to commit a violent offense, as defined in RCW 9.94A.030;
3. the offense was a violation for driving while under the influence, actual physical control while under the influence, or operating a railroad, etc., while intoxicated;
4. the offense was any misdemeanor or gross misdemeanor violation, including an attempt, of obscenity and pornography, sexual exploitation of children, or a sex offense;
5. the applicant was convicted of a misdemeanor or gross misdemeanor domestic violence offense; or the court determines after a review of the court file that the offense was committed by one family member or household member against another; or the court determines that the offense involved domestic violence, and any one of the following factors exist:
   a. the applicant has not provided written notification of the vacation petition to the prosecuting attorney's office that prosecuted the offense for which vacation is sought or has not provided that notification to the court;
   b. the applicant has previously had a conviction for domestic violence. For purposes of this subsection, however, if the current application is for more than one conviction that arose out of a single incident, none of those convictions counts as a previous conviction;
   c. the applicant has signed an affidavit under penalty of perjury affirming that the applicant has not previously had a conviction for a domestic violence offense and a criminal history check reveals that the applicant has had such a conviction; or
   d. less than five years have elapsed since the person completed the terms of the original conditions of the sentence, including any financial obligations and successful completion of any treatment ordered as a condition of sentencing;
6. for any offense other than those offences involving domestic violence, as described above, less than three years have passed since the person completed the terms of the sentence, including any financial obligations;
7. the offender has been convicted of a new crime in this state, another state, or federal court since the date of conviction;
8. the applicant has ever had the record of another conviction vacated; or
9. the applicant is currently restrained or has been restrained within five years prior to the vacation application by a domestic violence protection order, a no-contact order, an antiharassment order, or a civil restraining order which restrains one party from contacting the other party.

If the offender meets these tests, the court may clear the record of conviction by permitting the applicant to withdraw the applicant's plea of guilty and to enter a plea of not guilty; or, if the applicant has been convicted after a plea of not guilty, the court setting aside the verdict of guilty; and dismissing the information, indictment, complaint, or citation against the applicant and vacating the judgment and sentence.

Summary: In any prosecution for prostitution, it is an affirmative defense that the actor committed the offense as a result of being a victim of trafficking, promoting prostitution in the first degree, or trafficking in persons under the Trafficking Victims Protection Act. Documentation that the defendant is named as a current victim in an information or the investigative records upon which a

conviction is obtained for trafficking, promoting prostitution in the first degree, or trafficking in persons creates a presumption that the person's participation in prostitution was a result of having been a victim of trafficking, promoting prostitution in the first degree, or trafficking in persons.

Every person convicted of prostitution, who committed the offense as a result of being a victim of trafficking, promoting prostitution in the first degree, or trafficking in persons under the Trafficking Victims Protection Act may apply to the sentencing court for vacation of the applicant's record of conviction for the prostitution offense. An applicant may not have the record of conviction for prostitution vacated if any one of the following is present:

1. there are any criminal charges against the applicant pending in any court of this state, another state, or in any federal court;
2. the offender has been convicted of another crime in this state, another state, or federal court since the date of conviction; or
3. the applicant has ever had the record of another prostitution conviction vacated.

Votes on Final Passage:

Senate	47	0
House	96	0

Effective: June 7, 2012

SB 6256

C 143 L 12

Adding commercial sexual abuse of a minor to the list of criminal street gang-related offenses.

By Senators Conway, Delvin, Roach, Chase, Kohl-Welles, Eide, Litzow, Fraser, Stevens, Pflug, Regala, Nelson, Keiser and Holmquist Newbry.

Senate Committee on Judiciary
House Committee on Public Safety & Emergency Preparedness

Background: A criminal street gang-related offense is defined as any felony or misdemeanor offense, whether in this state or elsewhere, that is committed for the benefit of, at the direction of, or in association with any criminal street gang, or is committed with the intent to promote, further or assist in any criminal conduct by the gang, or is committed for one or more of the following reasons: (1) to gain admission, prestige, or promotion within the gang; (2) to increase or maintain the gang's size, membership, prestige, dominance, or control in a geographical area; (3) to exact revenge or retribution for the gang or any member of the gang; (4) to obstruct justice, or intimidate or eliminate any witness against the gang or a member of the gang; (5) to cause any benefit, aggrandizement, gain, profit, or other advantage for the gang, its reputation, influence, or membership; or (6) to provide the gang with any advantage in, or any control or dominance over any criminal market sector, including, but not limited to drugs, arson, trafficking in stolen property, promoting prostitution, human trafficking, or promoting pornography.

Summary: Promoting commercial sexual abuse of a minor is added to the list of gang-related offenses that are committed to provide the gang with any advantage in or control or dominance over a market sector.

Votes on Final Passage:

Senate	49	0
House	97	0

Effective: June 7, 2012

ESB 6257

C 144 L 12

Addressing a sexually explicit act.

By Senators Roach, Conway, Swecker, Fraser, Pflug, Kohl-Welles, Eide, Delvin, Stevens, Padden, Regala, Chase, Tom, Kastama, Haugen, Litzow, Brown, Kline, Shin, Nelson and Keiser.

Senate Committee on Judiciary
House Committee on Public Safety & Emergency Preparedness

Background: A person is guilty of promoting commercial sexual abuse of a minor if the person knowingly advances commercial sexual abuse of a minor or profits from a minor engaged in sexual conduct. A person advances commercial sexual abuse of a minor if the person causes or aids a person to commit or engage in the abuse, procures or solicits customers for the abuse, provides the premises for the purposes of engaging in the abuse, operates or assists in the operation of a house or enterprise for the purposes of engaging in the abuse, or engages in any other conduct designed to institute, aid, cause, assist, or facilitate an act or enterprise of the abuse. Sexual conduct means sexual intercourse or contact. Promoting commercial sexual abuse of a minor is a class A felony.

A person is guilty of trafficking in the second degree when the person recruits, harbors, transports, transfers, provides, obtains, or receives by any means another person knowing that force, fraud, or coercion will be used to cause the person to engage in forced labor, involuntary servitude, or a commercial sex act or the person benefits financially by receiving anything of value from participation in a venture that has engaged in acts as set out above. A person is guilty of trafficking in the first degree when the person commits trafficking in the second degree and the acts, or venture as set out above, involve committing or attempting to commit kidnapping; a finding of sexual motivation; the illegal harvest or sale of human organs; or result in death. Trafficking in the first and second degrees are class A felonies.

Summary: Sexually explicit acts are added to the crimes of trafficking and commercial sexual abuse of a minor. A sexually explicit act, with regard to promoting the sexual abuse of a minor, is a public, private, or live; photographed, recorded, or videotaped act or show intended to arouse or satisfy the sexual desires or appeal to the prurient interests of patrons and for which something of value is given or received. A sexually explicit act, with regard to trafficking, is a public, private, or live; photographed, recorded, or videotaped act or show intended to arouse or satisfy the sexual desires or appeal to the prurient interests of patrons.

Definitions are provided for patron and advances a sexually explicit act of a minor.

Votes on Final Passage:

Senate	48	0	
House	96	0	(House amended)
Senate	49	0	(Senate concurred)

Effective: June 7, 2012

SSB 6258

C 145 L 12

Concerning unaccompanied persons.

By Senate Committee on Judiciary (originally sponsored by Senators Stevens, Carrell, Kohl-Welles, Fraser, Delvin, Regala and Roach).

Senate Committee on Judiciary
House Committee on Public Safety & Emergency Preparedness

Background: Negligent treatment or maltreatment means an act or a failure to act or the cumulative effects of a pattern of conduct, behavior, or inaction, that evidences a serious disregard of consequences of such magnitude as to constitute a clear and present danger to a child's health, welfare, or safety. When considering whether a clear and present danger exists, great weight will be given to evidence of a parent's substance abuse as a contributing factor to negligent treatment or maltreatment. The fact that siblings share a bedroom is not, in and of itself, negligent treatment or maltreatment. Poverty, homelessness, or exposure to domestic violence that is perpetrated against someone other than the child does not constitute negligent treatment or maltreatment in and of itself. Child or children means any person under the age of 18 years of age.

A person commits the crime of luring if the person orders, lures, or attempts to lure a minor or a person with a developmental disability into any area or structure that is obscured from or inaccessible to the public or into a motor vehicle; does not have the consent of the minor's parent or guardian or of the guardian of the person with a developmental disability; or is unknown to the child or developmentally disabled person.

It is a defense to luring, which the defendant must prove by a preponderance of the evidence, that the defendant's actions were reasonable under the circumstances and that the defendant did not have any intent to harm the health, safety, or welfare of the minor or the person with the developmental disability.

Luring is a class C felony, punishable by up to one year of confinement and/or a fine of up to $10,000.

Summary: A person commits the crime of luring if the person orders, lures, or attempts to lure a minor or a person with a developmental disability into any area or structure that is obscured from or inaccessible to the public, or away from any area or structure constituting a bus terminal, airport terminal, or other transportation terminal, or into a motor vehicle; does not have the consent of the minor's parent or guardian or of the guardian of the person with a developmental disability; or is unknown to the child or developmentally disabled person.

Votes on Final Passage:

Senate	48	0
House	96	0

Effective: January 1, 2013

2SSB 6263

PARTIAL VETO

C 252 L 12

Facilitating marine management planning.

By Senate Committee on Ways & Means (originally sponsored by Senators Ranker, Hargrove, Delvin, Litzow, Swecker, Rolfes, Schoesler, Kilmer, Fraser, Kohl-Welles, Hobbs and Hatfield).

Senate Committee on Energy, Natural Resources & Marine Waters
Senate Committee on Ways & Means
House Committee on Agriculture & Natural Resources
House Committee on General Government Appropriations & Oversight

Background: Marine Management Planning. In 2010 the Legislature passed SSB 6350, which established a process for marine management planning in Washington. The bill created the Marine Interagency Team (team), consisting of the Governor's Office and natural resources agencies with jurisdiction over marine issues. The team was initially tasked with, and has completed, an assessment of existing marine planning efforts in the state and a recommended framework for integrating marine spatial planning into management planning efforts.

Subject to federal, private, or other nonstate funding, the Legislature also directed the team to coordinate development of a comprehensive marine management plan for the state's marine waters. The team may develop the plan in geographic segments, and may incorporate elements from an existing plan. Elements of the plan include:

- an ecosystem assessment that analyzes the health and status of marine waters;
- a series of maps providing information on the marine ecosystem, human uses of marine waters, and areas with high potential for renewable energy production and low potential for conflicts with existing uses and sensitive environments;
- recommendations to the federal government for use priorities and limitations within the Exclusive Economic Zone; and
- a strategy for plan implementation using existing state and local authorities.

The team has two years to complete the plan once it initiates the planning process. In developing the plan, the team must seek input from specified stakeholders. The marine management plan may not affect any project, use, or activity existing prior to completion of the plan. Upon completion, the Director of the Department of Ecology must submit the plan to the federal government for review, approval, and inclusion in the state's Coastal Zone Management Plan.

The 2010 bill created a dedicated account, the Marine Resources Stewardship Trust Account (MRSTA), to fund marine management planning and associated activities.

Summary: Modifies Marine Management Planning Authorities. The statutes governing the marine management planning process are modified to:

- specifically authorize the team to develop the comprehensive marine management plan in geographic segments, moving forward with plans for geographic areas on different schedules;
- remove the requirement that the comprehensive marine management plan be completed within two years of the plan initiation; and
- remove the requirement that the availability of non-state funding be a prerequisite to initiating the comprehensive planning process and other specified relevant actions.

Until July 1, 2016, the permissible uses of funding from the MRSTA are temporarily narrowed to:

- ecosystem assessments and mapping activities, with a focus on those that relate to marine resource uses and the development of potential economic opportunities;
- development of a marine management plan for the outer coast; and
- coordination of regional marine waters planning activities.

Votes on Final Passage:

Senate	46	0	
House	90	7	(House amended)
Senate	49	0	(Senate concurred)

Effective: June 7, 2012

Partial Veto Summary: The Governor vetoed provisions of the act creating the Washington State Coastal Solutions Council (Council) in the Office of the Governor. The Council was to be composed of state agency representation and various stakeholders with an interest in coastal resource management. The Council was assigned a number of duties, including:

- serving as a forum for communication on coastal resource issues including fisheries, shellfish, and ocean energy;
- serving as an interagency resource for responding to coastal management issues;
- identifying funding opportunities for relevant programs and activities; and
- providing policy recommendations regarding coastal resource management issues.

VETO MESSAGE ON 2SSB 6263

March 30, 2012

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 5 and 6, Second Substitute Senate Bill 6263 entitled:

"AN ACT Relating to facilitating marine management planning."

Sections 5 and 6 of the bill would establish the membership and duties of a new Washington State Coastal Solutions Council. Among other duties, this Council would provide a forum to seek consistency in state, local, and tribal policies concerning coastal waters issues; engage other governments on behalf of the state; and provide policy recommendations to the governor, the Legislature, and state and local agencies on specific coastal waters resource management issues.

It is unclear how the Council would exercise these substantial duties in relation to the agencies with jurisdiction, which could participate only as nonvoting members. While the Council would be located within the Governor's Office, the Council would determine its own membership and be an autonomous body. As we look to regain our strength in the post-recession economy, now is not the time to be creating new state commissions. I remain committed to an efficient, lean government that will better serve the citizens of this state.

I fully agree with the legislative intent to directly engage our coastal communities and give them a stronger voice in shaping their future. To that purpose, I will assign a representative from my office to actively participate in the existing Coastal Advisory Board convened by the Department of Ecology.

For these reasons, I have vetoed Sections 5 and 6 of Second Substitute Senate Bill 6263.

With the exception of Sections 5 and 6, Second Substitute Senate Bill 6263 is approved.

Respectfully submitted,

Christine O. Gregoire

Christine O. Gregoire
Governor

SSB 6277
C 194 L 12

Creating authority for counties to exempt from property taxation new and rehabilitated multiple-unit dwellings in certain unincorporated urban centers.

By Senate Committee on Ways & Means (originally sponsored by Senators Conway, Becker, Kastama, Schoesler, Kilmer, Kohl-Welles and Regala).

Senate Committee on Financial Institutions, Housing & Insurance
Senate Committee on Ways & Means
House Committee on Ways & Means

Background: All real and personal property is subject to property tax each year based on its value, unless a specific exemption is provided by law.

The Legislature provided a property tax exemption for property associated with the construction, conversion, or rehabilitation of qualified, multi-unit, residential structures located in a targeted residential area contained in an urban growth center. The exemption does not apply to the value of land or nonhousing-related improvements or to increases in assessed valuation made on nonqualifying portions of the building or the value of the land. A property for which an application for a certificate of tax exemption is submitted after the effective date of the act may be eligible for an eight-year tax exemption. If the property owner commits to renting or selling at least 20 percent of units as affordable housing units to low- and moderate-income households, the property may be eligible for a 12-year exemption. In the case of properties intended exclusively for owner-occupancy, the state affordable housing requirement may be satisfied by providing 20 percent of units as affordable to moderate-income households. Cities may impose additional affordable housing requirements, limits, and conditions. Cities with a population of 5,000 or more are eligible to establish the target areas; smaller cities may participate if they are the largest city or town located in a county that is required to plan under the Growth Management Act.

Summary: The multi-unit housing exemption is also available in an urban center where the unincorporated population of a county is at least 350,000 and there are at least 1,200 students living on campus at an institute of higher education during the academic year, for example, the area surrounding Pacific Lutheran University. For any multi-unit housing located in an unincorporated area of a county, a property owner seeking tax incentives under this chapter must commit to renting or selling at least 20 percent of the multi-family housing units as affordable housing units to low- and moderate-income households.

Votes on Final Passage:

Senate	45	3	
House	68	30	(House amended)
Senate	42	6	(Senate concurred)

Effective: June 7, 2012

E2SSB 6284
C 82 L 12

Reforming Washington's approach to certain nonsafety civil traffic infractions by authorizing a civil collection process for unpaid traffic fines and removing the requirement for law enforcement intervention for the failure to appear and pay a traffic ticket.

By Senate Committee on Transportation (originally sponsored by Senators Kline, Harper, Litzow, Kohl-Welles, Keiser and Hargrove).

Senate Committee on Judiciary
Senate Committee on Transportation
House Committee on Judiciary
House Committee on Transportation

Background: The Department of Licensing (department) will suspend all driving privileges of a person when the department receives notice from a court that the person has failed to respond to a notice of traffic infraction, failed to appear at a requested hearing, violated a written promise to appear in court, or has failed to comply with the terms of a notice of traffic infraction or citation.

If a payment required to be made under a payment plan is delinquent, the court notifies the department of the person's failure to meet the conditions of the plan, and the department suspends the person's driver license until all monetary obligations have been paid and court authorized community restitution has been completed.

An applicant for an occupational license whose driver license is suspended for failure to respond, pay, or comply with a notice of traffic infraction or conviction must enter into a payment plan with the court.

Whenever any person served with a traffic citation willfully fails to appear for a scheduled court hearing, the court in which the defendant failed to appear gives notice of that fact to the department. When the case in which the defendant failed to appear is adjudicated, the court hearing the case files, with the department, a certificate showing that the case has been adjudicated.

Summary: Whenever any person served with a traffic citation willfully fails to respond to a notice of traffic infraction for a moving violation, fails to appear at a requested hearing for a moving violation, violates a written promise to appear in court for a notice of a moving violation, or fails to comply with the terms of a moving violation, the court in which the defendant failed to appear promptly gives notice to the department. Whenever the same happens for a non-moving violation, the court in which the defendant failed to appear is no longer required to give notice of such fact to the department.

Whenever a monetary penalty or other monetary obligation is imposed, it is immediately payable and is enforceable as a civil judgment. If a payment required to

be made under the payment plan is delinquent, the court may refer the unpaid monetary penalty or other monetary obligation for civil enforcement until all monetary obligations have been paid. For those infractions (moving violations) subject to suspension under the department's authority, the court notifies the department of the person's failure to meet the conditions of the plan and the department suspends the person's driver's license or driving privileges.

An applicant for an occupation license whose driver license is suspended for failure to respond, pay, or comply with a notice of traffic infraction or conviction, is no longer required to enter into a payment plan with the court.

The department in consultation with the Administrative Office of the Courts, must adopt and maintain rules, by November 1, 2012, that define a moving violation pursuant to Title 46 RCW. Upon adoption of these rules, the department must provide written notice to each of the following:

- affected parties;
- Chief Clerk of the House or Representatives;
- Secretary of the Senate;
- the Office of the Code Reviser; and
- anyone else deemed appropriate by the department.

Except for the section of the act pertaining to adopting and maintaining rules, the act takes effect June 1, 2013.

Votes on Final Passage:

Senate	35	11	
House	56	42	(House amended)
Senate			(Senate refused to concur)
House	69	29	(House receded)

Effective: June 7, 2012 (contingent)
June 1, 2013 (Sections 1-3 and 5)

SB 6289

C 40 L 12

Facilitating self-employment training.

By Senators Rolfes and Kastama.

Senate Committee on Economic Development, Trade & Innovation
House Committee on Labor & Workforce Development

Background: The Legislature authorized self-employment assistance programs in 2007. Individuals enrolled in self-employment assistance programs approved by the Commissioner of the Department of Employment Security (ESD) are eligible to continue receiving regular unemployment insurance benefits if they have been identified by ESD as likely to exhaust their regular unemployment insurance benefits. Enrollment in a self-employment assistance program satisfies the weekly work search requirement that an individual must meet to be eligible to receive weekly benefits.

Enrollment in a self-employment assistance program does not entitle the enrollee to any additional benefit payments. The Commissioner of ESD must approve the self-employment assistance programs. ESD is not obligated to expend any funds on providing the self-employment assistance programs. Persons completing a self-employment program may not directly compete with their former employer.

The 2007 act authorizing self-employment assistance programs expires July 1, 2012.

Also in 2007, the Legislature directed the Workforce Training and Education Coordinating Board to develop policy objectives for the federal Workforce Investment Act (WIA) and ensure that entrepreneurial training opportunities are available through programs of each local work force investment board in the state.

Summary: The expiration provision of the 2007 act authorizing self-employment assistance programs is repealed.

Individuals eligible for unemployment insurance benefits must be informed of the availability of self-employment assistance programs, entrepreneurial training programs, and Commissioner approved training. Provisions relating to direct competition with a former employer are removed. ESD must report to the Legislature by December 1, 2015, on the performance of the self-employment assistance program.

Individuals who are eligible for federal WIA services must have the opportunity to enroll in self-employment assistance or entrepreneurial training programs on the same basis as they are provided the opportunity to enroll in other training programs.

ESD is directed to work with local workforce development councils to facilitate entrepreneurial training. Local workforce development councils notify individuals of the availability of self-employment and entrepreneurial training and develop a plan for providing such training at a rate equal to demand or the rate of self-employment within their service area.

Votes on Final Passage:

Senate	48	0
House	65	31

Effective: June 7, 2012

SB 6290
C 45 L 12

Concerning military spouses or registered domestic partners occupational licensing status during deployment or placement outside Washington state.

By Senators Kilmer, Swecker, Conway, Shin, Rolfes and Chase; by request of Department of Veterans Affairs.

Senate Committee on Government Operations, Tribal Relations & Elections
House Committee on Health Care & Wellness
House Committee on Business & Financial Services

Background: The Department of Licensing (DOL) regulates certain businesses and professions. Each regulated business and profession has a separate set of laws and separate licensing requirements. Some businesses and professions are under the authority of the Director of the DOL while others are under a board or commission charged with regulating the particular business or profession.

Licensing requirements for professions vary considerably. Some licenses require college-level coursework and experience. Other professions might require an examination, a surety bond, minimum safety standards, or other requirements but do not require that the applicants have specific training or experience to be licensed.

Summary: Service in the United States Public Health Service Commissioned Corps is added to the service that qualifies for a moratorium on the expiration of a license for the Department of Health (DOH) and DOL licensees.

License moratoriums parallel to the moratoriums for service members are created for the spouse or registered domestic partner of a service member while the service member is deployed or stationed outside of the state. The licensed spouse or registered domestic partner status may have their license placed on inactive status until the service is ended.

DOH must return the license of the spouse or registered domestic partner of a service member to active status if the spouse or registered domestic partner:

- applies to activate a license within six months after returning to the state; and
- pays the current renewal fee.

The Director of DOL and the various boards and commissions may adopt rules to implement this act for DOL licenses.

Votes on Final Passage:

Senate	48	0
House	95	1

Effective: June 7, 2012

SSB 6295
C 34 L 12

Modifying certain exchange facilitator requirements and penalties.

By Senate Committee on Financial Institutions, Housing & Insurance (originally sponsored by Senator Morton).

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

Background: The Internal Revenue Code (26 U.S.C. 1031) (Code) provides that no gain or loss is recognized on the exchange of property held for productive use in a trade or business or for investment. A tax-deferred exchange is a method by which a property owner trades one or more relinquished properties for one or more like-kind replacement properties. This enables a property owner to defer the payment of federal income taxes on the transaction. If the replacement property is sold (as opposed to making another qualified exchange), the property owner must pay tax on the original deferred gain plus any additional gain realized since the purchase of the replacement property. Section 1031 of the Code does not apply to exchanges of inventory, stocks, bonds, notes, other securities or evidence of indebtedness, or certain other assets.

The 1031 exchanges require the assistance of an exchange facilitator (facilitator) or qualified intermediary. The facilitator holds proceeds from the sale of the original property until those funds are applied to the purchase of the replacement property. While in the possession of the facilitator, funds may be deposited in a financial institution or placed in another investment.

In 2009 the Legislature passed E2SHB 1078 to regulate the activities of facilitators, which was in response to their recent investment activities that resulted in significant asset losses to clients. Amongst other obligations, the Legislature required a facilitator to maintain a $1 million fidelity bond or deposit an equivalent amount of cash and securities into an interest-bearing or money market account; demonstrate compliance with the fidelity bond and insurance requirements if requested by a current or prospective client; and act as a custodian for all exchange funds, property, and other items received from the client. The Legislature also held a facilitator criminally and civilly liable for engaging in certain prohibited practices such as making false or misleading material statements; commingling of funds, except as allowed; and failing to make disclosures required by any applicable state or federal law.

Facilitators were required to submit a report on their activities to the Department of Financial Institutions (DFI) at the end of 2009, which was later submitted in a report to the Legislature by DFI.

Summary: A person engaged in the facilitator business must either maintain a fidelity bond for at least $1 million which covers the dishonest acts of employees and owners or deposit all exchange funds in a qualified escrow

account or qualified trust. The qualified escrow account or qualified trust must require the exchange facilitator and the client to independently authenticate a record of any withdrawal or transfer from the account. Exchange facilitators must provide a disclosure statement on the company website and the contractual agreement regarding the fidelity bond and qualified escrow account or trust. Additionally, exchange facilitators must disclose any financial benefits they may receive for recommending other products or services to clients.

A stakeholder taskforce, comprised of DFI, the Office of Insurance Commissioner, exchange facilitators, and title holders, must convene to identify effective regulatory procedures for the exchange facilitator industry and provide specific recommendations to the Legislature by December 1, 2012.

Failure to comply with these requirement is prima facie evidence that the facilitator intended to defraud a client who suffered a subsequent loss of assets entrusted to the facilitator. With limited exception, an exchange facilitator is guilty of a class B felony for noncompliance. A current client of a facilitator may receive treble damages and attorneys' fees as part of the damages awarded in a civil suit against the facilitator for violation of these requirements.

Votes on Final Passage:

Senate	49	0
House	97	0

Effective: June 7, 2012

ESB 6296

C 125 L 12

Modifying background check provisions.

By Senators Harper, Carrell and Shin; by request of Washington State Patrol.

Senate Committee on Human Services & Corrections
House Committee on Public Safety & Emergency Preparedness

Background: Individuals who seek to review their criminal history record are only entitled to an in-person review, and cannot keep a copy of their record.

A business, organization, or school district that conducts background checks under RCW 43.43 may receive only criminal history of convictions and pending charges which are less than a year old if the pending charges are crimes against persons. Businesses and organizations that conduct background checks under RCW 10.97 receive criminal history of convictions and all pending charges which are less than one year old.

Summary: Individuals may retain a copy of their personal nonconviction data information on file if the criminal justice agency has verified the identity of the person making the request. A criminal justice agency may impose additional restrictions, including fingerprinting, such as are reasonably necessary to assure the record's security and to verify the identity of the requester. The agency may charge a reasonable copying fee.

The definition of criminal history record under RCW 10.97 is clarified to exclude police incident reports.

An entity conducting a background check pursuant to RCW 10.97 may receive information about any incident that occurred within the last 12 months for which the person is currently being processed by the criminal justice system.

Votes on Final Passage:

Senate	45	2
House	98	0

Effective: June 7, 2012

SSB 6315

C 41 L 12

Concerning the fair tenant screening act.

By Senate Committee on Financial Institutions, Housing & Insurance (originally sponsored by Senators Frockt, Kohl-Welles, Kline, Chase, Keiser, Regala and Nelson).

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

Background: The Residential Landlord-Tenant Act (RLTA) regulates the creation of residential tenancies and the relationship between landlords and tenants of residential dwelling units.

Landlords may screen and evaluate potential tenants, either by conducting their own searches of public records or by using companies that provide consumer reports for use in screening tenants. RTLA provides that if a landlord uses a tenant screening service to obtain the report, only the landlord's cost may be charged to the tenant. The landlord's actual costs may be charged if the landlord conducts the screening.

A landlord may not charge a tenant for obtaining background information unless the landlord first notifies the tenant of what the tenant screening will entail, the tenant's right to dispute the information received by the landlord, and the name and address of the tenant screening service used by the landlord. A landlord is not required to disclose information to the tenant that was obtained from the screening process if that disclosure is not required by the federal Fair Credit Reporting Act (FCRA.)

The use of credit reports and consumer reports is regulated under both federal and state law. These laws require that consumer reporting agencies establish procedures to ensure that the information in consumer reports is accurate and is provided only for appropriate purposes. Certain outdated information is prohibited from appearing in a consumer credit report, including information relating

to suits or judgments, or criminal records, that are more than seven years old.

A person who takes an adverse action against a consumer based on a consumer report must provide notice to the consumer of the adverse action and the name of the consumer reporting agency that provided the report. A credit reporting agency must furnish a copy of the report to the consumer without charge if the consumer requests the report within 60 days of receipt of an adverse action based on the consumer report.

Summary: Prior to screening a prospective tenant, and in order to charge the prospective tenant for that screening, the prospective landlord must first notify the prospective tenant in writing, or by posting the following information:

- what types of information will be accessed to conduct the tenant screening;
- what criteria may result in the denial of the application; and
- the name and address of the consumer reporting agency, if used; and
- the prospective tenant's right to obtain a free copy of the consumer report in the event of an adverse action and to dispute the accuracy of information in the consumer report.

If an adverse action is taken, the prospective landlord must provide this information to the prospective tenant in writing, in a form substantially similar to the one prescribed by statute. If the adverse action is based on information received from a consumer report, the contact information of the consumer reporting agency is to be provided.

A stakeholder workgroup comprised of landlords, tenant advocates, and representatives of consumer reporting and tenant screening companies convenes for the purposes of addressing the issues of tenant screening including, but not limited to:

- a tenant's cost of obtaining a tenant screening report;
- the portability of tenant screening reports;
- criteria used to evaluate a prospective tenant's background, including which court records may or may not be considered; and
- the regulation of tenant screening services.

Specific recommendations on these issues are due to the Legislature by December 1, 2012.

The FCRA is amended to remove information regarding adverse actions involving an application for the rental of residential real estate.

Votes on Final Passage:

Senate	46	0
House	81	16

Effective: June 7, 2012

SSB 6325

C 126 L 12

Exempting common interest community managers from real estate broker and managing broker licensing requirements.

By Senate Committee on Labor, Commerce & Consumer Protection (originally sponsored by Senators Holmquist Newbry, Kohl-Welles and Tom).

Senate Committee on Labor, Commerce & Consumer Protection
House Committee on Business & Financial Services

Background: Individuals seeking to offer real estate brokerage services must obtain the appropriate real estate broker, managing broker, designated broker, or real estate firm license from the Department of Licensing. Real estate brokerage services are defined in statute and are generally those services involved in the selling or purchasing of real property. Several groups are exempt from the licensing requirements, including, with some qualifications: public employees involved in eminent domain actions; persons providing referrals to licensees; certified public accountants; title or escrow companies or agents; investment counselors; and certain persons employed by an owner or on behalf of a designated or managing broker.

Summary: Common interest community managers are exempt from the real estate brokers and salespersons licensing requirements. Common interest community managers are individuals who provide management or financial services in an advisory capacity to associations governed by the Horizontal Property Regimes Act, the Condominium Act, or the statutes regulating homeowners' associations. The exemption applies only to common interest community managers who do not promote the purchase, listing, sale, exchange, optioning, leasing, or renting of a specific real property interest.

Votes on Final Passage:

Senate	47	0
House	96	0

Effective: June 7, 2012

SSB 6328

C 58 L 12

Authorizing creation of a retired active license for mental health professionals.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Conway, Hargrove, Regala, Harper, Stevens and McAuliffe).

Senate Committee on Human Services & Corrections
House Committee on Health Care & Wellness

Background: The Department of Health (DOH) licenses practitioners in the fields of mental health counseling,

marriage and family therapy, and social work. The license framework provides for competency requirements, disciplinary procedures, continuing education requirements, and a licensing fee.

A retired active license is a license from DOH which permits a health care professional to practice in emergent or intermittent circumstances for a reduced license renewal fee. Emergent or intermittent circumstances are defined by rule to mean practice for no more than 90 days each year or practice during emergency circumstances such as earthquakes, floods, times of declared war, or other states of emergency. The holder of such a license must meet continuing education or competency requirements established by the disciplinary authority.

No specific rules exist currently that would permit a retired active license to be issued for a mental health counselor, marriage and family therapist, or social worker. DOH has recently refused requests to promulgate such rules based on a declared moratorium on new rulemaking.

Summary: DOH must promulgate rules relating to issuance of a retired active license to any mental health counselor, marriage and family therapist, advanced social worker, or independent social worker.

Votes on Final Passage:

Senate	45	1	
House	96	0	(House amended)
Senate	48	0	(Senate concurred)

Effective: June 7, 2012

SSB 6354

C 127 L 12

Requiring state agencies to offer electronic filing for business forms.

By Senate Committee on Economic Development, Trade & Innovation (originally sponsored by Senators Rolfes, Kastama, Chase, Tom, Frockt and McAuliffe).

Senate Committee on Economic Development, Trade & Innovation

House Committee on State Government & Tribal Affairs

Background: The Business License Service (BLS), within the Department of Revenue, provides a single location where businesses may apply for a master license incorporating separate licenses issued by different state agencies. Presently over 100 state licenses, 200 state endorsements, and 70 city licenses are available via BLS. BLS provisions do not apply to certain regulated business and professional activities including those regulated under the Consumer Loan Act, credit unions, banks and trust companies, mutual savings banks, savings and loan associations, and those regulated under the insurance statutes.

In addition to licensure requirements, there are also agency specific documents, forms, and fees that a business must take notice of and timely satisfy. Currently agencies are not required by statute to provide businesses with an electronic option for completing such materials.

Summary: A state agency that requires a business to submit a document, form, or payment of fee in paper format must, with limited exceptions, provide the business with an option to submit such materials electronically. Unless otherwise obligated, a business may authorize a second party to submit such filing requirements on its behalf.

Exceptions to the electronic filing requirement apply where there is a legal requirement for materials to be submitted in paper format or when it is not technically or fiscally feasible or practical or in the best interest of businesses for such materials to be submitted electronically.

If applicable, the director of an agency or the director's designee must, within existing resources, establish and maintain a process to notify the public as to what materials have been exempt from electronic filing.

Agencies must add the capability for electronic submissions of existing documents, forms, and fees as part of their normal operations. In addition, any new documents, forms, or fees required of a business must be capable of electronic submission within a reasonable time following either their creation or the implementation of the new requirement.

Agencies must document how they plan to transition from paper to electronic forms.

Votes on Final Passage:

Senate	47	0	
House	92	4	(House amended)
Senate	48	0	(Senate concurred)

Effective: June 7, 2012

ESSB 6355

C 195 L 12

Concerning associate development organizations.

By Senate Committee on Economic Development, Trade & Innovation (originally sponsored by Senators Rolfes, Kastama and Chase).

Senate Committee on Economic Development, Trade & Innovation

House Committee on Community & Economic Development & Housing

Background: The Department of Commerce (Commerce) works with businesses to facilitate resolution of siting, regulatory, expansion, and retention problems.

Associate development organizations (ADOs) are local organizations designated by each county to serve as Commerce's primary partner in local economic development activities in their county. ADOs deliver direct assistance to companies, and support research, planning, and

implementation of regional and local economic development strategies.

Commerce currently contracts with 34 ADOs serving the 39 counties in Washington. ADOs are required to work with businesses on site location and selection assistance and provide business retention and expansion services. The ADOs are required to submit annual performance reports to Commerce.

In 2011 the Legislature passed HB 1916 to improve the business services delivered by ADOs. To realize such business service improvements, the Legislature required Commerce to establish protocols to be followed by ADOs and Commerce staff for the recruitment and retention of businesses, including protocols relating to the sharing of information between the two entities; and train ADOs in export assistance.

Additionally, the Legislature required ADOs to provide or facilitate export assistance through workshops or one-on-one assistance, provide business-related assistance, and work with partners throughout the county in which they operate.

Summary: The ADOs must meet and share best practices with each other at least twice annually.

In their annual reports to Commerce, ADOs must provide a summary of best practices shared and implemented, employment and economic information on the community or regional area they are serving, and the amount of funding received. Annual reports may also include information on the impact of the contracting organization on wages, exports, tax revenue, small business creation, foreign direct investment, business relocations, expansions, terminations, and capital investment.

Data standards and data definitions must now be developed during the contracting process that takes place between Commerce and ADOs every two years. The Washington Economic Development Commission (Commission) is included in the contracting process.

Innovation Partnership Zones are included in the list of appropriate partners for ADOs to work with when providing assistance to businesses. The ADOs must provide business retention and expansion services that include, but are not limited to:

- assisting trade impacted businesses apply for grants from the federal trade adjustment assistance for firms program;
- identifying resources available for microenterprise development;
- locating resources available on the revitalization of commercial districts; and
- finding opportunities to maintain jobs through shared work programs authorized under statute.

The ADOs must also use a web-based information system to track data on business recruitment, retention, expansion, and trade. The support that ADOs provide for research and planning efforts should be aligned with the Commission's statewide economic development strategy. Regional ADOs retain their independence to address local concerns and goals.

ADOs must provide Commerce with specific performance measures in order for Commerce to analyze their impacts on employment and overall changes in employment. The performance measures include current employment and economic information for the community or regional area produced by the Employment Security Department (ESD); the net change from the previous year's employment and economic information using data produced by ESD; other relevant information on the community or regional area; the amount of funds received by the contracting organization through its contract with Commerce; the amount of funds received by the contracting organizations through all sources; and the contracting organization's impact on employment through all funding sources.

The Commission must consult with ADOs in developing the statewide economic development strategy and include information it requests from the ADOs in its progress report. The ADOs must provide the Commission with information to be used in the statewide economic development strategy and progress report. The Commission is permitted to include recommendations for ADOs in the progress report or statewide economic development strategy.

Commerce must submit a preliminary report on ADOs to the Commission by September 1 of each even-numbered year.

Current responsibilities of Commerce and ADOs are reorganized to add clarity.

Votes on Final Passage:

Senate	46	0	
House	83	15	(House amended)
Senate	44	2	(Senate concurred)

Effective: June 7, 2012

SSB 6359

C 196 L 12

Modifying provisions related to the office of regulatory assistance.

By Senate Committee on Economic Development, Trade & Innovation (originally sponsored by Senators Eide, Kastama, Kilmer and McAuliffe).

Senate Committee on Economic Development, Trade & Innovation
House Committee on State Government & Tribal Affairs
House Committee on General Government Appropriations & Oversight

Background: The Washington State Office of Regulatory Assistance (ORA) was created in the Office of Financial Management in 2003. In 2009 the Legislature

substantially changed ORA's statute, providing for gubernatorial appointment of the Director, re-stating ORA's purpose, and increasing the scope of its work. ORA seeks to improve the function of environmental and business regulatory processes by identifying conflicts and overlaps in the state's rules, statutes, and operational practices.

ORA provides a variety of services, including acting as the central point of contact and coordination for project proponents, conducting project scoping, and assisting in conflict resolution. The ORA is to assist local jurisdictions with their local project review requirements, report biennially on performance, and provide biennial recommendations on system improvements.

Summary: ORA must provide information to local jurisdictions concerning best permitting practices, methods for improving early communication with state agencies, and effective ways to assess and communicate project timelines and costs.

ORA's biennial performance report must include the number and type of projects or initiatives the office assisted and the key agencies it collaborated with; specific information regarding difficulties encountered in providing services or implementing programs; trend reports comparing statements of goals and performance targets to actual achievements; and system improvement recommendations, including but not limited to, recommendations on how to reduce both the time and cost of the environmental permitting process.

ORA may require a state or local agency to attend a project scoping meeting in order to identify the relevant issues and information needs of a permit applicant.

The following applies to a project under a cost-reimbursement agreement:

- the agreement must require ORA, the permit applicant, and participating agencies to develop and update a project work plan that ORA must post online and share with each party to the agreement;
- the agreement must identify the proposed project, the desired outcomes, and maximum cost for work under the agreement;
- each agency participating in the agreement must give priority to the project without reducing or eliminating any regulatory requirements during the review process;
- reasonable reimbursement cost is either determined based on time and materials with a contract maximum or a flat rate based on required staffing hours;
- the agreement may include deliverables and schedules for invoicing and reimbursements; and
- advance payment may be required for some or all of the cost-reimbursement agreement; the release of payments to the participating agencies is held until the invoice is approved by the permit applicant.

Upon request, ORA must verify whether the agencies have met the obligations contained in the project work plan and cost-reimbursement agreement. Notification and an explanation must be given to ORA if any party is unable to meet its obligations under the agreement. ORA must notify all parties to the agreement and work collaboratively to resolve the issue.

All cost-reimbursement agreement and solicitation receipts must be deposited into the multiagency permitting team account. Expenditures from the account may only be used for administrative purposes of the multiagency permitting teams including staffing, consultant, technology, and other administrative costs.

A certification process is established for local level permitting. ORA must, within available funds, work with local jurisdictions to establish criteria and the process for certifying a permit process as streamlined. Once certified, a local jurisdiction receives priority when applying for state infrastructure funding.

Votes on Final Passage:

Senate	36	12	
House	58	38	(House amended)
Senate	40	9	(Senate concurred)

Effective: June 7, 2012

SSB 6371

C 46 L 12

Extending the customized employment training program.

By Senate Committee on Ways & Means (originally sponsored by Senators Shin, Benton, Chase, Haugen, Kilmer, Delvin, Hatfield, Schoesler, Becker, McAuliffe and Conway).

Senate Committee on Economic Development, Trade & Innovation
Senate Committee on Ways & Means
House Committee on Ways & Means

Background: The Washington Customized Employment Workforce Training Program (Program) was created in 2006 for employers locating or expanding in the state. The State Board for Community and Technical Colleges (SBCTC) administers the Program. Training allowances are awarded to employers who have entered into training agreements with colleges in the state. Preference in granting training allowances is given to employers with fewer than 50 employees.

The Employment Training Finance Account was funded for SBCTC to provide training allowances. At the completion of training, employers are required to pay one-quarter of the cost of the training into the account. The additional three-quarters of the cost are to be paid into the account over the following 18 months. A business and occupation tax credit is provided to employers for half of the amount that they pay into the account for employee

training. The credit for paying back the training allowance is no longer allowed on or after July, 1, 2016.

The employer must make good faith efforts to hire from trainees in the Program, otherwise the employer is expected to make additional payments to the account. Colleges must make good faith efforts to use trainers preferred by employers participating in the Program.

The Program expires on July 1, 2012.

Summary: The expiration date of the Washington Customized Employment Workforce Training Program is extended five years until 2017. The expiration date of the business and occupation tax credit is extended five years until 2021.

Votes on Final Passage:

Senate	47	0
House	95	1

Effective: June 7, 2012

2ESB 6378

C 7 L 12 E 1

Reforming the state retirement plans.

By Senators Zarelli, Baumgartner, Parlette, Hill and Tom.

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

Background: The Public Employees' Retirement System (PERS) provides benefits for all regularly compensated public employees and appointed officials unless they fall under a specific exemption from membership, such as qualification for another of the state retirement systems. Other, more specialized state retirement plans include: the Teachers' Retirement System (TRS), which provides retirement benefits for certificated instructional staff of public schools; the School Employees' Retirement System (SERS), which covers classified school employees; and the Public Safety Employees' Retirement System (PSERS) which provides benefits for employees with law enforcement duties who are not eligible for membership in the Law Enforcement Officers' and Fire Fighters' Retirement System (LEOFF).

PERS and TRS Plan 1 are defined benefit plans that provide a retirement allowance based on 2 percent of final average salary for each year of service. Members of Plan 1 are eligible to retire at any age with 30 or more years of service, from age 55 with at least 25 years of service, or from age 60 with at least 5 years of service. To fund the defined benefit, members of Plan 1 contribute to the plans at a fixed rate of 6 percent of pay, while employers make contributions at the same PERS or TRS employer rates as in Plan 2 and Plan 3.

PERS and TRS Plans 1 were closed to new members on October 1, 1977. Any member of PERS or TRS who first established membership after the Plans 1 were closed belongs to either Plan 2 or Plan 3, as do all members of SERS. A new member has a window of 90 days after being hired to choose between Plan 2 and Plan 3. New members who fail to choose a plan are automatically enrolled in Plan 3.

PERS, TRS, and SERS Plans 2 are defined benefit plans that provide a retirement allowance based on 2 percent of final average salary for each year of service, with a normal retirement age of 65 with 5 years of service. Contributions for the plan vary from year to year with actuarial requirements, are divided equally between employers and employees, and are each paid into the defined benefit pension fund for purposes of supporting the defined benefits at retirement.

PERS, TRS, and SERS Plans 3 are hybrid defined-benefit and defined-contribution retirement plans. Employer contributions support a defined benefit of 1 percent of final average salary for each year of service, with a normal retirement age of 65. Employee contributions are made to an individual defined contribution account. The employee's contribution rate is selected by the employee during a period following each term of employment, and is fixed for the duration of the employment relationship. Employee contributions vary between 5 percent and 15 percent of pay, and there are a variety of investment options available for members, including participation in the same combined investment fund used for the defined benefit plans.

Early retirement with a reduced benefit is available in PERS, TRS, and SERS Plans 2 and 3 for members with at least 20 years but fewer than 30 years of service credit. The retirement allowance of a member of PERS, TRS, or SERS who retires early is reduced to reflect the full actuarial cost to the retirement system of the early retirement.

An alternative early retirement option with a reduced penalty was created in 2000 for members of PERS, TRS, and SERS who have at least 30 years of service. The retirement allowance of a member who retires under the alternative early retirement provisions is reduced by 3 percent for each year of difference between the member's age at retirement and age 65. The alternative early retirement option was enhanced in 2007 when the Legislature repealed the gain-sharing benefits that had been provided in PERS, TRS, and SERS. Under the enhanced provisions for alternative early retirement, a member with at least 30 years of service credit can retire as early as age 62 without a benefit reduction. Additionally, the benefit reduction for members retiring before age 62 is reduced to 2 percent for the first year before age 62 and 3 percent for each additional year, up to a 20 percent reduction for retirement at 55 years of age. The monthly retirement allowance of a member opting for an enhanced alternative early retirement will be reduced or suspended if the member returns to work for a retirement system eligible employer before reaching age 65.

By statute, a member does not have a contractual right to retire under the 2007 enhanced alternative retirement provisions. If the repeal of gain-sharing were held to be

invalid in a final determination of the courts of law, any member who has not yet retired with an enhanced alternative early retirement benefit would lose the option to do so. In that case, the standard alternative early retirement option would still be available to members.

While the state retirement plans that are currently open to new members (Plans 2 and 3) are currently fully funded, unfunded accrued actuarial liabilities (UAALs) exist in both PERS 1 and TRS 1. This means that the value of the plan liabilities, in the form of members' earned benefits to date, exceed the value of the plan assets. As of the most recent actuarial valuation, the UAAL for PERS 1 is $3.2 billion and the UAAL for TRS 1 is $1.4 billion. In order to fund the Plan 1 UAALs, additional employer contributions are collected. The Plan 1 UAAL contribution rates are set at the levels required to amortize the UAALs over a rolling 10-year period, subject to minimum contribution rates of 5.25 percent of pay in PERS, SERS, and PSERS and 8 percent of pay in TRS. The Plan 1 UAAL contributions collected in TRS are also subject to temporary rate caps of: 6.50 percent in Fiscal Year 2012, 7.50 percent in Fiscal Year 2013, 8.50 percent in Fiscal Year 2014, and 9.50 percent in Fiscal Year 2015. The Plan 1 UAAL contributions collected in PERS, SERS, and PSERS, which go towards the PERS 1 unfunded liability, are subject to temporary rate caps of: 3.75 percent in Fiscal Year 2012, 4.50 percent in Fiscal Year 2013, 5.25 percent in Fiscal Year 2014, and 6.00 percent in Fiscal Year 2015. Current projections for the Plan 1 UAAL rates in Fiscal Years 2013 and 2014 are below the statutory maximum rates, at 3.80 percent in TRS and 3.53 percent in PERS, SERS, and PSERS.

Summary: Members of PERS, TRS, and SERS who first establish membership after April 30, 2013, are ineligible for the alternative early retirement and enhanced early retirement options. A member joining on or after May 1, 2013, who has at least 30 years of service credit may retire early beginning at age 55, however the retirement allowance of a member choosing to do so will be reduced by 5 percent for each year of difference between the member's age at retirement and age 65.

The assumed rate of return on pension fund investments for the purpose of calculating retirement system contribution rates is reduced from the current 8 percent to 7.9 percent effective July 1, 2013, to 7.8 percent effective July 1, 2015, and then to 7.7 percent effective July 1, 2017. By June 1, 2017, the State Actuary must submit a report to the Pension Funding Council describing the financial condition of the state retirement systems and recommending a long-term investment return assumption.

The Select Committee on Pension Policy (SCPP) and the Department of Labor and Industries (L&I) are directed to study the range of job classifications covered by the state retirement systems to identify positions that entail high levels of physical or psychological risk. The SCPP, with the assistance of the Office of the Superintendent of Public Instruction (OSPI), must also study the job requirements for classroom employees that may limit the effectiveness of older employees. No later than December 15, 2012, the SCPP must submit a report to the fiscal committees of the Legislature evaluating the appropriateness of enrolling certain employee groups in the Public Safety Employees' Retirement System (PSERS) and the creation of other early retirement options within TRS.

Votes on Final Passage:

Senate	25	24
First Special Session		
Senate	27	22
House	56	42

Effective: July 10, 2012

ESSB 6383

C 155 L 12

Regarding Washington interscholastic activities association penalties.

By Senate Committee on Government Operations, Tribal Relations & Elections (originally sponsored by Senators Benton, Eide, Schoesler, Kohl-Welles, Chase, Padden, Stevens, Hobbs, Pflug, Hargrove, Harper, McAuliffe, Prentice, Shin, Fraser, Fain, Hill, Baumgartner, Nelson, Swecker, Holmquist Newbry, Kline, Hatfield, Becker, Conway, Hewitt, King, Parlette, Ranker, Litzow, Zarelli, Ericksen, Morton and Honeyford).

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

Background: The Washington Interscholastic Activities Association (WIAA) is a private, nonprofit service organization and rule-making body formed in 1905 to create equitable playing conditions between high school sports teams in Washington. The WIAA consists of nearly 800 member high schools and middle/junior high schools, both public and private, and is divided into nine geographic service districts. The WIAA staff administers WIAA policies, rules and regulations and provides other assistance and service to member schools.

The WIAA oversees athletics and fine arts in Washington State and hosts 83 WIAA state championship events.

The WIAA does not receive any funding from tax dollars nor does it receive any financial support from the state. The WIAA is funded primarily through ticket sales for state tournaments and other events. Additional funding is derived from sponsorships, membership fees, and a percentage of merchandise sales and other items.

The purpose of the WIAA is to plan, supervise, and administer interscholastic activities approved and delegated by school districts' board of directors.

Summary: The WIAA or other voluntary nonprofit entity is authorized to impose penalties for rule violations upon coaches, school district administrators, school administrations, and students, as appropriate, to punish the offending party or parties.

No penalty may be imposed on a student or students unless the student or students knowingly violated the rules, or unless a student gained a significant competitive advantage or materially disadvantaged another student through a rule violation.

Any penalty that is imposed for rule violations must be proportional to the offense.

Any decision resulting in a penalty must be considered a decision of the school district conducting the activity in which the student seeks to participate or was participating and may be appealed.

The school districts, the WIAA districts, and leagues that participate in interschool extracurricular activities must not impose more severe penalties for rule violations than can be imposed by the rules of the WIAA or the voluntary nonprofit entity.

Any penalty that is imposed by the WIAA Appeals Committee must be proportional to the offense and must be imposed upon only the offending individual or individuals, including coaches, school district administrators, school administrations, and students.

If a matter is appealed to the executive board of the WIAA (executive board), the executive board must conduct a de novo review of the matter before making a decision. Any penalty or sanction that is imposed by the executive board must be proportional to the offense and must be imposed upon only the offending individual or individuals. Should a school violate a WIAA rule, that violation does not automatically remove the school's team from post-season competition. Penalties levied against coaches and school programs must be considered before removing a team from post-season competition. Removal of a team from post-season competition must be the last option. If a rule violation is reported ten days prior to post-season play, the only review must be conducted by the executive board so that a decision can be rendered in a timely manner. The executive board must take all possible actions to render a decision prior to the beginning of post-season play.

Votes on Final Passage:

Senate	45	1	
House	67	31	(House amended)
Senate	47	1	(Senate concurred)

Effective: June 7, 2012

SSB 6384

C 49 L 12

Ensuring that persons with developmental disabilities be given the opportunity to transition to a community access program after enrollment in an employment program.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Parlette, Murray, Keiser, Fraser, Carrell, Kline, Pridemore, Frockt, Delvin, Harper, Fain, Honeyford, Benton, Hobbs, Hewitt, Shin, Regala, McAuliffe, Conway, Kohl-Welles, Roach, Haugen and Nelson).

Senate Committee on Health & Long-Term Care
House Committee on Early Learning & Human Services

Background: The Department of Social and Health Services' (DSHS) Division of Developmental Disabilities (DDD) assists individuals with developmental disabilities and their families to obtain services and support based on individual preference, capabilities, and needs, which promote everyday activities, routines, and relationships common to most citizens. DDD provides individuals with a variety of services, including employment services and community access services, which are contracted with counties. Employment services provide ongoing support services and training for eligible persons with paid jobs in a variety of settings and work sites. These include individual supported employment, group supported employment, and prevocational services. Community access services assist individuals to participate in activities that promote individualized skill development, independent living, and community integration. Activities must provide individuals with opportunities to develop personal relationships with others in their local communities and to learn, practice, and apply life skills that promote greater independence and community inclusion.

Home and Community Based Services (HCBS) Waivers are designed to allow the provision of certain services to clients in community settings. DDD offers services under five Medicaid HCBS waivers. To be eligible for a HCBS waiver, the individual must be a DDD client; have a disability according to criteria established in the Social Security Act; have countable income that does not exceed 300 percent of the Social Security Income federal benefit standard and countable resources that do not exceed $2,000 or be in the Health Care for Workers with Disabilities program; need the level of care provided in an Intermediate Care Facility for Individuals with Intellectual Disabilities; have an Individual Support Plan showing how the individual's health, safety, and habilitation needs can be met in the community with a monthly waiver service; and have agreed to accept home and community-based services as an alternative to institutional services.

Summary: DDD clients who are receiving employment services must be offered the choice to transition to a community access program after nine months of enrollment in an employment program and the option to transition from

a community access program to an employment program at any time. Prior approval by DSHS is not needed when transferring a client from employment to community access services. DDD clients must be informed of their service options, including the opportunity to request an exception from enrollment in an employment program. DSHS must work with counties and stakeholders to strengthen and expand the existing community access program, including the consideration of options that allow for alternative service settings outside the client's residence. The program should emphasize support for clients so they are able to participate in activities that integrate them into their community and support independent living and skills. DSHS is to adopt rules allowing for an exception to the requirement that a client participate in an employment program for nine months prior to transitioning to a community access program.

Votes on Final Passage:

Senate	44	0	
House	98	0	(House amended)
Senate	49	0	(Senate concurred)

Effective: June 7, 2012

SB 6385
C 128 L 12

Extending the tenure of the habitat and recreation lands coordinating group.

By Senators Parlette, Fraser, Morton, Ranker and Shin.

Senate Committee on Energy, Natural Resources & Marine Waters
House Committee on Agriculture & Natural Resources

Background: The Recreation and Conservation Office (RCO) Generally. The RCO administers a number of grant and policy programs relating to natural resource conservation and outdoor recreation. These programs include the Recreation and Conservation Funding Board (RCFB); the Salmon Recovery Funding Board; the Governor's Salmon Recovery Office; the Invasive Species Council; as well as the Habitat and Recreational Land Coordinating Group. The Director of RCO is appointed by and serves at the pleasure of the Governor. However, the Governor must select the director from among nominations submitted by the RCFB.

The Role of the Habitat and Recreation Lands Coordinating Group (Lands Group). In 2007 the Legislature established the Lands Group consisting of:

- the Interagency Committee for Outdoor Recreation, which administratively houses and Lands Group and has since become the RCO;
- the State Parks and Recreation Commission;
- the Department of Natural Resources;
- the Department of Fish and Wildlife; and
- representatives of appropriate stakeholder groups invited to participate by the Director of RCO.

The statutory duties of the Lands Group include:

- reviewing agency land acquisition and disposal plans to help ensure statewide coordination;
- producing a forecast of land acquisition and disposal plans;
- convening an annual forum for agencies to coordinate near term acquisition and disposal plans;
- developing recommendations for geographic information systems mapping and acquisition and disposal recordkeeping; and
- developing an approach for monitoring the success of acquisitions.

The Lands Group is set to expire July 31, 2012.

Summary: The bill extends the Lands Group through July 31, 2017. In addition, the bill:

- directs the Lands Group to prioritize specified activities if it does not have the resources to fulfill all of its statutory duties;
- directs the Lands Group, prior January 1, 2017, to make recommendations on whether it should be continued beyond July 31, 2017;
- modifies statute to recognize the name change of the Interagency Committee for Outdoor Recreation to the RCO; and
- directs natural resources land management agencies to participate in the Lands Group within existing resources.

Votes on Final Passage:

Senate	45	3
House	95	3

Effective: June 7, 2012

SSB 6386
C 253 L 12

Enacting measures to reduce public assistance fraud.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Carrell, Becker, Zarelli, Hargrove, Delvin, Schoesler, Honeyford and Keiser).

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

Background: For purposes of receiving public assistance benefits, only the recipient or the recipient's authorized representative may use an electronic benefits transfer (EBT) card or EBT card benefits, and the use may only be for the respective benefit purposes. The recipient may not sell, or attempt to sell, exchange, or donate an EBT card or any benefits to any other person or entity. The first violation on the use of an EBT card is a class 4 civil infraction

under RCW 7.80.120. Second and subsequent violations constitute a class 3 civil infraction.

In 2011 the Office of Fraud and Accountability (OFA) was established in the Department of Social and Health Services (DSHS) to detect, investigate, and prosecute any act that constitutes fraud or abuse in the public assistance programs administered by DSHS, except for Medicaid and other medical programs. OFA is to conduct independent investigations into allegations of fraud and abuse, recommend policies, procedures, and best practices designed to detect and prevent fraud and abuse, analyze cost effective, best practice alternatives to the current cash benefit delivery system, and use best practices to determine the appropriate use and deployment of investigative resources. No later than December 31, 2011, OFA is to report to the Legislature on the development of the office, identification of any barriers to meeting the stated goals of OFA, and recommendations for improvement to the system and laws related to the prevention, detection and prosecution of fraud and abuse in public assistance programs.

On January 3, 2012, OFA issued its report on the development of its office. One of the barriers to meeting the stated OFA goals identified in the report was investigator's access to child care records when conducting a fraud investigation. Both the State Auditor and OFA have recommended that fraud investigators be provided immediate access to child care records, especially attendance records.

Summary: No member of a recipient's family may use the recipient's EBT card unless the recipient's family member is an eligible member of the household, has been designated as the recipient's authorized family member, is an alternative cardholder, or has been assigned as a protective payee.

In assigning a personal identification number (PIN) to an EBT card, DSHS is not prohibited from using a sequence of numbers that appear on an EBT card as the PIN for that card, but is prohibited from doing so routinely, except in circumstances of an in-state or national disaster.

Possessing or being in control of EBT cards in the name of two or more persons is a misdemeanor when the person in possession of the cards does not have authorization from the persons in whose names the cards were issued.

The statutory provision requiring applicants and recipients of subsidized child care to seek child support enforcement services as a condition of receiving subsidized child care is removed.

An OFA investigator must have access to all original child-care records maintained by licensed and unlicensed child care providers if the investigator has the consent of the provider, a court order allowing access, or a valid search warrant.

Votes on Final Passage:

Senate	45	2	
House	97	0	(House amended)
Senate	49	0	(Senate concurred)

Effective: June 7, 2012

SSB 6387
C 262 L 12

Concerning state parks, recreation, and natural resources fiscal matters.

By Senate Committee on Energy, Natural Resources & Marine Waters (originally sponsored by Senator Ranker).

Senate Committee on Energy, Natural Resources & Marine Waters
Senate Committee on Ways & Means
House Committee on General Government Appropriations & Oversight

Background: The State Parks and Recreation Commission (SPRC). The Legislature has charged SPRC with care and control over lands set aside for park purposes, including approximately 120 developed parks. Statutes provide SPRC with broad policy and rulemaking authority over management of the state's park system. Other SPRC responsibilities include recreational boater safety and education and winter recreation.

Discover Pass Program. During the 2011 regular session, the Legislature passed 2SSB 5622 which generally requires an annual Discover Pass or day-use permit for access to certain recreation lands managed by SPRC, Department of Natural Resources (DNR), and Department of Fish & Wildlife (DFW). The legislation also created a DFW Vehicle Access Pass, which is issued along with certain hunting and fishing licenses and allows access to DFW managed lands. Revenues from the Discover Pass are deposited in the Recreation Access Pass Account (RAPA) and distributed to SPRC, DNR, and DFW according to a statutory formula.

Penalties from Discover Pass Violations. The failure to comply with the Discover or DFW Vehicle Access Pass requirement is a natural resources infraction. The penalty is $99, but is reduced to $59 if an individual purchases a Discover Pass within 15 days of issuance of a notice of violation. District courts have jurisdiction over natural resources infractions, including Discover Pass-related violations. Generally, 32 percent of fines assessed or collected through a district court are provided to the state for deposit in the state General Fund, while the remainder is retained by the county. All fines assessed and collected for county parking infractions are retained by the county.

Summary: Shifts the Disposition of Discover Pass Penalties. A county treasurer must provide monies received as a result of the failure to comply with a Discover or DFW Vehicle Access Pass requirement to the state, for deposit in RAPA.

Votes on Final Passage:

Senate	42	6
House	59	39

Effective: June 7, 2012

SSB 6403
C 156 L 12

Removing financial barriers to persons seeking vulnerable adult protection orders.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senator Regala).

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

Background: A vulnerable adult is a person who is 60 years of age or older who has the functional, mental, or physical inability to care for himself or herself; has been found to be incapacitated; has a developmental disability; has been admitted to a facility such as a nursing home, boarding home, or adult family home; or receives services from home health, hospice or home care agencies, or an individual provider. A vulnerable adult may seek relief from abandonment, abuse, financial exploitation, or neglect by filing a petition for an order for protection in superior court in the county where the vulnerable adult resides. No filing fee may be charged to a vulnerable adult for filing such a petition; standard forms and written instructions must be provided free of charge.

Summary: A public agency may not charge a filing fee or a fee for service of process to a vulnerable adult seeking relief from abandonment, abuse, financial exploitation, or neglect. Vulnerable adults must be provided the necessary number of certified copies at no cost.

Votes on Final Passage:

Senate	47	0	
House	97	0	(House amended)
Senate	45	0	(Senate concurred)

Effective: June 7, 2012

2ESSB 6406
PARTIAL VETO
C 1 L 12 E 1

Modifying programs that provide for the protection of the state's natural resources.

By Senate Committee on Energy, Natural Resources & Marine Waters (originally sponsored by Senators Hargrove, Hobbs, Delvin, Hatfield, Tom, Stevens, Regala, Morton, Ranker and Shin).

Senate Committee on Energy, Natural Resources & Marine Waters
Senate Committee on Ways & Means
House Committee on Ways & Means

Background: Hydraulic Project Approvals (HPA). An HPA is required for any project that will use, divert, obstruct, or change the natural flow or bed of any of the salt or fresh waters of the state. HPAs are issued by the Department of Fish and Wildlife (DFW) to ensure the proper protection of fish life. There is currently no fee for an HPA. Generally, a person must apply for and obtain an HPA for each hydraulic project conducted.

Forest Practice Applications. The Forest Practices Act establishes four classes of forest practices based on the potential for a proposed operation to adversely affect public resources. The Forest Practices Board (Board) establishes standards that determine which forest practices are included in each class.

Any owner of forest land who proposes to conduct a forest practice must pay an application fee. The fee for most forest practices applications is $50. However, a fee of $500 generally applies to forest practice operations on lands that have high potential for conversion.

State Environmental Policy Act (SEPA). SEPA applies to decisions by every state and local agency within Washington, including: proposals for project actions such as construction projects; and nonproject actions such as an agency decision on a policy, plan, or program. The lead agency is responsible for identifying and evaluating the potentially adverse environmental impacts of a proposal. Generally, an Environmental Impact Statement must be prepared for a proposal which the lead agency determines will have a probable significant, adverse impact on the environment. However, statute and SEPA rules contain categorical exemptions for certain actions that are not major actions significantly affecting the quality of the environment. Categorically exempt actions do not require further environmental review.

Municipal Storm Water General Permits. The federal Clean Water Act (CWA) establishes the National Pollutant Discharge Elimination System (NPDES) permit system to regulate wastewater discharges from point sources to surface waters. NPDES permits are required for storm water discharges from certain industries, construction sites of specified sizes, and municipalities operating municipal separate storm sewer systems that meet specified criteria. The Department of Ecology (DOE) administers permits, including municipal storm water general permits, under the CWA.

On January 17, 2007, DOE reissued the phase I municipal storm water general permit and issued two phase II municipal storm water permits, one for Western Washington and one for Eastern Washington, all with an effective date of February 16, 2007. As a result of 2011 legislation, by July 31, 2012, DOE must extend the phase II permits for a term of one year and without modification. Additionally, DOE must issue updated phase II permits, which become effective on August 1, 2013.

Summary: Establishes a System of HPA Fees and Exemptions. DFW must generally charge an application fee of $150 for an HPA located at or below the ordinary high water line. Exemptions from the application fee are

provided for project types including pamphlet permits, applicant funded contracts, HPAs on farm and agricultural lands, and mineral prospecting and mining activities. The authority to impose the application fee expires June 30, 2017.

Modifies Certain HPA Permitting Authorities. DFW may issue a multiple-site permit, which provides site-specific permitting for multiple projects. Also, activities that may be conducted under an existing specific category of HPA for regular maintenance activities at marinas and marine terminals are expanded.

Integrates HPAs for Forestry Activities into the Associated Forest Practices Application (FPA). By December 31, 2013, the Board must incorporate fish protection standards from current DFW rules into the Forest Practices Rules, as well as approve technical guidance. Once these rules have been incorporated, a hydraulic project requiring an FPA or notification is exempt from the HPA requirement and is regulated under the forest practices rules. Future changes in DFW's fish protection rules relevant to forestry must go through the forest practices adaptive management process, consistent with a provision of the 1999 forests and fish report.

DFW may continue to review and comment on any FPA. DFW must review, and either verify that the review has occurred or comment on, certain forest practices applications relating to fish bearing waters or shorelines of the state. DFW must also provide concurrence review for certain FPAs that involve a water crossing structure, including specified culvert projects, bridge projects, and projects involving fill. Under this process DFW has up to 30 days to review the project for consistency with standards for the protection of fish life prior to review of the FPA by DNR.

Extends Timeframes Relating to FPAs. The duration of an FPA or notification is increased from two to three years, and can be renewed subject to any new forest practices rules.

Increases FPA Fees. FPA fees are generally increased threefold. Specifically, forest practices applications in which the land is to remain in forestry, Class II, III, and IV special, are increased from $50 to $150. However, this fee is reduced to $100 for small forest landowners harvesting on a single, contiguous ownership. Class IV general applications involve conversion related activities and are increased from $500 to $1,500.

Requires SEPA-Related Rulemaking. By December 31, 2012, DOE must update the rule-based categorical exemptions to SEPA, as well as update the environmental checklist. In updating the categorical exemptions, DOE must increase the existing maximum threshold levels for the specified project types such as the construction or location of residential developments, agricultural structures, or construction of a commercial building. The maximum exemption levels must vary based on the location of the project, such as whether the project is proposed to occur inside or outside of an urban growth area. DOE may not include any new subjects in updating the checklist, including climate change and greenhouse gasses.

By December 31, 2013, DOE must update the thresholds for all other project actions, create categorical exemptions for minor code amendments that do not lessen environmental protection, and propose methods for more closely integrating SEPA with the Growth Management Act.

During these rulemaking processes, a local government may generally apply the highest rule-based categorical exemption level regardless of whether the city or county with jurisdiction has exercised its authority to raise the exemption level above the established minimum.

DOE must convene an advisory committee that includes interests including local governments, businesses, environmental interests, state agencies and tribal governments. The advisory committee must assist in the rulemaking processes and work to ensure that tribes, agencies, and stakeholders can receive notice of projects through SEPA and other means.

Modifies and Creates New Statutory Categorical Exemptions. The types of development that may qualify as a planned action are expanded to include essential public facilities that are part of a residential, office, school, commercial, recreational, service, or industrial development that is designated as a planned action. Tools are specified for the determination of project consistency with a planned action ordinance. Notice and public meeting requirements are provided for planned actions that encompass an entire jurisdiction or less than an entire jurisdiction.

Commercial development up to 65,000 square feet, excluding retail development, is made eligible for the infill development categorical exemptions where consistent with planning and environmental review criteria.

New categorical exemptions are established for certain nonproject actions including amendments to development regulations: required to ensure consistency with comprehensive plans; required to ensure consistency with shoreline master programs; and that provide an increase in specified types of environmental protection.

Makes Other Changes to SEPA and Local Development Provisions. Other changes to SEPA and local development provisions include:

- authorizing money in the Growth Management Planning and Environmental Review Fund to be used to make loans, in addition to grants, to local governments for specified purposes; and
- authorizing lead agencies to identify within an environmental checklist items that are adequately covered by other legal authorities, although a lead entity may not ignore or delete a question.

Modifies Provisions Relating to Municipal Storm Water General Permits. By July 31, 2012, DOE must extend for an additional one year, for a total of two years, and

without modification the phase II municipal storm water general permit for Eastern Washington municipalities. Additionally, DOE must issue an updated permit for these Eastern Washington municipalities to become effective on August 1, 2014.

Updated Western Washington phase II municipal storm water general permits must become effective August 1, 2013, as under current law. Timeframes for the effect of certain requirements within the updated permit are specified, including for low impact development requirements and local code reviews, catch basin inspection and illicit discharge detection frequencies, and application of storm water controls to projects smaller than one acre.

Definitions are provided and amended. Technical changes are made.

Votes on Final Passage:

Senate	27	21	
First Special Session			
Senate	35	14	
House	75	23	(House amended)
Senate	34	13	(Senate concurred)

Effective: July 10, 2012

Partial Veto Summary: The Governor vetoed provisions of the act specifying circumstances in which a local government may recover expenses incurred in preparing certain non-project environmental impact statements.

VETO MESSAGE ON 2ESSB 6406

May 2, 2012

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 305 and 306, Second Engrossed Substitute Senate Bill 6406 entitled:

"AN ACT Relating to modifying programs that provide for protection of the state's natural resources."

This bill streamlines regulatory programs for managing and protecting the state's natural environment while increasing the sustainability of program funding and maintaining current levels of natural resource protection.

Section 301 of the bill requires the Department of Ecology to prepare rules to update the categorical exemptions for environmental review under the State Environmental Policy Act (SEPA), revise the SEPA environmental checklist, and improve integration of SEPA with the provisions of the Growth Management Act. In updating the checklist, Section 301(2)(c) of the bill directs the Department of Ecology to "not include any new subjects into the scope of the checklist, including climate change and greenhouse gases."

I have been assured that the intent of this language is confined to its plain meaning: This subsection addresses only how the Department of Ecology may modify the environmental checklist in its update of WAC 197-11-960. This language does not impact in any way the scope of the environmental analysis required at the threshold determination stage of the SEPA process or the scope of the environmental analysis required in an environmental impact statement. Letters I have received from legislators involved in the drafting of this language confirm that the Legislature's intent was to address only the scope of the environmental checklist and not to amend any substantive SEPA requirements.

This understanding and interpretation of the bill are set forth in letters to me from legislators directly involved in passage of the legislation, including an April 23, 2012, letter from Senator Sharon Nelson and Representative Dave Upthegrove, respective chairs of the Senate and House Environment Committees; an April 26, 2012, letter from Representatives Richard DeBolt, Joel Kretz, Bruce Chandler, Shelly Short, David Taylor, J.T. Wilcox, and Ed Orcutt; and an April 27, 2012, letter from Senators Jim Honeyford and Mark Schoesler.

This is also the understanding and interpretation set forth in an April 19, 2012, letter to me from Representative Joe Fitzgibbon, the prime sponsor of House Bill 2253, where this language first appeared. I have also received letters from stakeholders who participated in legislative proceedings related to this provision. These stakeholders include the Association of Washington Cities, Washington State Association of Counties, Futurewise, Association of Washington Business, and the Washington Chapter of the American Planning Association. These letters affirm that the intent of Section 301 was to eliminate existing duplication between state natural resource programs, and not to amend any substantive SEPA requirements. An April 20, 2012, joint letter from representatives of four environmental organizations notes that ESSB 6406 was the product of "a long and ultimately constructive negotiation amongst a diverse set of stakeholders," including their organizations: People for Puget Sound, Washington Conservation Voters, the Washington Environmental Council, and Climate Solutions. This letter quotes the language of Section 301(2)(c)(ii) and states: "Throughout the bill negotiations, there was agreement amongst all parties that the intent of this subsection was to ensure simply that no new line items were added to the SEPA checklist in the process of the checklist update directed by section 301." However, the letter indicates that after the passage of this bill by the Senate and House, advisers to these organizations raised concerns that the language could be read to make broader changes in SEPA law.

After careful review, I have concluded that these assurances that the Legislature did not intend to limit the scope of SEPA review of adverse effects of climate change and greenhouse gases are fully supported. Section 1 of the bill expresses the Legislature's intent to maintain current levels of natural resource protection. Additionally, Section 301(2)(c) specifically references the environmental checklist found in WAC 197-11-960. The Legislature did not reference other steps in the SEPA process such as the threshold determination addressed in different sections of chapter 197-11 WAC. Nothing in the letters I have received or in the legislative discussions of this provision negates this understanding.

My action in approving Section 301 is taken with the intent that it will operate only to prohibit inclusion of any new subjects in the scope of the checklist, and that the subjects of climate change and greenhouse gases will be considered in the environmental analysis required at the threshold determination stage of the SEPA process and in the environmental analysis required in a SEPA environmental impact statement. After consulting legal advisers, it is my understanding that this is the proper reading of this section of the bill and that this understanding will be considered by the courts when ascertaining legislative intent, as outlined in Lynch v. State, 19 Wn.2d 802 (1944). Without this understanding, I would have vetoed Section 301.

Concern has also been raised that there is a need for a meaningful civil enforcement capacity to support the state's Hydraulic Project Approval (HPA) program. I share this concern and have asked the Washington Department of Fish and Wildlife to clarify the current enforcement mechanisms through rule revision within the ongoing HPA rule update, and to implement an effectiveness survey to measure results.

I am also asking the Department to deliver the survey results to the Office of Financial Management, the Governor's Office, and the Legislature, with the intent to inform actions needed to create a more effective civil enforcement HPA program.

Amendments to the bill in the final day of the 2012 1st Special Session removed the explicit authority for local governments to collect a fee to recover their costs for a SEPA environmental impact statement prepared in support of certain land use plans. However, remnants of the original fee proposal that are no longer meaningful were left in the bill. Section 305 allows local govern-

ments to recover the costs of a SEPA environmental impact statement for certain land use plans from either state funds or private donations. Local governments are already authorized to accept funding from these sources. Section 306 refers to fees that are no longer authorized in Section 305. These two sections of the bill have the potential to create confusion with the existing authorities of local governments.

For these reasons, I have vetoed Sections 305 and 306 of Second Engrossed Substitute Senate Bill 6406.

With the exception of Sections 305 and 306, Second Engrossed Substitute Senate Bill 6406 is approved.

Respectfully submitted,

Christine O. Gregoire
Governor

SB 6412
C 64 L 12

Assisting persons seeking individual health benefit plan coverage when their prior carrier has terminated individual coverage.

By Senators Rolfes and Harper.

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

Background: State insurance laws provide some insurance portability under specific conditions. Currently, persons wishing to purchase an individual health benefit plan must complete a standard health questionnaire or health screening, unless:

- they are moving from one geographic area to another where the current health plan is not offered;
- their established health care provider is no longer in the network of the individual health plan;
- they have exhausted COBRA continuation coverage, or terminate COBRA continuation coverage;
- they experience a change in employment status from a group that was exempt from COBRA requirements;
- they had 24 months of continuous coverage in the Basic Health Plan immediately prior to application;
- they experienced a change in employment status that meets the definition for a COBRA qualifying event; or
- they experience a loss of coverage because the employer or former employer discontinues group coverage due to the closure of the business.

Persons not meeting these specific criteria must complete the standard health questionnaire to purchase an individual health benefit plan or be referred to the high risk pool if they fail to pass the health screening.

Summary: An additional criteria is inserted into the exceptions for those that must complete the standard health questionnaire. A person whose health insurance carrier is discontinuing all individual health benefit plan coverage by July 1, 2012, must not be required to complete the questionnaire when applying for individual health coverage or the non-subsidized Basic Health Plan, if the application is made within 90 days of the carrier discontinuing individual health benefit plan coverage; the person had at least 24 months of continuous coverage immediately prior to the termination; and benefits under the previous plan provide equivalent or greater overall benefit coverage than that provided in the health benefit plan the person seeks to purchase.

A person whose health insurance carrier is discontinuing catastrophic coverage by July 1, 2012, must receive credit for the period of prior coverage from a health insurance carrier toward any preexisting condition waiting period in the new catastrophic health plan the person seeks to purchase if the applicant was enrolled in catastrophic coverage during the 63 day period immediately preceding the application for new coverage, and the benefits under the preceding catastrophic plan provide equivalent or greater overall benefit coverage that the coverage the persons seeks to purchase.

Votes on Final Passage:

Senate	46	0	
House	97	0	(House amended)
Senate	48	0	(Senate concurred)

Effective: March 23, 2012

SSB 6414
C 254 L 12

Creating a review process to determine whether a proposed electric generation project or conservation resource qualifies to meet a target under RCW 19.285.040.

By Senate Committee on Energy, Natural Resources & Marine Waters (originally sponsored by Senator Ranker).

Senate Committee on Energy, Natural Resources & Marine Waters
House Committee on Environment

Background: Approved by voters in 2006, the Energy Independence Act, also known as Initiative 937 (I-937), requires electric utilities with 25,000 or more customers to meet targets for energy conservation and for using eligible renewable resources. Utilities that must comply with I-937 are called qualifying utilities.

Energy Conservation Assessments and Targets. Each qualifying electric utility must pursue all available conservation that is cost-effective, reliable, and feasible. By January 1, 2010, each qualifying utility must assess the conservation it can achieve through 2019, and update the assessments every two years for the next ten-year period. Beginning January 2010, each qualifying utility must meet biennial conservation targets that are consistent with its conservation assessments.

Eligible Renewable Resource Targets and Compliance Dates. Each qualifying utility must use eligible renewable resources or acquire equivalent renewable energy credits, or a combination of both, to meet the following annual targets:

- at least 3 percent of its load by January 1, 2012, and each year thereafter through December 31, 2015;
- at least 9 percent of its load by January 1, 2016, and each year thereafter through December 31, 2019; and
- at least 15 percent of its load by January 1, 2020, and each year thereafter.

Eligible Renewable Resource. The term eligible renewable resource includes wind, solar, geothermal energy, landfill and sewage gas, wave and tidal power, and certain biodiesel fuels. The following biomass is also classified as an eligible renewable resource: animal waste; solid organic fuels from wood, forest, or field residues; and dedicated energy crops. The following biomass is not an eligible renewable resource: wood pieces that have been treated with chemical preservatives such as creosote, pentachlorophenol, or copper-chrome-arsenic; black liquor by-product from paper production; wood from old growth forests; and municipal solid waste.

Electricity produced from an eligible renewable resource must be generated in a facility that started operating after March 31, 1999. The facility must either be located in the Pacific Northwest or the electricity from the facility must be delivered into the state on a real-time basis. Incremental electricity produced from efficiency improvements at hydropower facilities owned by qualifying utilities is also an eligible renewable resource, if the improvements were completed after March 31, 1999.

Renewable Energy Credit (REC). A REC is a tradable certificate of proof, verified by the Western Renewable Energy Generation Information System, of at least one megawatt hour of an eligible renewable resource, where the generation facility is not powered by fresh water. Under I-937, a REC represents all the nonpower attributes associated with the power. RECs can be bought and sold in the marketplace, and they may be used during the year they are acquired, the previous year, or the subsequent year.

Compliance Under I-937. Under I-937, the State Auditor is responsible for auditing the compliance of public utility districts and municipal utilities that are qualifying utilities. For cooperatives and mutual corporations that are qualifying utilities, an independent auditor selected by the qualifying utility is responsible for auditing compliance. In both cases, the Attorney General is responsible for enforcing compliance. For investor-owned utilities (IOUs), the Utilities and Transportation Commission (UTC) determines and enforces compliance.

Pre-Determinations of an Eligible Renewable or Conservation Resource. Before making an investment in an electric generation project or a conservation resource, an IOU may seek a predetermination of eligibility from the UTC by filing a petition for a declaratory order. Consumer-owned utilities do not have this option. However, any utility or project developer can seek an advisory opinion from the I-937 Technical Working Group staffed by the Department of Commerce (Commerce) and the UTC. The advisory opinions are not binding on the State Auditor or an independent auditor nor do they supersede the declaratory order process available to IOUs.

Summary: Providing a Pre-Approval Process for Eligible Projects or Resources. Project proponents or consumer-owned qualifying utilities may seek advisory opinions from Commerce on whether a proposed electric generation project or conservation resource would qualify under I-937. When forming its advisory opinion, Commerce must: (1) consider, and may rely on, previous opinions issued by the I-937 Technical Working Group; and (2) solicit and consider comments from interested parties, including staff of the requesting utility. Commerce must give priority to any application that previously received an affirmative advisory opinion from the I-937 Technical Working Group.

An advisory opinion adopted by the governing body of a consumer-owned qualifying utility that will use the project or resource is binding on the auditors responsible for determining compliance with I-937, but only if: (1) the advisory opinion affirmatively qualifies the project or resource; (2) the governing board of the consumer-owned utility that will use the project or resource adopts the advisory opinion after public notice and hearing; and (3) the project or resource is built or acquired as proposed. Furthermore, an electric generation project reviewed and adopted under this process may produce renewable energy credits as defined in I-937.

Authorizing Fees and Rules. Commerce may charge application fees and may adopt rules to implement the pre-approval process.

Preserving the Independence of Consumer-Owned Utilities. The authority of any governing board of a consumer-owned utility to make an independent determination on whether a proposed electric generation project or conservation resource may qualify I-937 is preserved.

Votes on Final Passage:

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

Effective: June 7, 2012

SSB 6421
C 129 L 12

Addressing the affidavit of wages paid on public works.

By Senate Committee on Labor, Commerce & Consumer Protection (originally sponsored by Senators King, Kline and Holmquist Newbry).

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

Background: Employers on public works projects must pay prevailing wages and submit a statement of intent to pay prevailing wages after the contract is awarded but before work begins. After all of the work is complete, employers must submit an affidavit of wages paid (affidavit). The forms are filed with the Department of Labor and Industries (L&I) and, when approved, are submitted by the employer to the agency administering the contract. A complaint concerning nonpayment of prevailing wage must be filed with L&I within 30 days of the acceptance date of the public works project. Failure to file a complaint does not preclude a claimant from pursuing a private right of action for unpaid prevailing wages, and the statute of limitations for such causes of action is three years.

State law requires public agencies to withhold 5 percent of money due the contractor for a public improvement or work until completion and/or acceptance of the contract. This is known as retainage, and retainage money is to be set aside as a trust fund for the protection and payment of anyone who performs labor; provides materials, supplies, or equipment; or subcontracts to the prime contractor. After completion of all contract work, the contractor may request that the public agency release the retainage. The agency is to release these funds within 60 days of this request. The public agency administering the contract may not release final retainage until all contractors have submitted an affidavit form that has been certified by the industrial statistician at L&I.

L&I has a policy of allowing a contractor to file an affidavit on behalf of a subcontractor in limited circumstances. A contractor seeking to file on behalf of a subcontractor must submit supporting documentation and an assumption of liability statement, under which the filing contractor accepts liability for any unpaid wages owed by the nonresponsive subcontractor for three years from the date of performance of the work.

Summary: A contractor may file an affidavit on behalf of a subcontractor if the contractor had a contractual relationship with the subcontractor and the subcontractor has ceased operations or failed to file an affidavit as required. An affidavit filed on behalf of a subcontractor may be accepted no sooner than 31 days after the acceptance date of the public works project. A contractor filing on behalf of a subcontractor must accept responsibility for any unpaid wages owed by the nonresponsive subcontractor.

Intentionally filing a false affidavit on behalf of a subcontractor subjects the filing contractor to a civil penalty and disbarment for a period of one year.

Votes on Final Passage:

Senate	47	0
House	98	0

Effective: June 7, 2012

SSB 6423
C 130 L 12

Concerning the definition of farm vehicle.

By Senate Committee on Transportation (originally sponsored by Senators King and Holmquist Newbry).

Senate Committee on Transportation
House Committee on Transportation

Background: Generally under current state law, drivers of commercial motor vehicles must first obtain a commercial driver's license (CDL) and applicable endorsements valid for the vehicle they are driving. Farmers operating farm vehicles are exempt from the CDL requirement, when the farm vehicles are used to transport agricultural products, farm machinery, farm supplies, or any combination of those materials to or from a farm. However, the general definition of farm vehicle, applicable throughout the broader Motor Vehicles code (Title 46 RCW), is limited to those vehicles only incidentally operated on public highways for the purpose of going from one farm to another.

Summary: The general definition of farm vehicle applicable to the Motor Vehicles code is revised to conform with the use of that term within the specific CDL exemption provided for farmers operating farm vehicles.

Votes on Final Passage:

Senate	47	0
House	97	1

Effective: June 7, 2012

SSB 6444
C 83 L 12

Concerning eligible toll facilities.

By Senate Committee on Transportation (originally sponsored by Senators Haugen and Fain; by request of Department of Transportation).

Senate Committee on Transportation
House Committee on Transportation

Background: The State Route 99 (SR 99) Alaskan Way Viaduct is a major arterial serving significant numbers of freight and passenger vehicles through downtown Seattle. The facility sustained damage during the 2001 Nisqually earthquake, and is susceptible to damage, closure, or catastrophic failure from additional earthquakes and tsunamis. ESSB 5768 enacted during the 2009 regular legislative session required the state to expedite the environmental review and design processes to replace the Alaskan Way Viaduct with a deep bore tunnel under First Avenue from the vicinity of the sports stadiums in Seattle to Aurora Avenue north of the Battery Street Tunnel. In addition, the SR 99 Alaskan Way Viaduct Replacement Project finance plan must include no more than $400 million in toll revenue.

ESHB 1773 enacted during the 2008 regular legislative session stated that all revenue from an eligible toll facility must be used only to construct, improve, preserve, maintain, manage, or operate the eligible toll facility on or in which the revenue is collected.

Summary: Tolling is authorized by the Legislature on the deep bore tunnel between First Avenue from the vicinity of the sports stadiums in Seattle to Aurora Avenue north of the Battery Street tunnel. The purpose of tolling the SR 99 Alaskan Way Viaduct is to help finance the project and to help maintain travel time, speed, and reliability on the portion of SR 99 that would be replaced by this project. The state tolling authority – Washington State Transportation Commission – is directed to impose a variable schedule of toll rates to maintain traffic flow. The state tolling authority may adjust the variable schedule of toll rates at least annually to reflect inflation and pay for the redemption of bonds and other obligations of the tolling authority.

The toll facility bond retirement account is allowed to retain its interest earnings to make it consistent with other toll accounts.

The Alaskan Way Viaduct Replacement Project Account (Account) is created. Deposits into the Account include all proceeds of bonds issued for construction of the Alaskan Way Viaduct Replacement Project and all tolls and other revenues received from the operation of the Alaskan Way Viaduct Replacement Project as a toll facility.

Various technical corrections are made to certain statutes impacted by previous tolling-related legislation.

Votes on Final Passage:

Senate	42	5
House	77	19

Effective: June 7, 2012

ESSB 6445
C 36 L 12

Concerning the Interstate 5 Columbia river crossing project.

By Senate Committee on Transportation (originally sponsored by Senator Pridemore; by request of Department of Transportation).

Senate Committee on Transportation
House Committee on Transportation

Background: Under current law, the Legislature is the only entity with the authority to authorize tolls on an eligible toll facility. An eligible toll facility is defined as portions of the state highway system specifically identified by the Legislature, including transportation corridors, bridges, crossings, interchanges, on-ramps, off-ramps, approaches, bistate facilities, and interconnections between highways. The Legislature has authorized collection of tolls on the following facilities: the Tacoma Narrows Bridge; the SR 520 floating bridge; the SR 167 high-occupancy toll lanes; and the Interstate 405 express toll lanes.

The Legislature has designated the Washington State Transportation Commission as the state tolling authority with responsibility for setting toll rates, including variable pricing, and reviewing toll operations. Prior to the convening of each regular session of the Legislature, the tolling authority must report to the transportation committees of the Legislature on any increase or decrease in toll rates approved by the tolling authority.

The Interstate 5 Bridge crosses the Columbia River and connects Vancouver, Washington, and Portland, Oregon, with two identical bridge structures. One bridge structure carries traffic northbound to Vancouver, and the other bridge structure carries traffic southbound to Portland. The northbound bridge was built in 1917, and the southbound bridge was built in 1958. The Columbia River Crossing (CRC) Project will reportedly replace the I-5 bridges, extend light rail to Vancouver, improve closely-spaced interchanges, and enhance the pedestrian and bicycle paths. The estimated project costs range from $3.1 billion to $3.5 billion.

Summary: The CRC Project is defined as a bistate, multimodal corridor improvement program between the state route number 500 interchange in Vancouver, Washington, and the Victory Boulevard interchange in Portland, Oregon. The total cost of the CRC Project may not exceed $3.413 billion.

The CRC Project is designated as an eligible toll facility. Tolls are authorized to be charged for travel on the existing and replacement Interstate 5 Columbia River Bridge. Tolls may not be charged for travel on any portion of Interstate 205. The tolling authority is authorized to enter into agreements with the Oregon State Transportation Commission regarding the mutual or joint setting, adjustment, and review of toll rates as the tolling authority may find necessary to carry out the purposes of this section. Any agreement between the tolling authority or the Oregon State Transportation Commission takes effect, and is not binding or enforceable until, 30 days after the next ensuing regular legislative session.

Toll revenue generated on the CRC Project must only be expended to construct, improve, preserve, maintain, manage, or operate the CRC Project. Expenditures of toll revenues are subject to appropriation and must only be made: (1) to cover the operating costs of the eligible toll facility, including necessary maintenance, preservation, administration, and toll enforcement by public law enforcement within the boundaries of the facility; (2) to meet obligations for the repayment of debt and interest on the eligible toll facility, and any other associated financing costs including, but not limited to, required reserves and insurance; (3) to meet any other obligations to provide funding contributions for any projects or operations on the eligible toll facility; (4) to provide for the operations of conveyances of people or goods; or, (5) for any other improvements to the eligible toll facility.

The CRC Project Account (Account) is created in the state treasury, and the types of revenue and monies that must be deposited into the account are specified. The account is an appropriated account and retains its own interest income.

Tolls may not be collected on the project until: (1) certification of the Secretary of Transportation to the Governor that the Department of Transportation has received satisfactory evidence that sufficient funding, including federal funds, will be available to complete the phase of the project that includes the bridge and landings; and (2) an agreement between the tolling authority and the Oregon Transportation Commission has taken effect. If the Secretary of Transportation does not provide such certification to the Governor by December 31, 2015, then the authority to toll the project and several other related provisions are null and void.

Votes on Final Passage:

Senate	33	15
House	65	33

Effective: June 7, 2012 (Section 4)
Contingent (Sections 1-3 and 5-8)

SB 6465

C 131 L 12

Concerning raffles exceeding five thousand dollars.

By Senators Holmquist Newbry and Kohl-Welles.

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

Background: A raffle as defined in the Gambling Act is a game in which tickets bearing an individual number are sold for no more than $100 each and in which a prize is awarded on the basis of a drawing from the tickets by those conducting the game. The game is conducted by a bona fide charitable organization or a nonprofit organization and no person other than a member of the organization takes any part in the management or operation of the game. No part of the proceeds benefit anyone other than the organization conducting the game.

Charitable and nonprofit organizations are authorized to conduct raffles without obtaining a license from the Gambling Commission if they meet the following criteria:

- they are otherwise in compliance with state law and commission regulations;
- the gross revenues from all raffles held by the organization during the calendar year do not exceed $5,000; and
- winners are determined only from among the regular members of the organization conducting the raffle.

The organization may provide unopened containers of beverages containing alcohol as raffle prizes if the appropriate permit has been obtained from the Liquor Control Board.

Summary: Charitable and nonprofit organizations are authorized to provide unopened containers of alcoholic beverages as prizes in members-only raffles that exceed $5,000 if the organization obtains a license from the Gambling Commission and a permit from the Liquor Control Board.

Votes on Final Passage:

Senate	47	0
House	98	0

Effective: June 7, 2012

SSB 6468
C 231 L 12

Regarding investment of state research university funds.

By Senate Committee on Ways & Means (originally sponsored by Senators Kilmer, Schoesler, Tom, Murray, Harper, Conway and Shin).

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

Background: The State Constitution prohibits giving or loaning the state's credit and the credit, money, or property of a municipality to an individual, association, company, or corporation. The State Constitution further prohibits the state from subscribing to, or being interested in, the stock of any company, association, or corporation. As a result of this prohibition, the operating monies of the state research universities are currently invested in government-backed securities and not private securities.

Notwithstanding these prohibitions, Article XXIX, section 1 of the State Constitution allows for the investment of the monies of any public pension or retirement fund, industrial insurance fund, or fund held in trust for the benefit of persons with developmental disabilities. Senate Joint Resolution 8223, if enacted by the Legislature, would send a referendum to the voters in the next general election to amend the State Constitution to allow the monies of the state research universities to be invested as authorized by law.

Summary: The regents of each state research university must adopt policies creating investment accounts and may deposit public monies from operating funds not needed for immediate expenditure into those investment accounts. The State Investment Board (SIB) is given full power to invest or reinvest investment accounts created by University of Washington's or Washington State University's board of regents in a manner consistent with SIB investment and management standards, and income from SIB investments of investment accounts must be for the exclusive benefit of and credited to the state university less SIB expense account allocations. Investment accounts are investment funds within the meaning of Article XXIX, section 1 of the State Constitution, for determining eligible investment and deposits. The SIB must report annually on investment activities for investment accounts to the Ways & Means committees of the House of Representatives and the Senate.

This act takes effect if the proposed constitutional amendment is approved and ratified by the voters.

Votes on Final Passage:

Senate	46	2	
House	94	1	(House amended)
Senate	46	3	(Senate concurred)

Effective: Contingent upon voter approval.

ESSB 6470
C 47 L 12

Authorizing benefit charges for the enhancement of fire protection services.

By Senate Committee on Government Operations, Tribal Relations & Elections (originally sponsored by Senators McAuliffe and Chase).

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

Background: Fire protection districts are created to provide fire prevention, fire suppression, and emergency services within a district's boundaries. A fire protection district may be established through voter approval and financed by imposing regular property taxes, excess voter-approved property tax levies, and benefit charges. Currently, firefighters are not required to engage in fire suppression efforts if the fire occurs outside the boundaries of their fire protection district.

Cities are authorized to annex unincorporated areas through several alternative processes, including a resolution/election method, a petition/election method, and a direct petition method. Each method of annexation must follow specified processes set forth in statute. An annexation by a city or town that is proposing to annex territory served by one or more fire protection districts may be accomplished by ordinance after entering into an interlocal agreement with the county and the fire protection district or districts that have jurisdiction over the territory proposed for annexation. The interlocal agreement must describe the boundaries of the territory proposed for annexation. Additionally, the interlocal agreement must include a statement of the goals of the agreement.

A benefit charge is a type of assessment imposed upon a property owner based upon the measurable benefits to be received by the property owner by fire protection districts and fire protection authorities. A district or authority may use this funding approach as a means for apportioning the real costs of service to an individual property in a manner that reflects the actual benefits provided to that property. The imposition of a benefit charge is subject to voter approval by a 60 percent majority of the voters living within the jurisdiction of the district or authority. Subject to such voter approval, a district or authority has the option of imposing benefit charges in lieu of a portion of the property tax it is otherwise authorized to impose. Cities and towns are not currently authorized to impose benefit charges as a method for financing fire protection services.

Summary: For the purposes of enhancing fire protection services, a city or town may fix and impose a benefit

charge on personal property and improvements to real property located in the city or town if the city or town is conducting an annexation of, or has annexed since 2006, all or part of a fire protection district.

A benefit charge must be reasonably proportioned to the measurable benefits to property resulting from the enhancement of services afforded by the city or town. A benefit charge is linked to certain factors, including insurance savings and the actual benefits resulting from the degree of protection, including the distance from fire service facilities, the level of fire prevention services provided to the property, or the need for specialized services. The resolution establishing the benefit charge must specify, by legal geographical area or other specific designations, the charge to apply to each property by location, type, or other designation in order to properly calculate the charge to each property owner.

The imposition of a benefit charge is subject to voter approval by a 60 percent majority of the voters living within the jurisdiction of the city or town. The amount of a benefit charge is limited to a percentage of the fire department's operating budget, not to exceed 60 percent, which is specified in the ballot measure put before the voters. The election must be held not more than one year prior to the date on which the first charge is to be assessed. A benefit charge may not remain in effect for a period of more than six years or more than the number of years authorized by the voters, if fewer than six years, unless subsequently reapproved by the voters.

Procedures and deadlines for notice of and public hearings on a proposed benefit charge are established. Procedures and deadlines for annual review of benefit charges are also established.

Exemptions from the benefit charge are set forth, which include:

- property used for religious purposes by a recognized religious organization, including educational facilities;
- property that is owned by a nonprofit organization or association engaged in character building for boys and girls under the age of 18;
- property used by housing authorities and other nonprofit organizations that provide rental housing to very low-income households; and
- property which maintains its own fire department.

Additionally, certain persons receiving tax exemptions and persons with income limitations are exempt from a percentage of the benefit charge.

Votes on Final Passage:

Senate	34	15
House	57	41

Effective: June 7, 2012

SSB 6472

C 132 L 12

Concerning disclosure of carbon monoxide alarms in real estate transactions.

By Senate Committee on Financial Institutions, Housing & Insurance (originally sponsored by Senators Harper, Honeyford, Kline and Shin).

Senate Committee on Financial Institutions, Housing & Insurance

House Committee on Judiciary

Background: Legislation was passed recently requiring the State Building Code Council to adopt rules requiring residential occupancies be equipped with carbon monoxide alarms. These rules require that all newly constructed residential occupancies have carbon monoxide alarms.

Owner-occupied single family residences legally occupied before the effective date of the act (2010) were exempt from rules adopted by the council requiring the installation of carbon monoxide alarms in residential occupancies. However, the seller of an owner-occupied single family residence must install carbon monoxide alarms in accordance with the requirements of the state building code prior to the buyer or any other person occupying the residence following such sale.

Residential tenants must maintain carbon monoxide alarms according to manufacturer specifications, including battery replacement.

Summary: Based on rules adopted by the State Building Code Council, the state's seller disclosure form is amended to add whether the property is equipped with carbon monoxide and smoke alarms. Licensed real estate brokers are not liable for any civil, administrative, or other proceeding for the failure of any seller or other property owner to comply with the requirements proscribed by statute or rules adopted by the State Building Code Council. These changes only apply to real estate transactions for which a purchase and sale agreement is entered into after the effective date.

Votes on Final Passage:

Senate	47	0
House	98	0

Effective: June 7, 2012

ESSB 6486
PARTIAL VETO
C 255 L 12

Granting collective bargaining for postdoctoral and clinical employees at certain state universities.

By Senate Committee on Ways & Means (originally sponsored by Senators Kohl-Welles, Conway, Chase, Keiser, Harper, Prentice, Nelson, Pridemore, Kline, Murray and Frockt).

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

Background: Certain employees of institutions of higher education are covered for purposes of collective bargaining under the Public Employees' Collective Bargaining Act (PECBA), the Personnel System Reform Act (PSRA), or laws applicable to faculty members and academic personnel.

PECBA applies to the following employees of institutions of higher education:

- certain employees who are exempt from civil service;
- certain teaching assistants and research assistants at the University of Washington (UW) and Washington State University (WSU);
- printing craft employees in UW's Department of Printing; and
- certain classified employees of technical colleges.

PSRA applies to employees of institutions of higher education covered under the state civil service law.

Other collective bargaining laws apply to public four-year institutions with respect to faculty members, and to community colleges with respect to academic personnel.

Summary: Postdoctoral and clinical employees at UW and WSU who are excluded from collective bargaining as faculty may participate in collective bargaining under the provisions of the PECBA.

Votes on Final Passage:

Senate	26	23	
House	54	44	(House amended)
Senate	26	23	(Senate concurred)

Effective: June 7, 2012

Partial Veto Summary: The Governor vetoed section 2, which made the legislation null and void if specific funding was not provided in the budget.

VETO MESSAGE ON ESSB 6486

March 30, 2012

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, Engrossed Substitute Senate Bill 6486 entitled:

"AN ACT Relating to collective bargaining for postdoctoral researchers at certain state universities."

Section 2 provides this act is null and void if specific funding is not provided in the omnibus appropriations act. A veto of this section is necessary to ensure collective bargaining rights for postdoctoral and clinical employees at the University of Washington and Washington State University. Further, if specific funding is not provided in the omnibus appropriations act, the administrative costs associated with the collective bargaining can be paid within existing funds or allocated to the funds that support the employees, many of which are not within the State General Fund.

For this reason, I have vetoed Section 2 of Engrossed Substitute Senate Bill 6486.

With the exception of Section 2, Engrossed Substitute Senate Bill 6486 is approved.

Respectfully submitted,

Christine O. Gregoire
Governor

SSB 6492
C 256 L 12

Improving timeliness, efficiency, and accountability of forensic resource utilization associated with competency to stand trial.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Hargrove, Stevens and Regala).

Senate Committee on Human Services & Corrections
Senate Committee on Ways & Means
House Committee on Judiciary

Background: A criminal defendant is incompetent to stand trial if the defendant does not have the capacity to understand the proceedings against him or her or does not have sufficient ability to assist in his or her own defense. If competency is raised in the context of a criminal case, the court is required to issue a stay of trial for evaluation of competency to stand trial by forensic staff from a state hospital. If, following the evaluation, the court determines that the defendant is incompetent to stand trial, a period of competency restoration treatment is allowed at a state hospital. If competency cannot be restored within time periods authorized by statute, the court must dismiss charges without prejudice and may transfer the defendant to a state hospital or evaluation and treatment facility for further evaluation for the purpose of filing a petition for civil commitment. Competency evaluations may be performed at the direction of the court in a state hospital, in jail, or in the community for out-of-custody defendants. Western State Hospital and Eastern State Hospital received 3,035 court referrals for initial competency evaluations for adult defendants in 2011.

The competency evaluation and restoration process is a source of delay for the resolution of criminal charges; it extends the time spent in jail for pretrial defendants who

are referred for competency evaluations and who have not been released from custody. For these defendants in 2011, based on a weighted average of ten months' data from the Department of Social and Health Services (DSHS) between March and December, the average time spent waiting in jail for admission to a state hospital for a competency evaluation after submission of a referral to a state hospital was 41 days, while the average time spent waiting in jail for completion of an outpatient competency evaluation and report after submission of a referral to a state hospital was 24 days.

Summary: The following performance targets are established for completion by the state hospital of competency services:

- seven days for admission to a state hospital for evaluation, treatment, or civil conversion;
- seven days for completion of an evaluation and report for a defendant in jail; and
- 21 days for completion of an evaluation and report for a defendant in the community who makes reasonable efforts to cooperate with the evaluation.

These performance targets run from the date the state hospital receives the referral, charging documents, discovery, and criminal history information and these targets do not create any new entitlement or cause of action related to the timeliness of competency services. The act states that the Legislature recognizes that the performance targets may not be achieved in all cases without compromise to the quality of evaluation services, but intends for DSHS to manage, allocate, and request appropriations for resources to meet these targets whenever possible without sacrificing the accuracy of the evaluation.

The court is limited to the appointment of one state forensic evaluator. The evaluator must assess whether commitment to a state hospital for up to 15 days is necessary in order to complete an accurate evaluation. The court may commit the defendant to a state hospital for an inpatient evaluation without an assessment if the defendant is charged with murder in the first or second degree, or if the court finds that it is more likely than not that an evaluation in the jail will be inadequate to complete an accurate evaluation. The court may not order an inpatient evaluation for any purpose other than a competency evaluation.

The order for evaluation or competency restoration must indicate whether the parties agree to waive the presence of the defendant or agree to the defendant's remote participation in a future competency hearing if the recommendation states that the defendant is incompetent to stand trial and the hearing is held prior to the expiration of the statutory authority for commitment.

The competency evaluation report must include a diagnosis or description of the current mental status of the defendant. An evaluation for criminal insanity or diminished capacity must not be performed unless the evaluator is provided with an evaluation by an expert or professional person finding that criminal insanity or diminished capacity is present. An evaluation of future dangerousness is not required until the end of the second felony competency restoration period unless the evaluation is for criminal insanity or the defendant has a developmental disability or it is determined that competency is not likely to be restored and the defendant has completed the first felony competency restoration period.

The first competency restoration period for a felony defendant whose maximum charge is a class C felony or a nonviolent class B felony is shortened from 90 to 45 days. When a felony defendant is committed to a state hospital for civil conversion after charges are dismissed based on incompetency to stand trial, a civil commitment petition must be filed within 72 hours excluding weekends and holidays following the defendant's admission to the facility. Time for trial on such a petition is extended from five to ten judicial days.

DSHS must develop procedures to monitor the clinical status of defendants admitted to the state hospital to allow for early discharge when the clinical goals of admission have been met, investigate the extent to which defendants overstay time periods authorized by statute and take reasonable steps to prevent this occurrence, and establish written standards for the productivity of forensic evaluators and utilize those standards to internally review performance.

DSHS must report annually starting December 1, 2013, on the timeliness of competency services in a manner that is broken down by county. Following any quarter in which performance targets are not met, DSHS must report the extent of the deviation to the legislative and executive branches and any corrective actions that have been adopted.

The Joint Legislative Audit and Review Committee must independently assess the progress of DSHS with performance measures and monitoring activities both six and eighteen months following the effective date. The Washington State Institute for Public Policy must study effective time periods and protocols for competency restoration treatment.

A jail may not refuse to book a patient of a state hospital based solely on the patient's status as a state hospital patient, but may consider other relevant factors which apply to the individual circumstances of the case.

A state hospital may administer antipsychotic medication without consent to a person committed as criminally insane by following the same procedures that apply to the involuntary medication of a person who has been involuntarily committed for 180 days under the Involuntary Treatment Act. The maximum period during which the court may authorize medication is 180 days or the time remaining in the person's order of commitment, whichever is shorter. The petition for involuntary medication may be filed in either the superior court that ordered the

commitment of the person or the superior court of the county in which the individual is receiving treatment, provided that a copy of any order which is entered is forwarded to the superior court of the county that ordered the commitment, which must retain exclusive jurisdiction over all hearings concerning the release of the patient.

The state has a compelling interest in providing antipsychotic medication to a patient who has been committed as criminally insane when refusal of antipsychotic medication would result in a likelihood of serious harm or substantial deterioration or substantially prolong the length of involuntary commitment and there is no less intrusive course of treatment than medication in the best interest of the patient.

Votes on Final Passage:

Senate	47	0	
House	62	36	(House amended)
Senate			(Senate refused to concur)
House	98	0	(House receded/amended)
Senate	49	0	(Senate concurred)

Effective: May 1, 2012

SSB 6493

C 257 L 12

Addressing sexually violent predator civil commitment cases.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Regala, Hargrove, Stevens, Harper, Kline, Carrell and Shin).

Senate Committee on Human Services & Corrections
House Committee on Public Safety & Emergency Preparedness
House Committee on Ways & Means

Background: Under the Community Protection Act of 1990, a sexually violent predator (SVP) may be civilly committed upon the expiration of that person's criminal sentence. An SVP is a person who has been convicted of, or charged with, a sexually violent offense and who suffers from a mental abnormality or personality disorder that makes the person likely to engage in predatory acts of sexual violence if not confined to a secure facility. When it appears that a person may meet the criteria of an SVP, the prosecuting attorney of the county where the person was convicted or charged or the Attorney General's Office, if so requested by the prosecuting attorney, may file a petition alleging that the person is an SVP. In preparation for a trial as to whether the person is an SVP, the court must direct that the person be evaluated by a professional as to whether the person is an SVP.

If a person is found at trial to be an SVP, the state is authorized by statute to involuntarily commit a person to a secure treatment facility. Civil commitment as an SVP is for an indefinite period. Once a person is committed, the Department of Social and Human Services (DSHS) must conduct annual reviews to determine whether the person's condition has so changed such that the person no longer meets the definition of an SVP or if conditional release to a less restrictive alternative (LRA) is in the best interest of the person and conditions can be imposed to protect the community. Even if DSHS's annual review does not result in a recommendation of any type of release, the person may nonetheless petition the court for a conditional release or unconditional discharge.

If a committed person petitions for a conditional release or unconditional discharge, the court must set a show cause hearing. The prosecuting agency must first show that the committed person continues to meet the definition of an SVP and that placement in an LRA is not appropriate. The committed person may then present evidence that the person has so changed that the person no longer meets commitment criteria or that conditional release to a less restrictive alternative is appropriate. If the court finds that the state has not met its prima facie case or that probable cause exists, the court must set a review hearing. In order to prevail, the state must once again prove beyond a reasonable doubt that the person meets the definition of a sexually violent predator or that conditional release is not appropriate. If the state does not meet its burden, the person must be released.

An indigent person is entitled to appointed counsel and an independent expert evaluation paid for by the state both at the original probable cause and commitment proceeding and in any review proceeding. Requests for the reimbursement of defense counsel and expert evaluators are submitted to DSHS for payment. Often, these invoices are already approved by the court and DSHS has little recourse but to pay them, even if expenses appear to be excessive or duplicative.

In 2011 the Legislature asked the Office of Public Defense (OPD) to develop a proposal to transfer statewide responsibility for indigent defense of sexually violent predator civil commitment cases from DSHS to OPD. In December 2011 OPD submitted its report to the Legislature, including several options for accomplishing this transfer. Those options included:

- continue the existing reimbursement process with hourly contracts, but transfer state agency responsibility from DSHS to OPD;
- allow OPD to contract with multiple attorneys or group practices statewide; or
- require OPD to hire state employees to provide defense services.

OPD estimates that the second and third options above could save the state between $700,000 and $1 million.

Summary: The Director of OPD administers all state-funded services for representation of indigent respondents qualified for appointed counsel in SVP civil commitment cases. In providing those services, the Director must:

- contract with attorneys or groups of attorneys for the provision of legal services;
- establish annual contract fees for payment of indigent defense services;
- ensure an indigent person has one contracted counsel unless the court finds good cause for additional counsel;
- establish procedures for the reimbursement of expert witnesses and other professional and investigative costs;
- make recommendations for appropriate caseload standards for SVP cases; and
- annually submit a report to the Chief Justice, the Governor, and the legislature on the operation of SVP indigent defense services.

The transfer of duties from DSHS to OPD occurs on July 1, 2012, but provisions are made for a transitional period during which the Director may continue existing counsel so as to avoid unnecessary trial continuances.

DSHS is no longer responsible for the cost of one expert or professional person to conduct an evaluation on the prosecuting agency's behalf. The prosecuting agency has a right to a current evaluation of the person by experts chosen by the state. The judge may require the person to complete procedures or tests requested by the evaluator including a clinical interview, psychological testing, plethysmograph testing, and polygraph testing. The state is responsible for the cost of the evaluation.

Indigent persons responding to an SVP petition for commitment and commitment review proceedings are entitled to appointed counsel contracted through OPD. Unless provided as part of the investigation and preparation for any hearing or trial under this chapter, the following activities are beyond the scope of representation of an attorney under contract with OPD:

- investigation or legal representation challenging the conditions of confinement at the special commitment center;
- investigation or legal representation for making requests under the Public Records Act;
- legal representation or advice in filing a grievance against DSHS; and
- other activities as may be excluded by policy or contract with OPD.

OPD is responsible for the cost of one expert or professional person conducting an evaluation on the indigent person's behalf. Expert evaluations are capped at $10,000; partial evaluations are capped at $5,500; and expert services apart from an evaluation, exclusive of testimony at trial or depositions, are capped at $6,000. OPD will pay the costs related to an additional examiner or in excess of the fee caps only upon a finding by the superior court that such appointment or extraordinary fees are for good cause.

DSHS and the courts are authorized to release records to OPD as needed to implement OPD's duties. OPD must maintain the confidentiality of confidential records. The inspection or copying of any nonexempt public record by persons residing in a civil commitment facility for SVPs may be enjoined utilizing the same procedures allowed for enjoining requests from persons serving a criminal sentence. In order to issue an injunction, the court must find that:

- the request was made to harass or intimidate the agency or its employees;
- fulfilling the request would likely threaten the security of correctional facilities;
- fulfilling the request would likely threaten the safety or security of staff, inmates, family members of staff, family members of other inmates, or any other person; or
- fulfilling the request may assist criminal activity.

Votes on Final Passage:

Senate	48	0	
House	93	0	(House amended)
Senate	49	0	(Senate concurred)

Effective: July 1, 2012

SSB 6494
C 157 L 12

Improving truancy procedures by changing the applicability of mandatory truancy petition filing provisions to children under seventeen years of age, requiring initial petitions to contain information about the child's academic status, prohibiting issuance of a bench warrant at an initial truancy status hearing, and modifying school district reporting requirements after the court assumes jurisdiction in a truancy case.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Hargrove, Stevens, Regala and Carrell).

Senate Committee on Human Services & Corrections
House Committee on Judiciary
House Committee on Ways & Means

Background: Any child in the state of Washington who is at least eight years and under the age of 18 must attend school unless the child is receiving home-based instruction or qualifies for a lawful excuse. A child who is 16 years of age or older may be exempted from mandatory attendance requirements if the child is regularly and lawfully employed and is either emancipated or has the agreement of the child's parents, or may be exempted if the child has already met graduation requirements or obtained a certificate of educational competence.

If a child is required to attend school and is absent from school without excuse, the school district must inform the parents and take steps to eliminate or reduce the

child's absences. If these efforts are unsuccessful, no later than the seventh unexcused absence within a month or tenth unexcused absence within a school year, the district must file a petition in juvenile court alleging a violation of mandatory attendance laws and asking the court to assume jurisdiction over the child. If the allegations in the petition are proven by a preponderance of the evidence, the court must grant the petition and enter an order assuming jurisdiction to intervene for the purpose of causing the juvenile to return and remain in school.

Summary: The maximum age of a child at which a school district may be legally required to file a truancy petition is lowered from 17 to 16 years of age. Ongoing court jurisdiction is not required to terminate when a child turns 17, nor is a school district precluded from filing a truancy petition. The truancy petition must include information describing the child's current academic status in school. A court may not issue a bench warrant for a child for failure to appear at an initial truancy hearing, but may enter a default order assuming jurisdiction over the child. After the court assumes jurisdiction, the school district must periodically update the court about the child's academic status in school at a schedule to be determined by the court, with the first report to be received no later than three months from the date at which the court assumes jurisdiction.

Votes on Final Passage:

Senate	31	17	
House	91	2	(House amended)
Senate			(Senate refused to concur)
House	98	0	(House receded)

Effective: June 7, 2012

SSB 6508

PARTIAL VETO

C 258 L 12

Authorizing waivers from certain DSHS overpayment recovery efforts.

By Senate Committee on Human Services & Corrections (originally sponsored by Senator Pridemore).

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

Background: The Department of Social and Health Services (DSHS) must recoup overpayments from any person who is overpaid public assistance, food stamp, or medical benefits. Overpayment is defined as any payment or benefit to a recipient (or vendor) in excess of that to which the recipient (or vendor) is entitled by law, rule or contract. DSHS is authorized to collect overpayments by a variety of methods: reduction in the amount of the continuing grants of benefits, assignment of earnings, or a lien on personal or real property of the recipient.

DSHS may not collect overpayments after six years have passed from the date of a notice of overpayment unless DSHS has already started the recovery action in court or an administrative remedy is in place. Regardless of whether DSHS has started recovery efforts before the expiration of the six year period, any debt due DSHS expires at the end of ten years from the date notice is sent unless a court-ordered remedy would be in effect for a longer period of time. No debt due DSHS may be collected after the expiration of 20 years from the date a lien is recorded.

DSHS may accept offers of a compromise on disputed claims or may grant partial or total write-off of any debt when it is no longer cost effective to pursue collection of the debt.

Summary: DSHS is authorized to waive efforts to collect overpayments made to a client if DSHS determines that the elements of equitable estoppel have been met as follows: (1) DSHS took an action or failed to take an action regarding overpayment of benefits which is inconsistent with a later claim or position; (2) the client reasonably relied on DSHS's original statement, action, or failure to act regarding overpayment; (3) the client would be injured to the client's detriment if DSHS is allowed to contradict the original statement, act, or failure to act regarding overpayment; (4) the client cannot afford to repay the overpayment; (5) the client gave DSHS timely and accurate information when required; (6) the client did not know that DSHS made a mistake; (7) the client is free from fault; (8) the overpayment was caused solely by DSHS's mistake; and (9) waiving overpayment collection efforts will not impair DSHS's functions.

Votes on Final Passage:

Senate	31	18	
House	63	35	(House amended)
Senate	33	16	(Senate concurred)

Effective: June 7, 2012

Partial Veto Summary: The Governor vetoed section 3 which required DSHS, in collaboration with the Department of Early Learning and the State Auditor's Office, to identify, review, and provide the Legislature by October 1, 2013, recommendations for integrated monitoring and detection systems to prevent overpayments of public assistance.

VETO MESSAGE ON SSB 6508

March 30, 2012

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, Substitute Senate Bill 6508 entitled:

"AN ACT Relating to department of social and health services waivers of overpayment recoveries."

Section 3 requires the Office of Fraud and Accountability within the Department of Social and Health Services to collaborate with the Auditor's Office and the Department of Early Learning to identify, review, and provide the Legislature with recommendations for integrated monitoring and detection systems to prevent

overpayments of public assistance. The Office of Fraud and Accountability was created for the specific purpose of focusing on the prevention and investigation of abuse and fraud in the use of public assistance benefits. To avoid diluting this focus, the Secretary of the Department of Social and Health Services should determine what resources of the Department are best used in advancing measures to prevent non-fraudulent overpayments of public assistance.

For this reason, I have vetoed Section 3 of Substitute Senate Bill 6508.

With the exception of Section 3, Substitute Senate Bill 6508 is approved.

Respectfully submitted,

Christine O. Gregoire
Governor

SB 6545
C 197 L 12

Transferring the powers, duties, and functions of the developmental disabilities endowment from the department of health to the department of commerce.

By Senator Murray; by request of Department of Health and Washington State Department of Commerce.

Senate Committee on Ways & Means
House Committee on Health & Human Services Appropriations & Oversight

Background: Federal law authorizes developmental disabilities councils to engage in advocacy, capacity building, and systemic change activities that support the self-determination, independence, productivity, and integration of individuals with developmental disabilities in all facets of community life. Federal assistance is available to support the activities of a state's developmental disabilities council. States must designate a state agency for the receipt of these federal funds.

The Washington State Developmental Disabilities Planning Council (Council) was established by executive order in 1976 and reaffirmed in subsequent executive orders. The most recent order identifies the Department of Community Trade and Economic Development (DCTED), now the Department of Commerce (Commerce), as the designated state agency to receive, account for, and disburse federal funds available to support the Council.

Changes in federal law enacted in 2000 require that the designated state agency must be either (1) the Council, if allowable under the laws of the state; (2) a state agency that does not provide or pay for services for individuals with developmental disabilities; or (3) a state office, including the immediate office of the Governor or a state planning office. An exception in the federal law allows agencies designated prior to 1994 legislation to remain the designated state agency, even if they provide or pay for services for individuals with developmental disabilities, if other conditions are met. Commerce meets the criteria for this exception and remains the designated state agency for Washington.

In 1999 the Legislature established the Developmental Disabilities Endowment Trust Fund (Trust). Through private contributions and public appropriations, the Trust assists family members and others in developing long-range, financial plans to support individuals with developmental disabilities. A seven-member governing board administers the Trust, and the DCTED was directed to provide staff and administrative support to the governing board. Funds in the Trust are invested by the Washington State Investment Board.

In 2010 the Legislature transferred the functions and authority of the Trust from Commerce to the Department of Health (DOH). Funding for the Council was also transferred to DOH; however, Commerce remains the designated state agency for the receipt of federal funds that support the Council. In addition, some programs administered by DOH benefit people with developmental disabilities.

Summary: All powers, duties, and functions of DOH pertaining to the Trust are transferred to Commerce. This includes all related personnel, appropriations, funds, credits or other assets, documents, files, office equipment, and other tangible property. All rules and pending business must be acted on, and all existing contracts and obligations continued in full force by the Commerce.

Whenever a question arises related to the transfer of personnel or related materials or property, the director of Financial Management makes a determination as to the proper allocation and provide certification to the agencies.

All transferred employees classified under the state civil service law are assigned to perform their usual duties on the same terms without any loss of rights. Those whose positions are within an existing bargaining unit description within DOH must become part of the existing bargaining unit at Commerce in accordance with state collective bargaining statutes.

Votes on Final Passage:

Senate	47	1
House	93	0

Effective: June 7, 2012

ESSB 6555
C 259 L 12

Implementing provisions relating to child protection.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Hargrove, Shin and Roach).

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

Background: Child Protective Services (CPS) in Washington. CPS are services provided by the Department of Social and Health Services (DSHS) designed to protect children from child abuse and neglect, safeguard such children from future abuse and neglect, and to investigation reports of child abuse and neglect. Investigations may be conducted regardless of the location of the alleged abuse or neglect. CPS includes a referral to services to ameliorate conditions that endanger the welfare of children; the coordination of necessary programs and services relevant to the prevention, intervention, and treatment of child abuse and neglect; and services to children to ensure that each child has a permanent home.

Duty to Investigate. A number of professionals who regularly work with children are mandated reporters in Washington State. If the mandated reporter has reasonable cause to suspect that a child has been abused or neglected the fact must be reported to DSHS or law enforcement. DSHS must 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. On the basis of the findings of such investigation, DSHS or law enforcement must offer child welfare services to such parents, legal custodians, or persons serving in loco parentis, and/or bring the situation to the attention of an appropriate court or other community agency. An investigation is not required of non-accidental injuries that clearly do not result from a lack of care or supervision by the child's parents, legal custodians, or persons serving in loco parentis. If the investigation reveals that a crime against a child may have been committed, DSHS must notify an appropriate law enforcement agency.

Appeal of a Finding of Child Abuse or Neglect. A person named as an alleged perpetrator in a founded allegation of child abuse or neglect has the right to seek review and amendment of the finding. Within 20 days of receiving such notice, the person must notify DSHS in writing that he or she wishes to contest the finding. If the request is not made within the 20-day time period, the person has no right to agency review or further administrative or court review of the finding. After receipt of notification of the results of DSHS's review, the person has 30 days within which to ask for an adjudicative hearing with an administrative law judge. If the request is not made within the 30-day period, the person has no right to further review

Alternative Response System in Washington. In 1997 the Legislature authorized an alternative response system (ARS). ARS was a voluntary family-centered service provided by a contracted entity with the intention to increase the strength and cohesiveness of families that DSHS has determined to present a low risk of child abuse or neglect. The families referred to ARS were families that would not have been screened in for investigation. In 2006 DSHS redesigned ARS because a study of ARS determined that it was not producing good outcomes. The new program was called Early Family Support Services (EFSS). The stated goals of this program included the implementation of a standardized assessment tool, development of service delivery standards, and integration of promising or evidence-based programs. Again, families referred to this program were those not likely to be screened in for an investigation.

Consideration of Differential Response in Washington. In 2008 DSHS issued a legislative report regarding its consideration of a differential response system. The report described pros and cons associated with implementing differential response, which are summarized below.

Pros:

1. Social workers could concentrate on family assessment and case planning rather than the outcome of an investigation.
2. Investigative findings may become more consistent, due to a narrower focus.
3. Families that are chronically reported to CPS may receive more therapeutic interventions that are motivational in nature.

Cons:

1. In order for change to succeed the total agenda must be staged and doable, organizational capacity must be addressed given the number of change initiatives underway.
2. Funding, service levels, and ability to meet the basic needs of families would limit the outcomes of a differential response system.
3. The Children's Administration (CA) would likely not have the ability to respond to families in an assessment track with immediate services to meet their basic living needs and if Washington prioritized services for the most at-risk children, then lower risk families in the assessment track would receive fewer services paid by the DSHS/CA.
4. All social work staff must be trained in engaging families and assessing safety and risk factors.
5. Implementation of non-contracted differential response system would require further specialization of staff and additional categorization of families.

6. Agencies serving vulnerable adults and children would not learn about some potential CPS concerns regarding persons applying to be employed or licensed since CPS investigative findings in some cases involving maltreatment would no longer occur for families diverted to the assessment track.
7. Research does not clearly indicate that referring moderate risk families to differential response would improve outcomes (some states limit an alternate response to low risk cases).

Differential Response In Other States. Approximately 18 other states have implemented a differential response system. Minnesota has the longest running differential response system. In a differential response system, a family's strengths and weaknesses and child safety are assessed and no investigation is conducted nor findings of child abuse made for cases that would otherwise be screened in and investigated. If the family does not wish to participate in the assessment, the case is referred for investigation, unless no child safety issues are presented.

Under the state's child abuse statutes, DSHS is responsible for investigating and responding to allegations of child abuse or neglect. In some cases of alleged abuse or neglect, a child may be immediately removed from a parent or guardian and taken into protective custody.

A court may order law enforcement or CPS to take a child into custody when the child's health, safety, and welfare would be seriously endangered if the child is not taken into custody. A child may be taken into custody without a court order when law enforcement has probable cause to believe that the child has been abused or neglected and the child would be injured or could not be taken into custody if it were necessary to first obtain a court order. A child may also be detained and taken into custody without a court order when a hospital administrator has reasonable cause to believe that allowing the child to return home would present an imminent danger to the child's safety.

A shelter-care hearing must be held within 72 hours of a child being taken into custody and placed under state care, excluding Saturdays, Sundays, and holidays. At the shelter-care hearing, the court determines whether the child can safely be returned home while the dependency is being adjudicated, or whether there is further need for an out-of-home placement of the child.

Washington courts have interpreted the child abuse investigation statute as creating an implied right of action for negligent investigation. In *Tyner v. DSHS*, the Washington Supreme Court found that the child abuse investigation statute creates a duty not only to the child who is potentially abused or neglected, but also to the parents of the child, even if a parent is suspected of the abuse. The court based this holding in part on legislative intent statements in the child abuse statutes describing the importance of the family unit and the parent-child bond. There are three types of negligent investigation claims recognized by the courts: (1) wrongful removal of a child from a non-abusive home; (2) placement of a child in an abusive home; and (3) failure to remove a child from an abusive home.

Witness immunity is a common law doctrine that provides witnesses in judicial proceedings with immunity from suit based on their testimony. The purpose of witness immunity is to preserve the integrity of the judicial process by encouraging full and frank disclosure of all pertinent information within the witness's knowledge. The rule is based on the safeguards in judicial proceedings that help to ensure reliable testimony, such as the witness's oath, the hazards of cross examination, and the threat of prosecution for perjury.

Summary: Family Assessment Response (FAR). When DSHS receives a report of child abuse or neglect, it must use one of two responses for reports that are screened in and accepted for response: an investigation or a family assessment. A family assessment is defined as a comprehensive assessment of child safety, risk of subsequent child abuse or neglect, and family strengths and needs that is applied to a child abuse or neglect report. The assessment does not include a determination as to whether child abuse or neglect occurred but does determine the need for services to address the safety of the child and the risk of subsequent maltreatment. FAR is defined as a way of responding to certain reports of child abuse or neglect using a differential response approach to child protective services. FAR must focus on the safety of the child, the integrity and preservation of the family, and assessment of the status of the child and family in terms of risk of abuse and neglect, including a parent's or guardian's capacity and willingness to protect the child. No one is named as a perpetrator and no investigative finding is entered in DSHS's database as a result of the FAR.

In responding to a report of child abuse or neglect, DSHS must:

1. use a method by which to assign cases to investigation or family assessment that are based on an array of factors which may include the presence of imminent danger, level of risk, number of previous child abuse or neglect reports, or other presenting case characteristics.
2. allow for a change in response assignment based on new information that alters risk or safety level;
3. allow families assigned to FAR to choose to receive an investigation rather than a family assessment;
4. provide a full investigation if a family refuses the initial family assessment;
5. provide voluntary services to families based upon the results of the initial family assessment; however, if the family refuses the services and DSHS cannot identify specific facts related to risk or safety that warrant assignment to an investigation, and there is no history of child abuse or neglect reports related to the family, then DSHS must close the case; or

6. conduct an investigation in response to allegations that:
   a. pose a risk of imminent harm to the child;
   b. pose a serious threat of substantial harm to the child;
   c. constitute conduct that is a criminal offense and the child is the victim; or
   d. the child is an abandoned or adjudicated dependent child.

DSHS must develop a plan to implement FAR in consultation with stakeholders, including tribes. The plan must be submitted to the appropriate legislative committees by December 31, 2012. The following must be developed before implementation and submitted in the report to the Legislature:

1. description of the FAR practice model;
2. identification of possible additional non-investigative responses or pathways;
3. development of an intake and family assessment tool specifically to use for FAR;
4. delineation of staff training requirements;
5. development of strategies to reduce disproportionality;
6. development of strategies to assist and connect families with the appropriate private- or public-housing support agencies;
7. identification of methods by which to involve community partners in the development of community-based resources to meet families' needs;
8. delineation of procedures to ensure continuous quality assurance;
9. identification of current DSHS expenditures for services appropriate to FAR;
10. identification of philanthropic funding available to supplement public resources;
11. mechanisms to involve the child's Washington state tribe, if any, in FAR;
12. creation of a potential phase-in schedule, if proposed; and
13. recommendations for legislative action necessary to implement the plan.

DSHS is not liable for using FAR to respond to an allegation of child abuse or neglect unless the response choice was made with reckless disregard.

DSHS must implement FAR no later than December 1, 2013. DSHS may phase-in implementation of FAR basis by geographic area. DSHS must develop an implementation plan in consultation with stakeholders, including tribes. DSHS must submit a report of its implementation plan to the Legislature by December 31, 2012.

For allegations that are placed in FAR, DSHS must:

1. provide the family with a written explanation of the procedure for assessment of the child and family and its purpose;
2. collaborate with the family to identify family strengths, resources and service needs, and develop a service plan with the goal of reducing risk of harm to the child and improving or restoring family well-being;
3. complete the family assessment within 45 days of receiving the report. Upon parental agreement, this time period may be extended to 90 days;
4. offer services to the family in a manner that makes it clear acceptance of the services is voluntary;
5. implement the family assessment response in a consistent and cooperative manner;
6. conduct an interview with the child's parent, guardian, or other adult residing in the home who serves in a parental role. The interview must focus on ensuring the immediate safety of the child and mitigating risk of future harm to the child in the home environment;
7. conduct an interview with other persons suggested by the family or persons DSHS believes has valuable information; and
8. conduct an evaluation of the safety of the child and any other children living in the same home. The evaluation may include an interview with or observation of the child.

The Washington State Institute for Public Policy (WSIPP) must conduct an evaluation of the implementation of FAR. WSIPP must define the data to be gathered and maintained. At a minimum, the evaluation must address child safety measures, out of home placement rates, re-referral rates and caseload sizes and demographics. WSIPP's first report is due December 1, 2014, and its final report is due December 1, 2016.

DSHS must conduct two client satisfaction surveys of families that have been placed in FAR. The first survey results must be reported by December 1, 2014, and the second survey results by December 1, 2016.

Appeal of a Finding of Child Abuse or Neglect. A person named as an alleged perpetrator in a founded allegation of child abuse or neglect has the right to seek review of the finding. Within 30 days of receiving notice from DSHS, the person must notify DSHS in writing that the person wishes to contest the finding. The written notice provided by DSHS to the alleged perpetrator must contain the following:

1. information about DSHS's investigative finding as it relates to the alleged perpetrator;
2. sufficient factual information to apprise the alleged perpetrator of the date and nature of the founded allegation;

3. the right of the alleged perpetrator to submit a written response regarding the finding, which DSHS must file in the records;
4. that information in DSHS records may be considered in a later investigation or proceeding related to a different allegation of child abuse or neglect;
5. that founded allegations of abuse or neglect may be used in determining;
   a. whether the person is qualified to be licensed or approved for care of children or vulnerable adults;
   b. whether the person is qualified to be employed by DSHS in a position having unsupervised access to children or vulnerable adults.
6. that the alleged perpetrator has the right to challenge the founded allegation of abuse or neglect.

If the request is not made within the 30-day time period, the person has no right to agency review or further administrative or court review of the finding, unless the person can show that DSHS did not comply with the notice requirements of RCW 26.44.100. After receiving notification of the results of DSHS's review, the person has 30 days within which to ask for an adjudicative hearing with an administrative law judge. If the request is not made within the 30-day period, the person has no right to further review.

Government Liability. The purpose section of the child abuse or neglect statute is amended to provide that a child's health and safety interests should prevail over conflicting legal rights of a parent and that the safety of the child is DSHS's paramount concern when determining whether a parent and child should be separated during or immediately following investigation of alleged abuse or neglect.

Governmental entities, and their officers, agents, employees, and volunteers, are not liable for acts or omissions in emergent placement investigations of child abuse or neglect unless the act or omission constitutes gross negligence. Emergent placement investigations are those conducted prior to a shelter care hearing. A new section is added to the child abuse or neglect statute stating that the liability of governmental entities to parents, custodians, or guardians accused of abuse or neglect is limited as provided in the bill, consistent with the paramount concern of DSHS to protect the child's health and safety interest of basic nurture, health, and safety, and the requirement that the child's interests prevail over conflicting legal interests of a parent, custodian, or guardian.

DSHS and its employees must comply with orders of the court, including shelter care and other dependency orders, and are not liable for acts performed to comply with such court orders. In providing reports and recommendations to the court, DSHS employees are entitled to the same witness immunity as would be provided to any other witness.

Votes on Final Passage:

Senate	46	0	
House	97	0	(House amended)
Senate			(Senate refused)
House	80	17	(House receded/amended)
Senate	49	0	(Senate concurred)

Effective: June 7, 2012
December 1, 2013 (Sections 1 and 3-10)

SB 6566
C 133 L 12

Adjusting when a judgment lien on real property commences.

By Senators Litzow and Hobbs.

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

Background: A search for liens on real property most commonly occurs in one of two ways: through a search at a local county auditor's office in the county where the property is situated; or by the searching a court clerk's execution docket, a docket where judgment summaries are entered, as specified by state statute.

RCW 4.56.200 provides for when a judgment becomes a lien on real estate. Under this statute, all state court rendered judgments attach upon entry in the clerk's execution docket. The exception is a judgment rendered in a superior court where there is real estate owned by the judgment debtor which allows a judgment to be rendered, immediately attaching to real estate in that county prior to any entry in the court clerk's execution docket.

A recent State Supreme Court case, *Bank of America v. Treiger*, held that some court orders are considered a judgment and a lien attaches without a judgment summary. Such judgments may not be discoverable through a court clerk's execution docket.

Summary: It is clarified that the lien of judgments of real estate of the judgment debtor begin, for judgments of the superior court for the county in which the real estate is situated, from the time of the filing by the county clerk upon the execution docket in accordance with RCW 4.64.030.

Votes on Final Passage:

Senate	47	0
House	97	0

Effective: June 7, 2012

SSB 6574
C 260 L 12

Authorizing certain cities in which stadium and exhibition centers are located to impose admissions taxes in limited circumstances.

By Senate Committee on Ways & Means (originally sponsored by Senators Kohl-Welles, Frockt and Kline).

Senate Committee on Government Operations, Tribal Relations & Elections
Senate Committee on Ways & Means
House Committee on Ways & Means

Background: When the stadium and exhibition center was built in Seattle, now known as Century Link Field, one of the funding mechanisms for the financing of the construction was an admissions tax at the facility. King County may levy an admissions tax up to 10 percent on events at the facility. The revenues from the admissions tax go towards paying bonds on the construction of the stadium, and when the bonds are retired revenues may be used to pay for repair, reequipping, and capital improvements. The rate of the admissions tax currently imposed is 3.1 percent.

The city of Seattle currently has an admissions tax for entertainment or recreation events at the rate of 5 percent. However, the city is precluded from imposing its tax at Century Link Field.

During the 2012 football season, the University of Washington (UW) will play its home games at Century Link Field while Husky Stadium at the UW is going through renovation.

Summary: The city of Seattle is allowed to collect an admissions tax at Century Link Field during 2012 for college or university games that are played at that location due to the temporary closure of the facility owned by that college or university.

This city may impose a maximum admissions tax of 5 percent at these events, and the county may not impose an admissions tax at these events.

Votes on Final Passage:

Senate	36	11
House	96	2

Effective: June 7, 2012

SSB 6581
C 198 L 12

Eliminating accounts and funds.

By Senate Committee on Ways & Means (originally sponsored by Senator Murray; by request of Office of Financial Management).

Senate Committee on Ways & Means

Background: In addition to the state General Fund, which may be expended for any lawful purpose, the state maintains several hundred funds and accounts that are dedicated to particular statutory purposes. These accounts generally fall into one of three categories: (1) accounts located in the state treasury, thereby subject to appropriation by the Legislature; (2) accounts held in the custody of the State Treasurer and typically not subject to legislative appropriation; and (3) accounts located in state agencies and institutions of higher education, known as local accounts. Some funds and accounts, due to lack of recent activity, have been deemed by the Office of Financial Management to be inactive accounts.

Summary: The following accounts are eliminated:

- 1975 Community College Capital Construction;
- 211 Account;
- Agency Payroll Revolving Fund;
- Agency Vendor Payment Revolving Fund;
- Airport Impact Mitigation Account;
- Americans with Disabilities Special Revolving Fund;
- Automatic Fingerprint Information System Account;
- Capitol Historic District Construction Account;
- College Savings Program Account;
- Common School Reimbursable Construction Account;
- County Public Health Account;
- County Sales and Use Tax Equalization Account;
- Digital Government Revolving Account;
- Disability Accommodation Revolving Fund;
- Displaced Workers Account;
- Distressed County Assistance Account;
- Dungeness Crab Appeals Account;
- Environmental Excellence Account;
- Federal Interest Payment Fund;
- Film and Video Promotion Account;
- Forests and Fish Account;
- Green Industries Jobs Training Account;
- Health System Capacity Account;
- Hood Canal Aquatic Rehabilitation Account;
- Liquor Control Board Construction and Maintenance Account;
- Metals Mining Account;
- Mobile Home Park Purchase Account;
- Municipal Sales and Use Tax Equalization;
- Nisqually Earthquake Account;

- Organized Crime Prosecution Revolving Fund;
- Public Facilities Construction Loan and Grant Revolving Account;
- Reading Achievement Account;
- Real Estate Excise Tax Grant Account;
- Salary and Insurance Increase Revolving Account;
- Small Business Incubator Account;
- Special Account Retirement Contribution Increase Revolving Account;
- Special Grass Seed Burning Research Account;
- Special Technology Funding Revolving Account;
- State Facilities Renewal Account;
- Students With Dependents Grant Account;
- Sulfur Dioxide Abatement Account;
- Tobacco Securitization Trust Account;
- Washington International Exchange Scholarship Endowment Fund;
- Washington International Exchange Trust Fund;
- Washington Natural Science, Wildlife, and Environmental Education Partnership Account;
- Water Conservation Account; and
- Water Storage Projects And Water Systems Facilities Subaccount.

Various statutory references to these accounts are eliminated or modified. Any future revenues that previously had been deposited in the Special Grass Seed Burning Research Account, the Film and Video Promotion Account, the Displaced Workers Account, and the Metals Mining Account are redirected to the state General Fund.

Remaining monies in two capital accounts (the Capitol Historic District Construction Account and the State Facilities Renewal Account) are transferred to the State Building Construction Account. Remaining moneys in the Special Grass Seed Burning Research Account are appropriated to the Washington Turfgrass Seed Commission. Remaining monies in the other accounts being eliminated are transferred to the state General Fund.

Votes on Final Passage:

Senate	46	2
House	97	0

Effective: July 1, 2012

SSB 6600

C 76 L 12

Extending property tax exemptions to property used exclusively by certain nonprofit organizations that is leased from an entity that acquired the property from a previously exempt nonprofit organization.

By Senate Committee on Ways & Means (originally sponsored by Senator Eide).

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

Background: Under current law, property, including buildings and improvements, owned by a nonprofit organization or association engaged in youth character-building activities are exempt from the property tax. In addition churches are exempt from property tax.

Property leased to a nonprofit organization engaged in youth character-building activities – and some other activities – is not exempt from property tax, unless that property is owned by an organization that is otherwise exempt from the property tax.

Currently, there is a situation where a church is leasing property to a for-profit youth character-building organization, which, in turn, is subleasing the property to a nonprofit youth character-building organization. Since the for-profit organization is in the middle of this transaction, the property is subject to property tax.

Summary: Property remains eligible for a property tax exemption for youth, character-building activities, if the property is owned by an property tax exempt church or other nonprofit organization which is exempt from property taxation that leases the property to another organization for the same exempt purposes, provided that:

- the property is owned by an entity formed exclusively for the purpose of leasing the property to an organization, which will use the property for the exempt purposes;
- the property is leased to an organization, which uses the property for the exempt purposes;
- the immediate previous owner of the property had received an exemption for the property; and
- the benefits of the exemption must be passed on to the lessee of the property.

These provisions are in effect for nonprofit youth character-building organizations; nonprofit, nonsectarian organizations which provide character building; protective or rehabilitative social services for all ages; veterans relief organizations; church camp facilities; and nonprofit organizations that issue debt for student loans or that are guarantee agencies.

Votes on Final Passage:

Senate	47	0
House	91	7

Effective: June 7, 2012

ESB 6608
C 199 L 12

Changing judicial stabilization trust account surcharges.

By Senators Harper, Pflug, Frockt, Kline and Eide.

Senate Committee on Ways & Means

Background: Superior and district courts are authorized by statute to collect filing fees and other fees for court services. Revenue from superior court filing fees is split with 46 percent going to the state and the remainder going to the county and the county or regional law library. Revenue from district court filing fees is split with 32 percent going to the state and the remainder going to the county and the county or regional law library.

In 2009 the Legislature authorized temporary surcharges on filing fees in superior and district courts. Superior court filings are subject to a $30 surcharge, except for filings of an appeal from a court of limited jurisdiction where the surcharge is $20. District court filings are subject to a $20 surcharge, except for small claims filings which are subject to a $10 surcharge. The temporary surcharges are set to expire on July 1, 2013.

All of the revenue from surcharges must be remitted to the State Treasurer for deposit into the Judicial Stabilization Trust Account (Account). Expenditures from this Account may only be used for the support of judicial branch agencies. The revenue from the surcharges is split between the state and the county collecting the fee, with 75 percent going to the state and 25 percent going to the county.

Funds from the surcharge going to the county must be used to support local trial courts and court-related costs.

During the 2011-2013 biennium, an estimated $9 million will be deposited into the Account. Funds from the Account are appropriated for expenditures in the Administrative Office of the Courts, the Office of Public Defense, and the Office of Civil Legal Aid.

Summary: The surcharges are increased by $10:
- superior court filing surcharge is $40;
- filing of an appeal from a court of limited jurisdiction surcharge is $30.

Votes on Final Passage:

Senate	39	9
House	54	43

Effective: June 7, 2012

ESB 6635
C 6 L 12 E 2

Improving revenue and budget sustainability by repealing, modifying, or revising tax preference and license fees.

By Senators Murray and Kline.

Senate Committee on Ways & Means

Background: Business and Occupation Tax. Washington's major business tax is the business and occupation (B&O) tax. The B&O tax is imposed on the gross receipts of business activities conducted within the state, without any deduction for the costs of doing business. Revenues are deposited in the state General Fund. A business may have more than one B&O tax rate, depending on the types of activities conducted. There are a number of different rates. The main rates are 0.471 percent for retailing; 0.484 percent for manufacturing, wholesaling, and extracting; and 1.8 percent for professional and personal services, interest earned on loans by financial institutions, and activities not classified elsewhere.

Citizen Commission for Performance Measurement of Tax Preferences. Legislation enacted in 2006 requires a periodic review of most excise and property tax preferences to determine if their continued existence or modification serves the public interest. The enabling legislation assigns specific roles in the review process to two different entities. The job of scheduling tax preferences, holding public hearings, and commenting on the reviews is assigned to the Citizen Commission for Performance Measurement of Tax Preferences (Commission). The responsibility for conducting the reviews is assigned to the staff of the Joint Legislative Audit and Review Committee (JLARC). The commission develops a schedule to accomplish a review by JLARC of each tax preference at least once every ten years.

B&O Tax Deduction for First Mortgage Interest. A B&O tax deduction is available to financial institutions for interest earnings on loans secured by first mortgages or deeds of trust on residential properties. An originating lender that sells mortgage loans onto the secondary market, but continues to service the loans, may deduct the fees for servicing these loans.

B&O Tax Exemption for Manufacturers of Certain Agricultural Products. B&O tax exemptions are provided for manufacturing of fruits or vegetables, dairy, and seafood. These exemptions expire July 1, 2012, and are replaced by a preferential B&O tax rate of 0.138 percent.

Sales and Use Tax Exemption for Eligible Server Equipment. In 2010 ESSB 6789 provided a sales and use tax exemption for eligible server equipment and power infrastructure for eligible computer data centers. The exemption expires on April 1, 2018. In order to qualify a data center must:
- be located in a rural county;
- have at least 20,000 square feet dedicated to housing servers; and

- have commenced construction between April 1, 2010, and before July 1, 2011.

Additionally, within six years of construction, a qualifying business must have created 35 family wage employment positions or three family wage jobs per 20,000 square feet of space.

Commencement of construction means the date that a building permit is issued under the building code for construction of a computer data center. Construction of a data center includes the expansion, renovation, or other improvements made to existing facilities, including leased or rented space.

Eligible server equipment is the original server equipment installed in an eligible data center after April 1, 2010, and replacement server equipment which replaces servers originally exempt under this law and is installed prior to April 1, 2018.

B&O Taxation of Newspapers. The printing and publishing of newspapers is subject to the B&O tax at a rate of 0.2904 percent. (The Legislature, in 2009, lowered the tax rate from 0.484 percent to 0.2904 percent, effective July 1, 2009.) The tax applies to the gross receipts of the business, including subscription sales, newsstand sales, advertising income, and other income. In recent years newspapers have begun to post materials from their hard-copy editions to the Internet. Until July 1, 2008, income derived from this activity did not constitute printing or publishing. Thus, advertising income received by newspapers for their web-based materials was subject to B&O tax under the service classification at a rate of 1.5 percent – currently the rate is 1.8 percent until July 1, 2013.

In 2008 the Legislature amended the definition of newspaper for B&O tax purposes to include any newspaper-labeled supplement and the Internet-based version of printed newspapers. As a result, income from publishing newspaper supplements and advertising income related to Internet-based newspaper material is subject to the 0.2904 percent printing and publishing newspaper tax rate, instead of the 1.8 percent service rate. However, the reduced tax rate was only applicable for a three-year period, from July 1, 2008, until June 30, 2011.

Sales Tax Exemption for Certain Phone Services. Under current law, an exemption from retail sales tax is allowed for local calls made by residential telephone customers, calls made from coin-operated payphones, and calls made from cell phones by a customer whose primary place of use is outside the state.

Leasehold Excise Tax. Government-owned property is exempt from property tax. However, private lessees of that property may be subject to a leasehold excise tax (LET), levied at 12.84 percent of the rent. Historically, pursuant to a 1979 determination by the state Department of Revenue (DOR), port districts have not been required to collect the LET from port tenants leasing wharf facilities on a non-exclusive, preferential use basis. Recently, DOR determined that preferential use leases provided substantial possession, use, and control of the property to these tenants. Thus, DOR concluded that these types of leasehold interests were subject to LET, since they provided substantial control of the property.

Summary: A financial business that is located in more than ten states may not deduct from B&O tax amounts received from interest earnings on loans secured by first mortgages or deeds of trust on residential properties. The JLARC is directed to review the first mortgage deduction by June 30, 2015, as part of its tax preference review process.

The B&O tax exemptions for manufacturing of fruits or vegetables, dairy, and seafood are extended to July 1, 2015, and are then replaced by a preferential B&O tax rate of 0.138 percent.

The time is extended for eligible data centers and qualifying tenants of data centers to qualify for the sales and use tax exemption on server equipment and power infrastructure to those that commenced construction between April 1, 2012, and July 1, 2015. The exemption time is extended for eligible replacement server equipment placed in new data centers and for qualifying tenants until April 1, 2020.

Exempts craft distilleries from the license issuance fee of 17 percent of all spirits sales revenues under such a license.

Leasehold interests subject to LET do not include the preferential use of publicly owned cargo cranes and docks and associated areas used in loading and discharging of cargo at a port district marine facility. Preferential use means use by a private party under a written agreement with the public owner in which the public owner or a third party maintains a right to use the property when it is not being used by the private party.

The definition of a newspaper is amended to include the Internet version of printed newspapers and newspaper supplements. The effect of this is to tax advertising revenue from the online versions of newspapers and newspaper supplements at the same rate as the traditional newspaper. The B&O tax rate for printing and publishing a newspaper, or both, is increased from 0.2904 percent to 0.365 percent until June 30, 2013, and 0.35 percent until July 1, 2015.

Votes on Final Passage:

Second Special Session

Senate	35	10
House	74	24

Effective: May 2, 2012 (Part III, data centers, and Part IV, craft distilleries)
July 1, 2012

SSB 6636

C 8 L 12 E 1

Requiring a balanced state budget for the current and ensuing fiscal biennium.

By Senate Committee on Ways & Means (originally sponsored by Senators Kastama, Zarelli and Tom).

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

Background: The expenses of the agencies, institutions, and programs of state government are appropriated by the Legislature in a biennial appropriations act. The state Budget and Accounting Act requires the Governor to submit to the Legislature a biennial budget proposal that is balanced within the state's existing revenues. However, neither state law nor the state Constitution require the Legislature to enact a balanced state budget act.

The Economic and Revenue Forecast Council was established in 1984 to prepare an official state revenue forecast for use in budget preparation by the Governor and the Legislature. The council consists of two person appointed by the Governor and four persons representing the four political caucuses of the Senate and House of Representatives. An Economic and Revenue Forecast Work Group provides technical assistance to the council in the preparation of revenue forecasts. The work group consists of staff representatives from relevant legislative and executive agencies.

The Budget Stabilization Account, also known as the Rainy Day Fund, was created in the state Constitution in 2007. One percent of general state revenues are deposited to the account each fiscal year. Monies may be withdrawn from the account and appropriated by the Legislature under three circumstances: (1) if the Governor declares an emergency resulting from a catastrophic event; (2) if annual state employment growth is forecast to be less than one percent; or (3) the appropriation is made by a sixty-percent vote of each house of the Legislature.

Summary: Beginning with the 2013-2015 fiscal biennium, the Legislature must enact a budget bill that leaves a positive ending fund balance in the state General Fund and related funds. In addition, beginning with the 2013-2015 fiscal biennium, the projected maintenance level for the budget in the ensuing biennium may not exceed available fiscal resources. Available fiscal resources are the greater of (1) the official revenue forecast for the ensuing biennium, or (2) an assumed revenue increase of 4.5 percent for each year of the ensuing biennium. The projected maintenance level is the continuing cost of existing programs and services, monies transferred into the Budget Stabilization Account, and excluding, for the 2013-15 and 2015-17 biennia, the cost of enhanced funding for basic education under the McCleary ruling of the state Supreme Court.

"Related funds" means the Washington Opportunity Pathways Account and the Education Legacy Trust Account.

The balanced budget requirement does not apply to (1) an "early action" budget bill that makes net reductions in appropriations and is enacted between July 1 and February 15 of any year; and (2) an ensuing biennium following a biennium in which monies are withdrawn from the Budget Stabilization Account.

Each November, the Economic and Revenue Forecast Council must submit a budget outlook document for state revenues and expenditures for the General Fund and related funds for the current biennium and the next ensuing biennium. The council must also prepare a budget outlook document for the Governor's proposed budget and for the budget enacted by the Legislature.

To assist the council in the preparation of the state budget outlooks, a State Budget Outlook Work Group is created, consisting of one staff person from the Office of Financial Management, the Legislative Evaluation and Accountability Program Committee, the Office of the State Treasurer, the Economic and Revenue Forecast Council, the Caseload Forecast Council, the Senate Ways and Means Committee, and the House of Representatives Ways and Means Committee.

Votes on Final Passage:

First Special Session

Senate	30	16	
House	79	19	(House amended)
Senate	38	9	(Senate concurred)

Effective: July 10, 2012

SSJM 8009

Requesting respectfully the adoption of federal legislation granting states remote collection authority for remote sales.

By Senate Committee on Ways & Means (originally sponsored by Senators Regala and Nelson).

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

Background: Washington and 45 other states impose retail sales and use taxes. These taxes are imposed on the retail sale or use of most items of tangible personal property and some services. The rates, definitions, and administrative provisions relating to sales and use taxes vary greatly among the 7500 state and local taxing jurisdictions. This variety is one reason cited in *Quill v. North Dakota*, 112 S.Ct. 1904 (1992), where the United States Supreme Court held that the federal commerce clause prohibits a state from requiring mail-order, and by extension internet, firms to collect sales tax unless they have a physical presence in the state.

An effort was started in early 2000, by the Federation of Tax Administrators, the Multistate Tax Commission, the National Conference of State Legislatures, and the National Governors Association, to simplify and modernize sales and use tax collection and administration nationwide. The effort is known as the Streamlined Sales Tax Project (SSTP). The purpose of the project was to nationwide simplify sales tax collection in order to address the issues raised in the *Quill* case.In the 2002 Legislative Session, the Legislature adopted the Simplified Sales and Use Tax Administration Act, which authorized the Department of Revenue (DOR) to be a voting member in the SSTP. 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 (SSUTA), was adopted by 34 states and Washington, D.C. in November 2002.

During the 2003 Legislative Session, the Legislature enacted legislation at the request of the DOR to implement the uniform definitions and administrative provisions of the SSUTA. However, the legislation did not implement several provisions that are necessary for the state to conform fully to the SSUTA, including a provision that would require the state to change its local sales and use tax sourcing rules. In 2007 the Legislature adopted the remaining provisions (including changing our sourcing from origin based to destination based) needed to fully conform to the SSUTA which allowed Washington to be a full member state. To date, 24 states are in full compliance with the SSUTA.

This year three pieces of legislation have been introduced at the federal level. The three bills are known as the Main Street fairness act, the Marketplace Fairness Act, and the Marketplace Equity Act.

Summary: The memorial asks Washington's congressional delegation to join as cosponsors of the Main Street Fairness Act, the Marketplace Fairness Act, and the Marketplace Equity Act, and to support one of the act's passage. It also asks President Obama to sign the legislation into law, upon passage by congress.

Votes on Final Passage:

First Special Session

Senate	32	12

Second Special Session

Senate	41	6
House	59	36

SSJM 8016

Encouraging the beyond the border action plan on perimeter security and economic competitiveness and the action plan on regulatory cooperation between the United States and Canada.

By Senate Committee on Economic Development, Trade & Innovation (originally sponsored by Senators Kastama, Shin, Chase, Hatfield, Kilmer and Fraser; by request of Lieutenant Governor).

Senate Committee on Economic Development, Trade & Innovation

House Committee on Community & Economic Development & Housing

Background: On February 4, 2011, President Barack Obama and Canadian Prime Minister Stephen Harper issued the joint declaration, Beyond the Border: A Shared Vision for Perimeter Security and Economic Competitiveness, which articulates a shared approach to security in which both countries work together to address threats within, at, and away from the United States and Canadian borders, while expediting lawful trade and travel. They also announced the creation of the Canada-United States Regulatory Cooperation Council (RCC) composed of senior regulatory, trade, and foreign affairs officials from both governments, for the purpose of increasing regulatory transparency and coordination between the two countries.

In December 2011 the United States and Canada released the Beyond the Border Action Plan that details methods for the United States and Canada to work together to enhance joint security and accelerate the legitimate flow of people, goods, and services through four areas of cooperation: (1) addressing threats early; (2) promoting trade facilitation, economic growth, and jobs; (3) strengthening cross-border law enforcement; and (4) protecting shared critical infrastructure and enhancing cybersecurity.

Also, in December 2011, the initial Joint Action Plan of the RCC was released. This initial Joint Action Plan seeks to foster new approaches to regulatory alignment and serves as a template for future coordination efforts between Canada and the United States. The intention is to help reduce barriers to trade, lower costs for consumers and business, and create economic opportunities on both sides of the border through the alignment of regulatory approaches, while not compromising health, safety, or environmental protection standards.

Summary: The Washington State Senate and House of Representatives recognize the history of partnership and the economic and trade relationship between the United States and Canada.

A request is made to the President, executive branch agencies, and Congress to: (1) work together to see that the Beyond the Border Action Plan on Perimeter Security

and Economic Competitiveness and the Action Plan on Regulatory Cooperation are carried out; and (2) see that the United States' appointees to the Beyond the Border Working Group, the RCC, and the United States' agencies responsible for implementing the Action Plans have the resources necessary to assist in realizing the goals of the action plans.

The relevant committees of the Legislature must monitor implementation of the Beyond the Border Action Plan on Perimeter Security and Economic Competitiveness and the Action Plan on Regulatory Cooperation for opportunities to cooperate and participate on the state level.

Copies of the memorial must be sent to the President of the United States, each member of Congress from the State of Washington, the President of the United States Senate, the Speaker of the United States House of Representatives, and specified secretaries of executive branch agencies.

Votes on Final Passage:

Senate	46	1
House	67	30

ESJR 8221

Amending the Constitution to include the recommendations of the commission on state debt.

By Senators Parlette, Kilmer, Benton, Murray, Brown, King, Hewitt, Becker and Morton; by request of Commission on State Debt.

Senate Committee on Ways & Means
House Committee on Capital Budget

Background: The State Constitution limits the issuance of state general obligation bonds. The State Treasurer may not issue a debt-limit general obligation bond if the amount of interest and principal payments in any year, along with such payments for existing debt limit bonds, would exceed 9 percent of the average of the annual general state revenue collections for the previous three fiscal years. General state revenues do not include property taxes, even though they are deposited in the general fund.

Legislation enacted in 2011 (SSB 5181; Chapter 46, 2011 Laws, 1st Special Session) established the Commission on State Debt and required it to recommend possible changes to the constitutional debt limit and other debt policy in order to:

- stabilize the capacity to incur new debt in support of sustainable and predictable capital budgets;
- reduce the growth in debt-service payments to an appropriate level that no longer exceeds the long-term growth in the general fund expenditures; and
- maintain and enhance the state's credit rating.

The Commission on State Debt reported their findings and recommendations in December 2011. The recommendations included changes to the constitutional debt limit and to the statutory working debt limit.

Summary: The constitutional debt limit is reduced over time from 9.0 percent to 8.0 percent by July 1, 2034. It is set at 8.5 percent starting July 1, 2014; 8.25 percent starting July 1, 2016, and 8.0 percent starting July 1, 2034. The percentage debt limit is applied to the average of general state revenues for the previous six fiscal years instead of the current three-year average. The definition of general state revenues includes property taxes deposited in the General Fund.

Votes on Final Passage:

Senate	41	7
<u>First Special Session</u>		
Senate	41	7
<u>Second Special Session</u>		
Senate	38	7
House	91	7

Effective: July 1, 2014, if ratified by the voters.

SJR 8223

Amending the Constitution to provide clear authority to state research universities to invest funds as authorized by law.

By Senators Kilmer, Schoesler, Tom, Murray, Harper, Conway, Shin and McAuliffe.

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

Background: The State Constitution prohibits giving or loaning the state's credit and the credit, money, or property of a municipality to an individual, association, company, or corporation. The State Constitution further prohibits the state from subscribing to, or being interested in, the stock of any company, association, or corporation.

Notwithstanding these prohibitions, Article XXIX, section 1 of the State Constitution allows for the investment of the monies of any public pension or retirement fund, industrial insurance fund, or fund held in trust for the benefit of persons with developmental disabilities.

Summary: The public monies of the University of Washington and Washington State University held in investment funds are not subject to the constitutional prohibition on giving or loaning the state's credit to the extent that the monies are invested as authorized by statute.

Votes on Final Passage:

Senate	45	2	
House	93	4	(House amended)
Senate	45	4	(Senate concurred)

Effective: Contingent on voter approval.

SUNSET LEGISLATION

Background: The Legislature adopted the Washington State Sunset Act (chapter 43.131 RCW) in 1977 to improve legislative oversight of state agencies and programs. The sunset process provides for the automatic termination of selected state agencies, programs, units, subunits, and statutes. Unless the Legislature provides otherwise, the entity made subject to sunset review must formulate the performance measures by which it will ultimately be evaluated. One year prior to an automatic termination, the Joint Legislative Audit and Review Committee and the Office of Financial Management conduct program and fiscal reviews. These reviews are designed to assist the Legislature in determining whether agencies and programs should be terminated automatically or be reauthorized in either their current or a modified form prior to the termination date.

Summary: Legislation established sunset reviews for:

(1) The Child and Family Reinvestment Account and Methodology, with termination on June 30, 2018, and repeal of the act on June 30, 2019;

(2) The Medicaid False Claims Act, with termination on June 30, 2016, and repeal of the act on June 30, 2017; and

(3) The Joint Center for Aerospace Technology Innovation, with termination on July 1, 2015, and repeal of the act on July 1, 2016.

Programs Added to Sunset Review

Child and Family Reinvestment Account and Methodology

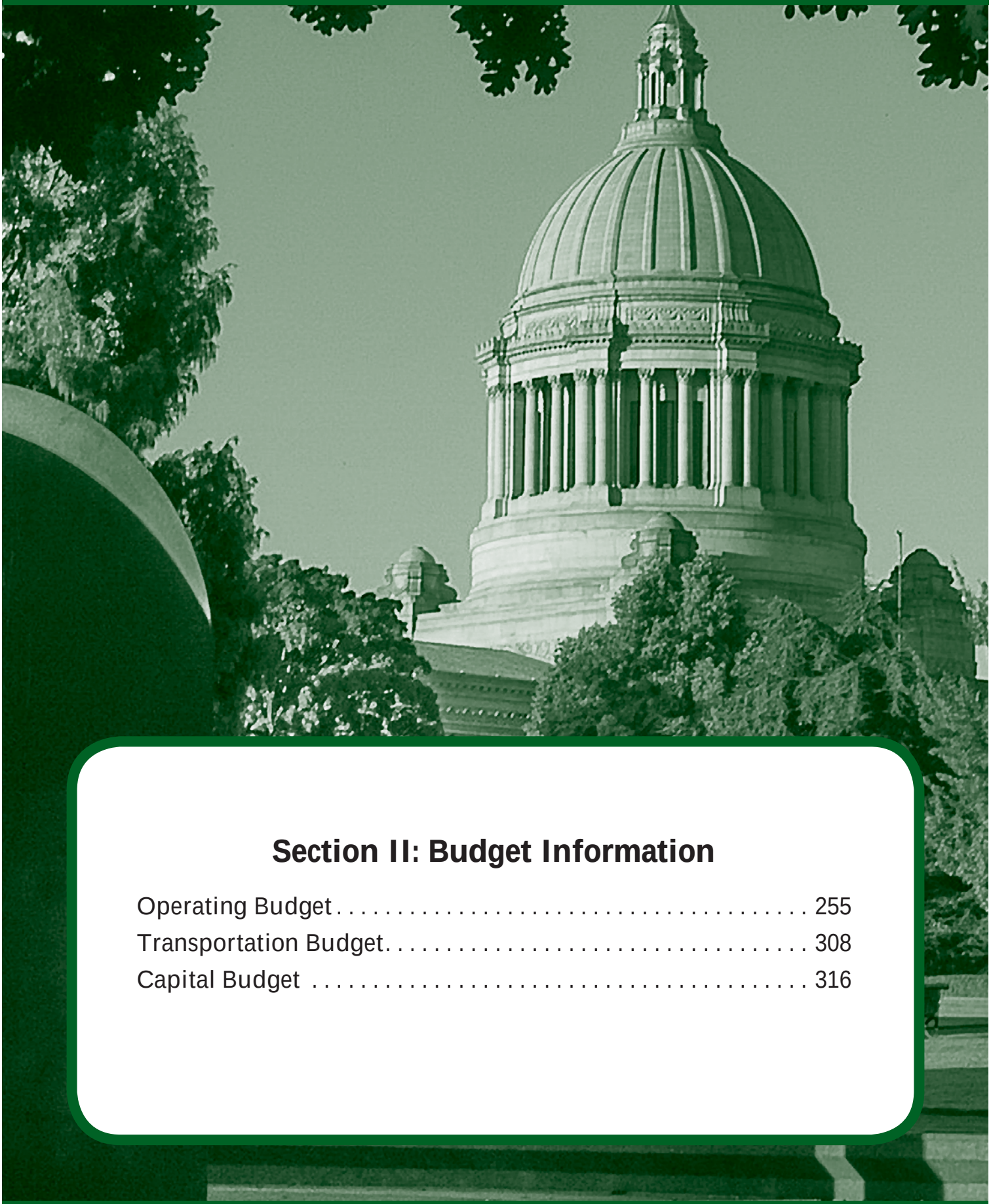
SHB 2263 (C 204 L 12)

Medicaid False Claims Act

ESSB 5978 (C 241 L 12)

Joint Center for Aerospace Technology Innovation

SSB 5982 (C 242 L 12)



Section II: Budget Information

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2012 Supplemental Omnibus Budget Overview
Operating Only

Background to the 2012 Budget Problem

In May 2011, as part of addressing a budget shortfall, the Legislature adopted a 2011-13 biennial operating budget that anticipated leaving $741 million in projected reserves (Near General Fund-State, Opportunity Pathways, and Budget Stabilization Account). Over the next seven months projected revenues for the remainder of the 2009-11 biennium and for the 2011-13 biennium declined by over $2.2 billion. As of the November 2011 revenue forecast, the $741 million in ending reserves for the 2011-13 biennium had become a negative $1.4 billion.

Combined Impact of December 2011 and 2012 Legislative Actions

Since December 2011, the legislature took actions that cumulatively improved the budget situation by approximately $1.7 billion, leaving projected reserves of $311 million ($265 million in the Budget Stabilization Account and $46 million in Near General Fund-State).

Legislative actions taken since December 2011 include reducing estimated Near General Fund-State and Opportunity Pathways Account spending by $1.07 billion ($436 million in maintenance net level savings, $514 million in net policy level savings, and directing that $120 million of anticipated reversions remain in the general fund). Revenue related legislation is projected to increase Near General Fund-State resources by a net of $228 million ($144 million from redirecting existing revenues into the state general fund, $51 million from changes in the administration of unclaimed property, and $33 million from a variety of other actions). Finally, Near General Fund-State resources were also increased by a net of $372 million ($238 million from an adjustment to working capital reserve and $134 million from fund transfers).

These actions are described chronologically, and in more detail, below.

December 2011 Special Session

In December 2011, the Legislature took "early action" steps, which reduced the budget problem by $480 million. Major elements included:

- Reducing spending by $322 million ($96 million at maintenance level) in Chapter 9, Laws of 2011, 2nd sp.s., Partial Veto (SHB 2058).
- Making fund transfers of $107 million ($83 million from fiscal year 2011 General Fund-State reversions) in Chapter 9, Laws of 2011, 2nd sp.s., Partial Veto (SHB 2058).
- Increasing revenue by $51 million from modifying provisions related to unclaimed property in Chapter 8, Laws of 2011, 2nd sp.s. (SHB 2169).

The Legislature entered the 2012 legislative session with a Near General Fund-State and Opportunity Pathways Account budget problem of approximately $1 billion (including the Budget Stabilization

Account). Assuming an ending reserve level of slightly over $300 million, this meant that the budget challenge facing the Legislature going into the 2012 session was approximately $1.3 billion.

2012 Regular & Special Sessions

The February 2012 revenue forecast increased by $86 million. On the expenditure side of the balance sheet, the February 2012 maintenance level savings of $340 million further reduced the budget problem. Taking these two items into account, this reduced the budget problem to under $900 million (including ending reserves of $311 million).

Summary

Chapter 7, Laws of 2012, 2nd sp.s., Partial Veto (3ESHB 2127) and related legislation address the remaining budget problem by: (1) making $295 million in net policy level spending reductions; (2) lowering the working capital reserve by $238 million as a result of an administrative change to the timing of when the local share of retail sales and use taxes are transferred from the general fund; (3) reducing distributions to local governments by $74 million; (3) redirecting $70 million in solid waste tax revenues to the general fund; (4) making net fund transfers of $28 million; (5) generating a net of $33 million in additional resources from revenue legislation and budget driven revenue; and (6) retaining in the general fund an estimated $160 million in projected agency reversions during 2011-13 biennium rather than distributing those reversions to other accounts.

2012 Supplemental Policy Level Spending Changes

Besides the December 2011 "early action" and the maintenance level changes referenced above, Chapter 7, Laws of 2012, 2nd sp.s., Partial Veto (3ESHB 2127) contains $362 million in spending reductions partially offset by $67 million in increases (making the net spending reduction $295 million).

Major reductions included: (1) $127 million in savings in Temporary Assistance to Needy Families and Working Connections Childcare related activities which is comprised of reduced caseload and additional impacts of policies implemented from 2011 session; (2) making a variety of administrative reductions, centralized service efficiency steps, and capturing vacancy savings totaling over $73 million in most areas of state government; (3) saving $33 million from lowering the state employee health care contribution from $850 per member per month to $800 per member per month by using an available fund balance; (4) using $20 million in the State Toxics Account to support water and other environmental cleanup activities previously funded from the state general fund; (5) $15 million in savings associated with community supervision changes including implementation of a new violator policy; (6) saving $13 million by eliminating indigent assistance disproportionate share hospital payments; and (7) making a $5 million reduction in the housing and essential needs program based on slower than expected phase-in of the program since November of 2011.

Policy increases included: (1) $14 million for the costs associated with implementing Initiative 1163 - Homecare Training; (2) $5.8 million for K-12 principal and teacher evaluation legislation; (3) $4 million for additional Life Science Discovery activities and grants; (4) $2.6 million for phase II of the Provider One information technology project; (5) $2 million for the implementation of the federal Affordable Care Act; and (6) $2 million in K-12 urban school turnaround funding.

2012 Resource Changes

Chapter 7, Laws of 2012, 2nd sp.s., Partial Veto (3ESHB 2127) assumes or includes approximately $444 million in additional resources. The largest component of this comes from Chapter 9, Laws of 2012, 1st sp.s. (HB 2822) which makes an administrative change that requires the local share of retail sales and use taxes to be transferred from the state general fund into the Local Sales and Use Tax Account on a

monthly basis rather than on a daily basis in a manner not impacting the amount or timing of distributions made to local government. The additional cash resources being retained in the state general fund allow lowering the amount of resources set aside for the working capital reserve by $238 million.

Chapter 5, Laws of 2012, 2nd sp.s. (ESHB 2823) redirects $143.8 million in existing resources to the state general fund. First, the legislation requires all but $10 million per year in additional liquor distributions expected from Initiative 1183 be retained in the state general fund rather than enhancing local government distributions. Second, in fiscal year 2013, liquor excise taxes previously distributed to local governments will be retained in the general fund. After fiscal year 2013, all but $10 million of that will be distributed to local governments. Because of extra revenue generated in the first year per the initiative, and the redirection of the excise tax, the state general fund is expected to receive a $73 million increase in fiscal year 2013. Finally, the legislation temporarily redirects the portion of the solid waste tax that currently goes to the Public Works Assistance Account to the state general fund, which increases general fund resources by $70 million in the 2011-13 biennium.

Chapter 7, Laws of 2012, 2nd sp.s., Partial Veto (3ESHB 2127) also assumes revenue legislation and budget-driven revenue that is expected to generate a net increase of $33.5 million in the 2011-13 biennium. This includes legislation that increases and decreases expected revenue by changing exemptions and tax collection provisions. See revenue section of this document for more detail. This net increase of $33.5 million also includes $26 million in budget-driven revenue, primarily from administrative savings in the State Lottery and the sale of the liquor distribution center.

Chapter 7, Laws of 2012, 2nd sp.s., Partial Veto (3ESHB 2127) makes fund transfers to and from the general fund totaling $28.4 million. Some of the positive fund transfers include: (1) $30 million from the Public Works Assistance Account; (2) $6.2 million from the Department of Retirement Systems Account; (3) $4 million from the Financial Services Regulation Account; (4) $3.5 million from the State Treasurer's Service Account; (5) $2.7 million from the Waste Reduction and Recycling Account; and (6) $2 million from the Heritage Center Account. The fund transfers that increase state general fund resources are partially offset by reversing a $22.5 million Education Savings Account transfer from the 2011 session.

Finally, Chapter 7, Laws of 2012, 2nd sp.s., Partial Veto (3ESHB 2127) makes changes to the way agency underspending is handled. Rather than being distributed to the Education Savings Account, Savings Incentive Account, and various other smaller accounts, the amounts that remain unspent at the end of fiscal years 2012 and 2013 will be retained in the state general fund. This is assumed to result in an additional $160 million in resources being retained the state general fund.

Governor's Operating Budget Vetoes

The Governor vetoed a number of sections of the operating budget bill passed by the Legislature. The net effect of her vetoes was to increase near general fund appropriations, from the level passed by the legislature, by $7.9 million and to decrease near general fund reserves by $7.9 million. Her vetoes included: (1) a $5 million savings associated with assumed information technology efficiencies; and (2) savings of $3.9 million coming from using the Forest Development Account rather than state general fund for a portion of fire suppression activities. The Governor also vetoed some policy enhancements, including: (1) $600,000 for long range planning of Rainier School; and (2) $250,000 for transition funding for developmental disabled students.

Estimated Revenues & Expenditures

(Near General Fund-State and Opp Pathways, Dollars in Millions)

	2011-13
Beginning Balance	**(60.4)**
Revenue	
November Forecast	30,568.7
February Forecast Update	86.8
Unclaimed Property (HB 2169 - Dec 2011)	*50.6*
Redirection of Existing Revenue	*143.8*
All Other Revenue Legislation & Budget Driven Revenue	*33.5*
Total Revenue	**30,883.5**
Other Resource Changes	
Transfers To The Budget Stabilization Account	(264.8)
Other Previously Enacted Fund Transfers & Adjustments	244.1
Transfers in SHB 2058 (Dec 2011)	*106.2*
2012 Adjustment to Working Capital Reserve	*238.0*
2012 Fund Transfers	*28.4*
Other Resource Changes	**351.9**
Total Resources	**31,174.9**
Spending	
Original Enacted Appropriations	**32,200**
2012 Early Action (SHB 2058 - Dec 2011)	(322.9)
2012 Maintenance Level Changes (3ESHB 2127 - Apr 2012)	*(340.3)*
2012 Policy Level Changes (3ESHB 2127 - Apr 2012)	*(295.4)*
2012 Estimated NGFS Reversions (FYs 12 and 13)	*(120.0)*
Governor's Partial Veto (3ESHB 2127 - May 2012)	*7.9*
Total Spending	**31,129.2**
Ending Balance & Reserves	
Unrestricted Ending Fund Balance	45.7
Budget Stabilization Account Balance	265.3
Total Reserves	**311.0**

Washington State Omnibus Operating Budget
Cash Transfers to/from General Fund-State
(Dollars in Millions)

Transfers to General Fund-State	**2011-13**
Public Works Assistance Account	30.0
Dept of Retirement Systems Account	6.2
Financial Services Regulation Account	4.0
Heritage Center Account	2.0
State Treasurer's Service Account	3.5
Coastal Zone Protection Fine Account	1.0
Waste Reduction & Recycling Account	2.7
Flood Control Assistance Account	1.0
State Nursery Account	0.5
Transfers to General Fund-State	**50.9**
Transfers from General Fund-State	
Reverse Transfer From Education Savings Account*	(22.5)
Transfers from General Fund-State	**(22.5)**
Total Fund Transfers	**28.4**

** Instead, at the end of fiscal year 2012 and 2013, all unspent General Fund-State appropriations will remain in the state general fund rather than being distributed to other accounts.*

2011-13 Washington State Budget

Appropriations Contained Within Other Legislation

(Dollars in Thousands)

Bill Number and Subject	Session Law	Agency	GF-S	Total
2012 Legislative Session				
SSB 6581 - Grass Seed Account	C 198 L 12	WA Turfgrass Seed Commission		4
2011 Legislative Session				
SSB 5181 - State Debt Limit	C 46 L 11	Office of the State Treasurer		150

Revenues

The February 2012 forecast for General Fund-State revenue is $30.3 billion for the 2011-13 biennium and $32.4 billion for the 2013-15 biennium.

Since the adoption of the 2011-13 appropriation bill in May of 2011 [Chapter 50, Laws of 2011, 1st sp.s. (2ESHB 1087)], the General Fund revenue forecast declined by $1.8 billion. Weaker economic growth than assumed in the baseline forecasts explains the reduction. The reduction was partially offset by about $115 million in additional revenue due to: (1) expiration of a local sales tax credit upon the retirement of the Safeco field bonds; (2) voter approval of I-1183 (privatizing the sale of liquor); (3) adoption of Chapter 8, Laws of 2011 (SHB 2169) in the December 2011 special session directing the sale of stocks, bonds and other securities held by the state in the unclaimed property account; and (4) the net impact of large unexpected audits and refunds.

Revenue Transfers

Chapter 5, Laws of 2012, 2nd sp.s. (ESHB 2823) redirects a number of existing state revenues into the General Fund-State. One-hundred percent of the city and county portions of liquor excise taxes are redirected to the state general fund during FY 2013. Ten million dollars per year is redirected from the city and county share of liquor excise taxes to the General Fund-State beginning in FY 2014. The transfer of $102 million from the General Fund to the Education Construction Account is canceled for the 2013-15 biennium. One-hundred percent of the Solid Waste Collection Tax is transferred to the General Fund from the Public Works Assistance Account for FY 2011 through FY 2015 and fifty percent of the tax is transferred for FY 2016 through FY 2018. Chapter 198, Laws of 2012 (SSB 6581) eliminates a number of inactive accounts in the state treasury resulting in a small increase in revenue to the General Fund-State.

Tax Preferences

A number of tax preferences were extended or created. Chapter 189, Laws of 2012 (E2SSB 5539) extends the Business and Occupation (B&O) tax credit available for donations to the Motion Picture Competitiveness Program from July 1, 2011, to July 1, 2017. Chapter 6, Laws of 2012, 2nd sp.s. (ESB 6635) extends: (1) the B&O tax exemptions for manufacturing of fruits or vegetables, dairy, and seafood to July 1, 2015; and (2) the sales and use tax exemption for server equipment and power infrastructure used in data centers where data center construction commences between April 1, 2012, and July 1, 2015. The bill also exempts craft distilleries from the 17 percent retail license issuance fee on spirits sales revenues and provides a new leasehold excise tax exemption for certain publicly owned cargo cranes and docks and associated areas used in the loading and discharging of cargo at a port district marine facility. The bill also provides a preferential B&O tax rate on revenue derived from the online portion of a newspaper business. To remain revenue neutral, the preferential B&O tax rate, which applies to both the online and traditional portions of the newspaper business, is increased from 0.2904 percent to 0.365 percent until June 30, 2013, and 0.35 percent until July 1, 2015.

Revenue Increases

Chapter 6, Laws of 2012, 2nd sp.s. (ESB 6635) narrows the applicability of a B&O tax deduction for interest income derived from first mortgages by disallowing the deduction for taxpayers located in more than ten states ($14.5 million in FY 2013). Chapter 4, Laws of 2012, 2nd sp.s. (3E2SHB 2565) clarifies that roll-your-own cigarettes are subject to the cigarette excise tax ($12 million in FY 2013). Chapter 59, Laws of 2012 (SHB 2149) authorizes county legislative authorities to waive penalties for assessment years 2011 and prior for a person or corporation failing or refusing to deliver to the assessor a list of taxable personal property ($6 million in FY 2013).

Concerning Personal Property Tax Assessment Administration, Authorizing Waiver of Penalties and Interest under Specified Circumstances - 6.0 Million General Fund-State Increase
Chapter 59, Laws of 2012 (SHB 2149) authorizes a county legislative authority to waive penalties for assessment years 2011 and prior for a person or corporation failing or refusing to deliver to the assessor a list of taxable personal property under certain circumstances. To qualify, the taxpayer must file with the assessor a correct list and statement of taxable personal property and a completed application for a penalty waiver on or before July 1, 2012. Full payment of the tax for which a penalty waiver is requested must be made to the county by September 1, 2012.

Concerning Washington Estate Tax Apportionment - No Impact to General Fund - State
Chapter 97, Laws of 2012 (HB 2224) exonerates small gifts of money, $50,000 maximum, or tangible personal property, $100,000 maximum, from estate tax apportionment. The tax associated with the exonerated gifts is reapportioned among the beneficiaries receiving non-exonerated gifts.

Concerning Sales and Use Tax for Chemical Dependency, Mental Health Treatment, and Therapeutic Courts - No Impact to General Fund - State
Chapter 180, Laws of 2012 (HB 2357) allows a county with a population larger than 25,000 and a city with a population over 30,000 that imposes the 0.1 percent local option sales and use tax for mental health/chemical dependency services to supplant existing funds on the following schedule: up to 50 percent of the mental health/chemical dependency sales and use tax to supplant existing funds in the first three calendar years in which the tax is imposed; and up to 25 percent may be used to supplant existing funds in the fourth and fifth years in which the tax is imposed. This timeline applies to jurisdictions imposing the tax after December 31, 2011.

Modifying the Submission Dates for Economic and Revenue Forecasts - No Impact to General Fund - State
Chapter 182, Laws of 2012 (SHB 2389) changes the submittal dates for the June and September economic and revenue forecasts from June 20 and September 20 to June 27 and September 27.

Modifying Exceptions to the Compensating Tax Provisions for Removal from Forest Land Classification to More Closely Parallel Open Space Property Tax - No Impact to General Fund - State
Chapter 170, Laws of 2012 (ESHB 2502) broadens the existing exception for sales or transfers of property in the Designated Forest Land (DFL) program from the payment of back taxes upon removal of property from DFL classification. The existing exception for transfers in high-population counties is expanded to include counties bordering Puget Sound with a population of at least 245,000 when the sale or transfer of property in the DFL classification is made to a governmental entity, nonprofit historic preservation corporation, or a nonprofit nature conservancy corporation for the purpose of conservation for public use and enjoyment.

Concerning Persons Who Operate a Roll-Your-Own Cigarette Machine at Retail Establishments - $12.0 Million General Fund-State Increase
Chapter 4, Laws of 2012, 1st sp.s. (3E2SHB 2565) modifies the definition of "cigarette" for the cigarette excise tax to explicitly include roll-your-own (RYO) cigarettes. A tax enforcement and regulatory system for RYO cigarettes is established. Retailers that purchase RYO cigarette stamps are provided with compensation to offset the tobacco products tax. The amount is equal to $0.05 per cigarette.

Strengthening the Department of Revenue's Ability to Collect Spirits Taxes Imposed Under RCW 82.08.150 - No Impact to General Fund - State

Chapter 39, Laws of 2012 (HB 2758) allows the Department of Revenue (DOR) to request that the Liquor Control Board (LCB) suspend a taxpayer's spirits license and refuse to renew any existing spirits license held by the taxpayer, if the taxpayer is more than 30 days delinquent in reporting or remitting spirits taxes to the DOR. DOR may also request that LCB refuse to issue any new spirits license to the taxpayer.

Redirecting Existing State Revenues into the State General Fund - $143.8 Million General Fund-State Increase
Chapter 5, Laws of 2012, 2nd sp.s. (ESHB 2823) redirects a portion of city and county liquor excise taxes to the state general fund during FY 2013. Redirects $10 million per year from the city/county share of liquor excise taxes to the state general fund beginning in FY 2014. The transfer of $102 million from the state general fund to the Education Construction Account is cancelled for the 2013-15 biennium. All of the solid waste collection tax is transferred to the state general fund from Public Works Assistance Account through FY 2015. Half of the tax is transferred for FY 2016 through FY 2018.

Concerning the tax payment and reporting requirements of small wineries - No Impact to General Fund - State
Chapter 12, Laws of 2012 (SB 5259) allows small wineries to report and pay wine taxes annually instead of monthly.

Adjusting Voting Requirements for Emergency Medical Service Levies - No Impact to General Fund - State
Chapter 115, Laws of 2012 (SSB 5381) allows for the continuation of a six-year or ten-year emergency medical services levy with a simple majority vote, as opposed to a 60 percent majority vote, of the registered voters at a general or special election.

Concerning Washington's Motion Picture Competitiveness - $3.5 Million General Fund-State Decrease
Chapter 189, Laws of 2012 (E2SSB 5539) extends the date from July 1, 2011, to July 1, 2017, during which business and occupation (B&O) tax credits may be earned for contributions to the Motion Picture Competitiveness Program (MPCP). The provision allowing the MPCP funding to be used for a tax credit marketer to market the tax credits is removed.

Concerning Medicaid Fraud - $4.9 million General Fund-State Decrease
Chapter 241, Laws of 2012 (ESSB 5978) establishes a state Medicaid Fraud False Claims Act (MFFCA) that creates civil liability for false or fraudulent claims against the state Medicaid program, and authorizes private parties to bring actions on behalf of the state. Whistleblower protections are established for employees who report fraudulent practices by their employers. The MFFCA is terminated on June 30, 2016. The Joint Legislative Audit and Review Committee is required to conduct a sunset review.

Concerning Local Government Financial Soundness - No Impact to General Fund - State
Chapter 4, Laws of 2012 (SSB 5984) requires an independent financial review of a Public Facility District (PFD) prior to the formation of a PFD; the issuance of debt by a PFD; or the lease, purchase, or development of a facility by a PFD. If a PFD has defaulted on debt, the jurisdiction in which the public facility is located may impose a councilmanic sales tax of 0.2 percent for the purposes of refinancing the debt. This is in addition to any sales tax imposed by the PFD.

Concerning Sales and Use Taxes Related to the State Route Number 16 Corridor Improvements Project - $4.4 Million General Fund-State Decrease
Chapter 77, Laws of 2012 (SSB 6073) extends the deferment period for state and local sales and use taxes on the Tacoma Narrows Bridge Project by six years. The repayment of deferred sales and use taxes will begin in 2018, rather than in 2012.

Concerning a Business and Occupation Tax Deduction for Amounts Received with Respect to Dispute Resolution Services - No Impact to General Fund - State
Chapter 249, Laws of 2012 (SB 6159) provides a deduction from the B&O tax for a Dispute Resolution Center (DRC) for amounts received as a contribution from federal, state, or local governments and nonprofit organizations for providing dispute resolution services. A nonprofit organization may deduct from the measure of B&O tax amounts received from federal, state, or local governments for distribution to a DRC.

Creating Authority for Counties to Exempt from Property Taxation New and Rehabilitated Multiple Unit Dwellings in Certain Unincorporated Urban Centers - No Impact to General Fund - State
Chapter 194, Laws of 2012 (SSB 6277) extends the multi-unit housing property tax exemption that is available for certain areas of cities to an urban center where the unincorporated population of a county is at least 350,000 and there are at least 1,200 students living on campus at an institute of higher education during the academic year. For any multi-unit housing located in an unincorporated area of a county, a property owner claiming the tax exemption must commit to renting or selling at least 20 percent of the multi-family housing units as affordable housing units to low and moderate income households.

Extending the Customized Employment Training Program - No Impact to General Fund - State
Chapter 46, Laws of 2012 (SSB 6371) extends the expiration date for the Washington Customized Employment Workforce Training Program (WCEWTP) to July1, 2017. The expiration date for the WCEWTP B&O tax credits is extended to July 1, 2021.

Authorizing Certain Cities in Which Stadium and Exhibition Centers are Located to Impose Admissions Taxes in Limited Circumstances - No Impact to General Fund - State
Chapter 260, Laws of 2012 (SSB 6574) allows the city of Seattle to collect an admissions tax at CenturyLink Field during 2012 for college or university games that are played at that location due to the temporary closure of the facility owned by that college or university. The city may impose a maximum admissions tax of 5 percent at these events, and the county may not impose an admissions tax at these events.

Eliminating Accounts and Funds - $0.5 Million General Fund-State Increase
Chapter 198, Laws of 2012 (SSB 6581) repeals forty-seven inactive funds and accounts.

Extending Property Tax Exemptions to Property Used Exclusively by Certain Nonprofit Organizations that is Leased from an Entity that Acquired the Property from a Previously Exempt Nonprofit Organization - No Impact to General Fund - State
Chapter 76, Laws of 2012 (SSB 6600) allows property to remain eligible for a property tax exemption for exempt social service activities if the property is owned by a property tax-exempt church that loans, leases, or rents the property to another organization for exempt purposes. Property also remains eligible for a property tax exemption if: (1) the property is owned by an entity formed exclusively for the purpose of leasing the property to an organization that will use the property for youth character building purposes; (2) the property is leased to an organization that uses the property for the exempt purposes; (3) the immediate previous owner of the property had received an exemption for the property; and (4) the benefits of the exemption are passed on to the lessee of the property.

Improving Revenue and Budget Sustainability by Repealing, Modifying, or Revising Tax Preference and License Fees - $2.6 Million General Fund-State Increase
Chapter 6, Laws of 2012, 2nd sp.s (ESB 6635) disallows a financial business that is located in more than ten states from deducting from the B&O tax, amounts received from interest earnings on loans secured by first mortgages or deeds of trust on residential properties. The Joint Legislative Audit and Review Committee is directed to review the first mortgage deduction by June 30, 2015, as part of its tax preference review process. B&O tax exemptions for manufacturing of fruits or vegetables, dairy, and seafood are extended to July 1, 2015, and are then replaced by a preferential B&O tax rate of 0.138

percent. The time is extended for eligible data centers and qualifying tenants of data centers to qualify for the sales and use tax exemption on server equipment and power infrastructure, to those that commence construction between April 1, 2012, and July 1, 2015. The exemption time is extended for eligible replacement server equipment placed in new data centers and for qualifying tenants until April 1, 2020. Craft distilleries are exempted from the license issuance fee of 17 percent of all spirits sales revenues. Leasehold interests subject to leasehold excise tax do not include the preferential use of publicly owned cargo cranes and docks and associated areas used in loading and discharging of cargo at a port district marine facility. Preferential use means use by a private party under a written agreement with the public owner in which the public owner or a third party maintains a right to use the property when it is not being used by the private party. The definition of a newspaper is amended to include the Internet version of printed newspapers and newspaper supplements. The B&O tax rate for printing and publishing a newspaper is increased from 0.2904 percent to 0.365 percent until June 30, 2013, and 0.35 percent until July 1, 2015.

Requiring a Balanced State Budget for the Current and Ensuing Fiscal Biennium - No Impact to General Fund - State

Chapter 8, Laws of 2012, 2nd sp.s. (SSB 6636) requires the Legislature, beginning with the 2013-2015 fiscal biennium, to enact a budget bill that leaves a positive ending fund balance in the state general fund and related funds. In addition, the projected maintenance level for the budget in the ensuing biennium may not exceed available fiscal resources. Each November, the Economic and Revenue Forecast Council must submit a budget outlook document for state revenues and expenditures for the General Fund-State and related funds for the current biennium and the next ensuing biennium. To assist the council in the preparation of the state budget outlooks, a State Budget Outlook Work Group is created, consisting of one staff person from the Office of Financial Management, the Legislative Evaluation and Accountability Program Committee, the Office of the State Treasurer, the Economic and Revenue Forecast Council, the Caseload Forecast Council, the Senate Ways and Means Committee, and the House of Representatives Ways and Means Committee.

Washington State Omnibus Operating Budget
2009-11 Enacted vs. 2011-13 Enacted
TOTAL STATE
(Dollars in Thousands)

	Near General Fund-State			Total All Funds		
	2009-11	2011-13	Difference	2009-11	2011-13	Difference
Legislative	149,819	139,294	-10,525	154,196	146,551	-7,645
Judicial	223,823	222,202	-1,621	266,885	281,381	14,496
Governmental Operations	449,163	453,876	4,713	3,864,116	3,697,364	-166,752
Other Human Services	2,104,351	5,912,932	3,808,581	5,100,145	14,505,577	9,405,432
DSHS	8,728,010	5,481,543	-3,246,467	20,997,882	11,071,210	-9,926,672
Natural Resources	358,287	266,777	-91,510	1,481,935	1,505,305	23,370
Transportation	74,600	70,160	-4,440	191,806	170,099	-21,707
Public Schools	12,994,104	13,647,198	653,094	15,913,428	15,620,392	-293,036
Higher Education	3,018,636	2,587,640	-430,996	9,377,236	11,095,338	1,718,102
Other Education	121,896	83,563	-38,333	493,748	526,051	32,303
Special Appropriations	2,051,641	2,162,876	111,235	2,241,130	2,337,551	96,421
Total Budget Bill	**30,274,330**	**31,028,061**	**753,731**	**60,082,507**	**60,956,819**	**874,312**
Appropriations in Other Legislation	0	-3,850	-3,850	0	-3,846	-3,846
Statewide Total	**30,274,330**	**31,024,211**	**749,881**	**60,082,507**	**60,952,973**	**870,466**

Washington State Omnibus Operating Budget
2009-11 Enacted vs. 2011-13 Enacted
LEGISLATIVE AND JUDICIAL
(Dollars in Thousands)

	Near General Fund-State			Total All Funds		
	2009-11	2011-13	Difference	2009-11	2011-13	Difference
House of Representatives	64,423	57,939	-6,484	64,423	59,430	-4,993
Senate	48,968	43,246	-5,722	48,968	44,667	-4,301
Jt Leg Audit & Review Committee	5,828	5,120	-708	5,828	5,290	-538
LEAP Committee	3,544	3,745	201	3,544	3,745	201
Office of the State Actuary	219	0	-219	3,524	3,323	-201
Office of Legislative Support Svcs	0	3,016	3,016	0	3,016	3,016
Joint Legislative Systems Comm	16,623	15,679	-944	16,623	15,679	-944
Statute Law Committee	9,169	8,768	-401	10,241	9,620	-621
Redistricting Commission	1,045	1,781	736	1,045	1,781	736
Total Legislative	**149,819**	**139,294**	**-10,525**	**154,196**	**146,551**	**-7,645**
Supreme Court	13,836	13,318	-518	13,836	13,318	-518
State Law Library	3,521	1,504	-2,017	3,521	3,004	-517
Court of Appeals	31,225	30,443	-782	31,225	30,443	-782
Commission on Judicial Conduct	2,107	2,028	-79	2,107	2,028	-79
Administrative Office of the Courts	101,840	99,154	-2,686	140,824	150,392	9,568
Office of Public Defense	49,673	54,163	4,490	52,596	58,531	5,935
Office of Civil Legal Aid	21,621	21,592	-29	22,776	23,665	889
Total Judicial	**223,823**	**222,202**	**-1,621**	**266,885**	**281,381**	**14,496**
Total Legislative/Judicial	**373,642**	**361,496**	**-12,146**	**421,081**	**427,932**	**6,851**

Washington State Omnibus Operating Budget
2009-11 Enacted vs. 2011-13 Enacted
GOVERNMENTAL OPERATIONS
(Dollars in Thousands)

	Near General Fund-State			Total All Funds		
	2009-11	2011-13	Difference	2009-11	2011-13	Difference
Office of the Governor	11,182	10,349	-833	12,682	11,849	-833
Office of the Lieutenant Governor	1,434	1,301	-133	1,529	1,396	-133
Public Disclosure Commission	4,216	3,957	-259	4,216	3,957	-259
Office of the Secretary of State	35,992	24,659	-11,333	107,552	83,600	-23,952
Governor's Office of Indian Affairs	508	517	9	508	517	9
Asian-Pacific-American Affrs	437	446	9	437	446	9
Office of the State Treasurer	0	0	0	14,686	15,144	458
Office of the State Auditor	1,360	0	-1,360	73,164	72,887	-277
Comm Salaries for Elected Officials	361	327	-34	361	327	-34
Office of the Attorney General	11,000	12,448	1,448	246,367	228,713	-17,654
Caseload Forecast Council	1,424	2,457	1,033	1,424	2,457	1,033
Dept of Financial Institutions	0	0	0	44,476	46,190	1,714
Department of Commerce	86,380	124,638	38,258	576,798	567,357	-9,441
Economic & Revenue Forecast Council	1,434	1,437	3	1,434	1,487	53
Office of Financial Management	39,085	36,930	-2,155	135,991	116,696	-19,295
Office of Administrative Hearings	0	0	0	34,855	35,763	908
Department of Personnel	0	0	0	61,624	0	-61,624
State Lottery Commission	0	0	0	900,705	801,712	-98,993
Washington State Gambling Comm	0	0	0	33,755	31,975	-1,780
WA State Comm on Hispanic Affairs	476	488	12	476	488	12
African-American Affairs Comm	464	469	5	464	469	5
Department of Retirement Systems	0	0	0	52,916	52,078	-838
State Investment Board	0	0	0	29,352	29,075	-277
Public Printer	0	0	0	19,859	0	-19,859
Innovate Washington	0	5,634	5,634	0	9,448	9,448
Department of Revenue	216,641	199,898	-16,743	235,227	231,531	-3,696
Board of Tax Appeals	2,540	2,339	-201	2,540	2,339	-201
Municipal Research Council	0	0	0	2,729	0	-2,729
Minority & Women's Business Enterp	0	0	0	3,674	3,654	-20
Dept of General Administration	4,339	0	-4,339	190,297	0	-190,297
Department of Information Services	2,098	0	-2,098	260,290	0	-260,290
Office of Insurance Commissioner	0	650	650	50,391	53,087	2,696
Consolidated Technology Services	0	0	0	0	208,054	208,054
State Board of Accountancy	0	0	0	3,649	2,642	-1,007
Forensic Investigations Council	0	0	0	280	490	210
Department of Enterprise Services	0	6,710	6,710	0	479,676	479,676
Washington Horse Racing Commission	0	0	0	10,321	6,744	-3,577
WA State Liquor Control Board	0	0	0	244,684	192,113	-52,571
Utilities and Transportation Comm	0	0	0	41,719	48,567	6,848
Board for Volunteer Firefighters	0	0	0	1,052	1,039	-13
Military Department	17,240	13,988	-3,252	376,112	338,948	-37,164
Public Employment Relations Comm	5,011	4,234	-777	8,524	7,800	-724
LEOFF 2 Retirement Board	0	0	0	2,027	2,044	17
Archaeology & Historic Preservation	2,568	0	-2,568	5,175	4,605	-570
Growth Management Hearings Board	2,973	0	-2,973	2,973	0	-2,973
State Convention and Trade Center	0	0	0	66,821	0	-66,821
Total Governmental Operations	**449,163**	**453,876**	**4,713**	**3,864,116**	**3,697,364**	**-166,752**

Washington State Omnibus Operating Budget
2009-11 Enacted vs. 2011-13 Enacted
HUMAN SERVICES
(Dollars in Thousands)

	Near General Fund-State			Total All Funds		
	2009-11	2011-13	Difference	2009-11	2011-13	Difference
WA State Health Care Authority	317,154	4,065,446	3,748,292	600,752	10,207,240	9,606,488
Human Rights Commission	4,988	3,947	-1,041	6,572	5,840	-732
Bd of Industrial Insurance Appeals	0	0	0	36,298	39,209	2,911
Criminal Justice Training Comm	34,076	28,736	-5,340	42,641	42,445	-196
Department of Labor and Industries	42,851	35,312	-7,539	625,960	632,608	6,648
Indeterminate Sentence Review Board	3,539	0	-3,539	3,539	0	-3,539
Home Care Quality Authority	1,229	0	-1,229	1,229	0	-1,229
Department of Health	170,683	157,518	-13,165	1,134,035	1,104,918	-29,117
Department of Veterans' Affairs	16,835	15,339	-1,496	113,999	116,790	2,791
Department of Corrections	1,500,256	1,602,344	102,088	1,732,753	1,625,935	-106,818
Dept of Services for the Blind	4,662	4,290	-372	25,023	25,466	443
Sentencing Guidelines Commission	1,805	0	-1,805	1,805	0	-1,805
Employment Security Department	6,273	0	-6,273	775,539	705,126	-70,413
Total Other Human Services	**2,104,351**	**5,912,932**	**3,808,581**	**5,100,145**	**14,505,577**	**9,405,432**

Washington State Omnibus Operating Budget
2009-11 Enacted vs. 2011-13 Enacted
DEPARTMENT OF SOCIAL & HEALTH SERVICES
(Dollars in Thousands)

	Near General Fund-State			Total All Funds		
	2009-11	2011-13	Difference	2009-11	2011-13	Difference
Children and Family Services	601,069	572,757	-28,312	1,108,698	1,065,407	-43,291
Juvenile Rehabilitation	192,564	170,981	-21,583	207,888	179,690	-28,198
Mental Health	787,556	880,826	93,270	1,550,002	1,587,031	37,029
Developmental Disabilities	767,711	992,616	224,905	1,872,296	1,932,377	60,081
Long-Term Care	1,271,392	1,600,831	329,439	3,208,873	3,410,729	201,856
Economic Services Administration	1,131,925	854,036	-277,889	2,464,609	2,059,044	-405,565
Alcohol & Substance Abuse	159,800	144,960	-14,840	334,336	365,043	30,707
Medical Assistance Payments	3,512,188	0	-3,512,188	9,726,413	0	-9,726,413
Vocational Rehabilitation	19,765	21,255	1,490	133,669	129,081	-4,588
Administration/Support Svcs	58,887	50,543	-8,344	109,624	97,021	-12,603
Special Commitment Center	97,958	84,295	-13,663	97,958	84,295	-13,663
Payments to Other Agencies	127,195	108,443	-18,752	183,516	161,492	-22,024
Total DSHS	**8,728,010**	**5,481,543**	**-3,246,467**	**20,997,882**	**11,071,210**	**-9,926,672**
Total Human Services	**10,832,361**	**11,394,475**	**562,114**	**26,098,027**	**25,576,787**	**-521,240**

Washington State Omnibus Operating Budget
2009-11 Enacted vs. 2011-13 Enacted
NATURAL RESOURCES
(Dollars in Thousands)

	Near General Fund-State			Total All Funds		
	2009-11	2011-13	Difference	2009-11	2011-13	Difference
Columbia River Gorge Commission	853	805	-48	1,700	1,611	-89
Department of Ecology	104,944	70,624	-34,320	438,613	441,043	2,430
WA Pollution Liab Insurance Program	0	0	0	1,639	1,613	-26
State Parks and Recreation Comm	41,451	17,334	-24,117	148,599	142,352	-6,247
Rec and Conservation Funding Board	2,797	1,721	-1,076	17,861	9,315	-8,546
Environ & Land Use Hearings Office	2,142	4,173	2,031	2,142	4,173	2,031
State Conservation Commission	14,306	13,209	-1,097	15,484	14,510	-974
Dept of Fish and Wildlife	72,316	57,716	-14,600	326,664	362,094	35,430
Puget Sound Partnership	5,668	4,526	-1,142	15,051	18,130	3,079
Department of Natural Resources	86,124	66,698	-19,426	373,916	365,422	-8,494
Department of Agriculture	27,686	29,971	2,285	140,266	145,042	4,776
Total Natural Resources	**358,287**	**266,777**	**-91,510**	**1,481,935**	**1,505,305**	**23,370**

Washington State Omnibus Operating Budget
2009-11 Enacted vs. 2011-13 Enacted
TRANSPORTATION
(Dollars in Thousands)

	Near General Fund-State			Total All Funds		
	2009-11	2011-13	Difference	2009-11	2011-13	Difference
Washington State Patrol	71,844	67,718	-4,126	135,771	129,561	-6,210
Department of Licensing	2,756	2,442	-314	56,035	40,538	-15,497
Total Transportation	**74,600**	**70,160**	**-4,440**	**191,806**	**170,099**	**-21,707**

Washington State Omnibus Operating Budget
2009-11 Enacted vs. 2011-13 Enacted
PUBLIC SCHOOLS
(Dollars in Thousands)

	Near General Fund-State			Total All Funds		
	2009-11	2011-13	Difference	2009-11	2011-13	Difference
OSPI & Statewide Programs	65,551	52,455	-13,096	157,245	138,036	-19,209
General Apportionment	9,874,708	10,412,087	537,379	10,082,806	10,434,414	351,608
Pupil Transportation	614,509	595,885	-18,624	614,509	595,885	-18,624
School Food Services	10,270	14,222	3,952	660,470	595,634	-64,836
Special Education	1,260,208	1,328,957	68,749	1,935,826	1,815,879	-119,947
Educational Service Districts	15,881	15,806	-75	15,881	15,806	-75
Levy Equalization	379,121	598,934	219,813	536,164	603,334	67,170
Elementary/Secondary School Improv	0	0	0	43,886	6,152	-37,734
Institutional Education	38,122	32,561	-5,561	38,122	32,561	-5,561
Ed of Highly Capable Students	18,326	17,533	-793	18,326	17,533	-793
Student Achievement Program	25,436	0	-25,436	225,731	0	-225,731
Education Reform	275,509	163,129	-112,380	522,312	386,319	-135,993
Transitional Bilingual Instruction	156,331	160,241	3,910	221,594	231,242	9,648
Learning Assistance Program (LAP)	266,085	255,388	-10,697	846,510	747,595	-98,915
Compensation Adjustments	-5,953	0	5,953	-5,954	2	5,956
Total Public Schools	**12,994,104**	**13,647,198**	**653,094**	**15,913,428**	**15,620,392**	**-293,036**

Washington State Omnibus Operating Budget
2009-11 Enacted vs. 2011-13 Enacted
EDUCATION
(Dollars in Thousands)

	Near General Fund-State			Total All Funds		
	2009-11	2011-13	Difference	2009-11	2011-13	Difference
Student Achievement Council	0	251,968	251,968	0	345,430	345,430
Higher Education Coordinating Board	412,966	218,980	-193,986	526,696	310,738	-215,958
University of Washington	583,811	421,417	-162,394	4,284,608	5,817,247	1,532,639
Washington State University	374,596	301,211	-73,385	1,151,097	1,229,991	78,894
Eastern Washington University	85,856	68,085	-17,771	230,239	248,399	18,160
Central Washington University	81,684	65,058	-16,626	256,668	300,240	43,572
The Evergreen State College	43,659	36,248	-7,411	106,342	108,506	2,164
Spokane Intercoll Rsch & Tech Inst	2,925	0	-2,925	5,203	0	-5,203
Western Washington University	102,422	79,715	-22,707	330,292	335,753	5,461
Community/Technical College System	1,330,717	1,144,958	-185,759	2,486,091	2,399,034	-87,057
Total Higher Education	**3,018,636**	**2,587,640**	**-430,996**	**9,377,236**	**11,095,338**	**1,718,102**
State School for the Blind	11,408	11,447	39	13,350	13,400	50
Childhood Deafness & Hearing Loss	16,819	16,774	-45	17,345	17,300	-45
Workforce Trng & Educ Coord Board	2,823	2,655	-168	57,348	65,891	8,543
Department of Early Learning	79,702	52,687	-27,015	385,706	411,985	26,279
Washington State Arts Commission	3,072	0	-3,072	6,231	5,307	-924
Washington State Historical Society	4,971	0	-4,971	7,470	6,086	-1,384
East Wash State Historical Society	3,101	0	-3,101	6,298	6,082	-216
Total Other Education	**121,896**	**83,563**	**-38,333**	**493,748**	**526,051**	**32,303**
Total Education	**16,134,636**	**16,318,401**	**183,765**	**25,784,412**	**27,241,781**	**1,457,369**

Washington State Omnibus Operating Budget
2009-11 Enacted vs. 2011-13 Enacted
SPECIAL APPROPRIATIONS
(Dollars in Thousands)

	Near General Fund-State			Total All Funds		
	2009-11	2011-13	Difference	2009-11	2011-13	Difference
Bond Retirement and Interest	1,777,849	1,921,678	143,829	1,956,413	2,076,825	120,412
Special Approps to the Governor	143,225	111,444	-31,781	154,150	130,972	-23,178
Sundry Claims	1,237	278	-959	1,237	278	-959
Contributions to Retirement Systems	129,330	129,476	146	129,330	129,476	146
Total Special Appropriations	**2,051,641**	**2,162,876**	**111,235**	**2,241,130**	**2,337,551**	**96,421**

Legislative

The 2012 supplemental operating budget provides $137.5 million from the state general fund and $144.8 million in total funds for legislative branch agencies, excluding the Redistricting Commission. These funding levels represent a $3.1 million (2.1 percent) reduction, nearly all in state general funds, from levels authorized in the 2011-13 operating budget.

Office of Legislative Support Services

Pursuant to Chapter 113, Laws of 2012, (HB 2705), administrative and support functions from the House of Representatives, Senate, and other legislative agencies are consolidated and transferred to a single agency, the Office of Legislative Support Services. Legislative agencies achieve savings of $2.3 million in state general funds due to the consolidation and other efficiencies. A total of 4.8 FTEs are reduced from the House and Senate.

Joint Select Committee on Junior Taxing Districts, Municipal Corporations, and Local Government Finance

The House and Senate provide $100,000 in state general funds for expenses associated with a newly created Joint Select Committee on Junior Taxing Districts, Municipal Corporations, and Local Government Finance. The Committee will review services currently provided by junior taxing districts and municipal corporations, and will make recommendations on consolidating these services and generating revenue. The Committee will also develop a plan for the utilization of excess liquor revenue following the implementation of Initiative 1183, and will examine the impact of Initiative 1183 on public safety.

Other Changes

In addition to the changes discussed above, legislative agency appropriations reflect reduced costs for employee health insurance and reduced billings from central service agencies (including the Attorney General, Auditor, Secretary of State, and Department of Enterprise Services) as well as improved management of information technology services. The budget-wide impact of these changes is described in the special appropriations section (for employee health benefits) and the governmental operations section (for central services and information technology).

Judicial

Judicial Stabilization Trust Account

Pursuant to Chapter 199, Laws of 2012 (ESB 6608), surcharges on certain court filing fees collected by superior and district courts are increased by $10 for the remainder of the biennium. The increased surcharges are estimated to raise $1.9 million in revenues for the Judicial Stabilization Trust (JST) Account. Increased funding from the JST Account is used for costs associated with the Office of Public Defense. Available fund balance from the JST Account is also used for costs at the Office of Civil Legal Aid and the Office of Public Guardianship.

Civil Commitment Legal Costs

Funding of $6.1 million is provided to administer the representation of indigent respondents qualified for appointed counsel in sexually violent predator (SVP) civil commitment cases, pursuant to Chapter 257, Laws of 2012 (SSB 6493). The Office of Public Defense will contract with law firms and individual attorneys to provide legal services, and will establish procedures for reimbursement of expert witnesses and other costs. These costs were previously funded through the Special Commitment Center within the Department of Social and Health Services.

State Law Library

For fiscal year 2013, funding for the State Law Library is shifted from General Fund-State to the Judicial Information Systems (JIS) Account. Additional funding from the JIS was provided to evaluate the State Law Library and its operational structure to determine the most effective delivery model for providing law library services.

Truancy Funding

Funding for the Becca/Truancy program is reduced by $1.3 million to reflect elimination of the requirement that school districts file truancy petitions for truant students who are 17 years old, pursuant to Chapter 157, Laws of 2012 (SSB 6494).

Other Changes

In addition to the changes discussed above, agency appropriations were reduced to reflect reduced costs for employee health insurance, reduced billings from central service agencies (including the Attorney General, Auditor, Secretary of State, Department of Enterprise Services), as well as improved management of information technology resources. The impact of these changes, budget wide, is described in the special appropriations section (for employee health benefits) and the governmental operations section (for central services and information technology).

Governmental Operations

The Liquor Control Board

Implementing Initiative 1183 and Privatizing the Sale of Liquor

Expenditure authority of $79 million and 951 FTEs are reduced from the LCB to reflect the passage of Initiative 1183, approved by voters in November 2011. State liquor store operations will close by early June 2012, including approximately 160 state-managed retail locations and the central liquor warehouse in Seattle. The LCB estimates approximately $30 million in one-time costs to close down the state liquor business. Costs to regulate the sale of liquor will shift from excess liquor funds or "profits" to new fees for distributors and retailers established under Initiative 1183.

The Office of the Secretary of State

State Library Funding

A portion of the fiscal year 2013 funding for the State Library is shifted from the state general fund to the State Heritage Center Account for a savings of $4 million.

The Office of the Attorney General

Sexually Violent Predator Civil Commitment Cases

State general funds are provided to the Office of the Attorney General (OAG) for legal costs associated with the evaluation (including evaluations by the Joint Forensic Unit [JFU]), filing, prosecution, response to petitions for release, and appeal of sexually violent predator civil commitment cases. The OAG may establish an interagency agreement with a county prosecutor to perform prosecution services. Legal costs for these purposes, and for JFU, were previously funded through the Department of Social and Health Services.

The Department of Commerce

The Department of Commerce (COM) administers a variety of state programs focused on enhancing and promoting sustainable community and economic vitality in Washington. Key activities of COM include providing support for economic development, affordable housing and homeless programs, growth management planning, energy policy, and a variety of services for local communities. The 2012 supplemental operating budget provides COM with $567.4 million in total funds, including $124.6 million in state general funds, to maintain support for these activities in the 2011-13 biennium. This is a net reduction of $5.1 million (-4 percent) in state general funds and an increase of $53.8 million (+10 percent) in total funds from the amounts originally appropriated for the biennium. The change in total funds is primarily a result of $56.4 million in increased federal funding across a variety of areas, including low-income weatherization, energy innovation, lead paint removal, homeless assistance, and export promotion. Other policy adjustments in the 2012 supplemental operating budget are specified below:

Community Services & Housing

A one-time savings of $5.0 million is achieved in the Housing and Essential Needs Program created in Chapter 36, Laws of 2011, 1st sp.s. (ESHB 2082). This savings reflects anticipated under-expenditures resulting from a slower phase-in of the program than was originally anticipated in the 2011-13 operating budget. Fiscal year 2013 revenue from document recording fees used for housing and homeless services is increased by $4.4 million in accordance with Chapter 90, Laws of 2012 (ESHB 2048). A portion of these funds will be used to offset a reduction of $567,000 in state general funds for housing and homeless services. The 2012 supplemental operating budget provides $1.0 million in state general funds for a two-year pilot project to enable young adults to move from temporary emergency shelter housing to transitional and permanent housing throughout King County.

State general fund reductions in other community services programs total $518,000 and include: a 20 percent reduction in funding for the administrative activities of the Community Services and Housing Division ($270,000); a 10 percent reduction in funding for the Community Mobilization Program ($196,000); and a 10 percent reduction in funding for the Family Asset Building Program ($52,000).

Energy Policy and Local Government

There is a 10 percent reduction in state general funds for the Washington State Energy Office and the Evergreen Jobs Program ($149,000.) Local expenditure authority is increased by $100,000 in accordance with Chapter 254, Laws of 2012 (SSB 6414), which allows the COM to charge an application fee for a proposed energy generation project that is seeking an advisory opinion on whether it must meet state-mandated energy conservation and renewable energy targets. State general funds of $12,000 are provided to revise growth management technical assistance publications and education materials in accordance with Chapter 21, Laws of 2012 (E2SSB 5292).

Other Changes

There are a number of transfers and fund source changes that are budget neutral: funding for the Developmental Disabilities Council is transferred from the Department of Health; funding for the Local Government Fiscal Note Program is shifted to the state general fund; and funding for the Municipal Research Services Center is shifted to the Liquor Revolving Account. Expenditure authority for the Washington Manufacturing Innovation and Modernization Extension Service Program that was created in 2008 is eliminated because no manufacturer used these services.

The Military Department

Disaster Recovery

Expenditure authority of $30.3 million is provided from the Disaster Response Account. This funding will be used to complete repairs to outstanding infrastructure projects and to begin repairing damage to state agencies and local jurisdictions incurred in the January 2012 storm.

The Office of the Insurance Commissioner

School Employee Benefits

The 2012 supplemental operating budget provides $650,000 in state general funds for the Office of the Insurance Commissioner (OIC) to implement Chapter 3, Laws of 2012 (ESSB 5940). School districts and school district health benefit providers are required to submit specific health plan information to OIC annually. OIC may take enforcement action against those who do not fulfill these reporting requirements. Beginning on December 1, 2013, OIC must submit an annual report to the Legislature on school district health benefit plans.

Central Service and Information Technology Savings

The State Auditor

The Office of the State Auditor (Auditor) will use a risk-based methodology in selecting agencies to audit, saving $1 million from the Audit of State Government Account. The Auditor will also utilize existing fund balances to reduce audit costs to state agencies. Across the operating and transportation budgets, agency appropriations are reduced by $510,000 in near-state general funds and $1.4 million in total funds.

The Attorney General

The OAG will reduce legal services billings by $6 million to state agencies through efficiencies and other savings. Across the operating and transportation budgets, agency appropriations are reduced by $1.7 million in near-state general funds and $4.2 million in other funds.

Secretary of State

The Office of the Secretary of State will reduce billings for state archives and records management by $794,000 as a result of lower than anticipated utilization of the state Archives by state agencies. Across the operating and

transportation budgets, agency appropriations are reduced by $339,000 in near-state general funds and $455,000 in other funds.

Central Service Savings

The Office of Minority and Women's Business Enterprises (OMWBE), Office of Administrative Hearings, and Labor Relations Office will reduce charges for services by $524,000. The funding reduction utilizes an excess fund balance from the OMWBE Enterprises Account. Across both the operating and transportation budgets, agency appropriations are reduced by $181,000 in near-state general funds and $343,000 in other funds.

Central Service Reforms

Funding is reduced by $14.3 million to reflect efficiencies related to state agency use of cell phones, mailing, printing, and information technology. Agency appropriations are reduced by $9.1 million in near-state general funds and $5.2 million in other funds.

Self-Insurance Premium

The self-insurance premiums of state agencies are reduced by $31.2 million. Agencies pay into the state's self-insurance pool based upon historical claims and projected liability. Reductions to premiums will require utilization of an excess fund balance within the Liability Account. Across the operating and transportation budgets, agency appropriations are reduced by $18.4 million in near-state general funds and $12.8 million in other funds.

Personnel Services Rate Reduction

Rates charged to agencies for personnel services such as recruitment, compensation, and classification are reduced by $2.8 million. Across the operating and transportation budgets, appropriations are reduced by $1.9 million in near-state general funds and $900,000 in other funds.

Procurement Rate Reduction

Rates charged to agencies for the procurement of goods and services are reduced by $1.9 million. Across the operating and transportation budgets, appropriations are reduced by $1.1 million in near-state general funds and $800,000 in other funds.

Other Changes

In addition to the changes discussed above, general government agency appropriations reflect reduced costs for employee health insurance. The budget-wide impact of this change is discussed in the special appropriations section.

Human Services

The Human Services section is separated into two sections: the Department of Social and Health Services (DSHS) and Other Human Services. The DSHS budget is displayed by program division to most efficiently describe the costs of particular services provided by the Department. The Other Human Services section displays budgets at the agency level and includes the Department of Corrections, Employment Security Department, Department of Veterans' Affairs, Department of Labor and Industries, Criminal Justice Training Commission, Department of Health, and other human services related agencies.

Department of Social & Health Services

Children and Family Services

Children's Administration (CA) administers Child Protective Services (CPS), which responds to reports of child abuse or neglect. CA also administers the foster care system for children placed in out-of-home placements with caregivers and the adoption support program for special needs children who have been adopted. Additionally, CA contracts for a variety of prevention services, early intervention services, and services for children and families involved in the child welfare system.

A total of $1.07 billion ($572 million General Fund-State) is appropriated for CA to administer its programs and for service delivery during the 2011-13 biennium. This amount is 3.4 percent less than the amount originally appropriated for the 2011-13 biennium.

Savings of $14.4 million in state general funds are achieved as a result of receiving $10 million in federal Title XIX funds for targeted case management and $4.4 million from a one-time federal adoption incentive grant, offsetting a portion of state fund expenditures. These savings are reflected in Chapter 9, Laws of 2011, 2nd sp.s., Partial Veto (SHB 2058).

Savings of $11.9 million in total funds ($6.7 million General Fund-State) are achieved through aligning the funding for the Behavioral Rehabilitative Services (BRS) Program to the expenditure levels in fiscal year 2011. BRS are provided to children in foster care who need intensive services. CA will continue efforts to decrease the length of stay in BRS and place children in less restrictive settings.

The 2012 supplemental operating budget reduces $3.9 million in total funds ($3.2 million General Fund-State) to reflect a variety of changes, including increased efforts to prevent overpayments and utilization of Supplemental Security Income (SSI) for allowable services. The reduction also aligns Receiving Care maintenance funding across fiscal years, eliminates funding for a Family Preservation training contract, and captures under-expenditures related to contracted services for sexually aggressive youth. Additionally, funding is reduced for the following services: child care, evaluations and treatment, and adoption support recruitment.

A total of $1.2 million ($616,000 General Fund-State) is provided to implement Chapter 259, Laws of 2012 (ESSB 6555), which authorizes CA to establish the Family Assessment Response (FAR). Under FAR, CA's response to certain allegations of abuse or neglect does not include a determination as to whether child abuse or neglect occurred; instead, there is an assessment to determine the need for services to address the safety of the child.

A total of $1.598 million ($799,000 General Fund-State) is provided to implement Chapter 205, Laws of 2012 (E2SHB 2264), which requires CA to enter into performance-based contracts for the provision of family support and related services by December 1, 2013.

Mental Health

Mental health services for those living with severe, chronic, or acute mental illnesses are administered primarily through the Department of Social and Health Services (DSHS). These services include operation of two adult state hospitals that deliver psychiatric treatment to clients on civil or forensic commitment orders and for the Child Study Treatment Center, which is a small psychiatric inpatient facility for children and adolescents. In addition, DSHS contracts with 13 Regional Support Networks (RSNs) as local administrative entities to coordinate crisis response, community support, residential, and resource management services through a network of community providers. Services for Medicaid-eligible consumers within each RSN are provided through a

capitated Prepaid Inpatient Health Plan. Limited services that cannot be reimbursed through the Medicaid program are provided within available state and local resources.

A total of $1.6 billion ($880.8 million in General Fund-State) is provided for operation of the public mental health system during the 2011-13 biennium. This is a reduction of $11.5 million (0.7 percent) from the amount originally appropriated for the biennium. Most of this change is due to technical adjustments to the number of people expected to qualify for Medicaid-funded services, the projected cost of state employee medical benefits, and expenditures for community inpatient psychiatric care.

Chapter 9, Laws of 2011 2nd sp.s., Partial Veto (SHB 2058), the early action budget adopted by the Legislature in December 2011, included the following policy adjustments:

- Savings of $3.2 million in General Fund-State are achieved by adjusting funding for Involuntary Treatment Act ancillary services and the Offender Re-Entry Community Services Program to align with historical expenditures.
- A $22.6 million increase in General Fund-State is avoided through implementation of Chapter 6, Laws of 2011 2nd. sp.s., (SHB 2131), which delays broadening of the information considered by designated mental health professionals and courts in making determinations of whether to detain or commit individuals with mental disorders under the Involuntary Treatment Act.

The 2012 supplemental operating budget includes only two discretionary policy adjustments specific to the mental health program:

- Effective July 2012, the state's Medicaid waiver will no longer provide coverage for consumer-directed clubhouses, supported employment, and respite care, for savings of $2.6 million ($1.2 million General Fund-State). This change is in response to a new federal policy that the state Medicaid program must make such services available in all areas of the state if they are to be funded anywhere.
- $0.6 million ($0.3 million General Fund-State) is provided for implementation of Chapter 232, Laws of 2012 (E2SHB 2536). The funds will be used to assess the extent to which research-based prevention and treatment programs are presently utilized in state-funded children's mental health, juvenile justice, and child welfare programs.

Aging and Disabilities Services Administration (Developmental Disabilities and Long-Term Care)

The Aging and Disability Services Administration administers the Long-Term Care (LTC) program and the Division of Developmental Disabilities (DDD)—these are the two largest programs in DSHS. LTC and DDD provide residential, community, and in-home services, are primarily funded by the state and federal matching funds (i. e., Medicaid), and often utilize the same set of vendors. Both programs operate an institutional-based Medicaid "entitlement" program. The entitlement program in LTC is the nursing home or skilled nursing facility program and the entitlement program in DDD is the state operated Residential Habilitation Centers. These two programs combined account for approximately $5.3 billion total ($2.6 billion General Fund-State) in budgeted expenditures for the 2011-13 biennium.

The following changes to the original enacted 2011-13 budget were made in the 2012 supplemental budget.

A total of $24 million ($13.6 million in General Fund-State) is provided for the implementation of Initiative 1163, which was approved by voters in 2011. Beginning January 7, 2012, the Initiative required increases in mandatory training, additional background checks, and certification for long-term care workers caring for the elderly and adults and children with developmental disabilities. The training partnership delivers training to approximately 6,000 home care workers each year. The funded amounts include an increase in contributions to the training partnership from 17 cents to 22 cents per each hour of work.

The following are items unique to each program and therefore are described separately:

Developmental Disabilities

A total of $3.4 million ($1.7 million General Fund-State) is provided for increased placements and services for persons with developmental disabilities. The publicly funded Medicaid waiver services provided to persons with developmental disabilities are capped and entrance to the program is based on available funded slots. Funding includes an increase in the number of out-of-home waiver placements by 35 slots, which are prioritized to individuals who are in crisis, are scheduled for release from state institutions, or are aging out of CA. Funding is also included for Medicaid employment services for about 160 high school graduates who will be transitioning into adult services.

Savings of $17.4 million in state funding are achieved by aligning appropriations with actual expenditures as current spending is below appropriated levels. The appropriation adjustments in this item do not modify or reduce client services.

Long-Term Care

Net savings of $8.7 million ($1.8 million General Fund-State) are assumed by investing $5 million in the state-only funded Family Caregiver Support Program (FCSP), which is projected to reduce Medicaid caseloads. FCSP services are available to unpaid caregivers of non-Medicaid eligible adults who need care. Providing these caregivers with information and support, to include specialized training for caregivers of persons with Alzheimer's disease, may help clients remain in their homes and may delay entry into more costly long-term care services. Thus, Medicaid caseloads are reduced by approximately 180 nursing home placements and 320 community residential placements.

Savings of $3.4 million ($1.7 million General Fund-State) are assumed through a 2 percent reduction in payment rates for boarding homes and assisted living providers.

Economic Services Administration

The Economic Services Administration (ESA) operates a variety of programs for low-income persons and families. These programs include the federal Supplemental Nutritional Assistance Program (SNAP), the State Food Assistance Program, the Aged, Blind, or Disabled Assistance Program, the WorkFirst/Temporary Assistance for Needy Families Program (TANF) Program, and assistance to refugees. ESA also determines eligibility for the medical programs and child care subsidy programs.

A total of $2.06 billion ($854 million General-Fund-State) is appropriated to ESA for administration of programs and delivery services. This amount is 6.4 percent less than the amount originally appropriated for the 2011-13 biennium.

Total state general fund savings of $160 million are achieved through caseload under-expenditures in the WorkFirst/TANF Assistance Program and the Working Connections Child Care (WCCC) Program, under-expenditures related to WorkFirst activities, and the receipt of federal contingency funds used to offset state expenditures. These savings are reflected in both Chapter 7, Laws of 2012, 2nd sp.s., Partial Veto (3ESHB 2127) and Chapter 9, Laws of 2011, 2nd sp.s., Partial Veto (SHB 2058).

Funding is provided for the following policy changes beginning in fiscal year 2013: implementing 12-month WCCC authorizations pursuant to Chapter 251, Laws of 2012 (SSB 6226), establishing income eligibility for child care subsidies at 200 percent of the federal poverty level, and repealing the child support enforcement requirement pursuant to Chapter 253, Laws of 2012 (SSB 6386) and Chapter 4, Laws of 2012, 1st sp.s., (SHB 2828).

Savings of $14.7 million in total funds ($8.1 million General Fund-State) are achieved through under-expenditures in staffing and administration during fiscal year 2012.

Savings of $4.5 million in state general funds are achieved as a result of receiving federal Medicaid matching funds for a portion of the cost of incapacity examinations, which are used to determine a person's eligibility for Medical Care Services and the Aged, Blind, or Disabled Assistance Program. Prior to a federal waiver, the costs were funded entirely with state general funds.

A total of $2.23 million in state general funds is transferred from ESA to the Department of Early Learning for implementation of an electronic benefit tracking system and the Seasonal Child Care Program.

Alcohol and Substance Abuse Program

The Alcohol and Substance Abuse program coordinates state efforts to reduce the impacts of substance abuse and problem gambling on individuals and their communities. The Department contracts with counties and community organizations to provide prevention, treatment, and other support services for individuals with problems related to alcohol, tobacco, drugs, and gambling. Regional administrators work with county coordinators and County Substance Abuse Administrative Boards to plan services and monitor contracts. DSHS also manages government-to-government contracts with 29 tribes for prevention and treatment services for Native Americans.

A total of $365 million ($145 million in General Fund-State) is provided for alcohol and substance abuse services during the 2011-13 biennium. This is a net $3.9 million (1 percent) less than the estimated amount needed to maintain the current level of alcohol and substance abuse activities.

Savings of $2.1 million are achieved by reducing funding available for residential services. Additional savings of $1.8 million are achieved by reducing federally matched funding for services to individuals receiving medical care through the DSHS 1115 waiver to reflect declining caseload in the program. DSHS is directed to increase federal support of programs by shifting 32 beds in settings that are designated as Institutions for Mental Diseases to two 16-bed facilities which may bill Medicaid for reimbursable services.

Special Commitment Center

The 2012 supplemental operating budget provides a total of $84.3 million to the Special Commitment Center (SCC). SCC consists of a main facility located on McNeil Island and two Secure Community Transitional Facilities used for the confinement and treatment of civilly committed sexually violent predators (SVPs).

A total of $2.3 million in state general funds is provided to SCC for McNeil Island operations. Due to the McNeil Island Corrections Center closure in April 2011, SCC solely operates the McNeil Island functions including water treatment, road maintenance, and ferry operations.

A total of $3.1 million in state general funds is reflected in Chapter 9, Laws of 2011, 2nd sp.s., Partial Veto (SHB 2058) as a result of eliminating positions and contracts, reducing food service expenditures, and expediting evaluations for certain residents.

Pursuant to Chapter 257, Laws of 2012 (SSB 6493), $10.7 million in state general funds are reduced from SCC appropriations related to SVP civil commitment legal expenses and funding for SVP legal expenses is directly appropriated to other agencies. Funding is provided to the Office of Public Defense for indigent defense of SVP civil commitment cases and to the Office of the Attorney General for both the prosecution of SVP cases and the Joint Forensic Unit. In total, the 2012 supplemental operating budget assumes $1.9 million in savings related to SVP legal costs.

Juvenile Rehabilitation Administration

A total of $179.7 million ($171.0 million General Fund-State) is provided for the Juvenile Rehabilitation Administration (JRA) to incarcerate approximately 550 juvenile felons per month in state institutions, supervise youth on parole, and provide grants to county juvenile courts for alternative disposition and evidence-based treatment in the 2011-13 biennium. Chapter 9, Laws of 2011, 2nd sp.s., Partial Veto (SHB 2058) includes

Other Human Services

Low-Income Medical Assistance

A total of $9.9 billion is appropriated to pay for medical and dental services for an average of 1.2 million low-income children and adults each month during the 2011-13 biennium. This is a decrease of $653 million (6 percent) from the original 2011-13 biennial appropriations for these services. Of the $9.9 billion appropriated, $4.6 billion are state funds; $5.3 billion are federal funds, primarily from Medicaid; and the rest are local government funds provided for purposes of collecting Medicaid matching funds. Of the $4.6 billion in state funds, $4.1 billion is from the state general fund and $434 million is from the Hospital Safety Net Assessment Fund created in 2010. The $4.6 billion state appropriation is $9 million (0.2 percent) less than would be required to continue all low-income medical assistance programs and policies with no changes from the original 2011-13 biennial appropriations.

The $653 million reduction from the original 2011-13 appropriations is almost entirely due to revised *caseload, utilization, and implementation forecasts.*

An average of 53,000 (4 percent) fewer persons per month are expected to enroll in state-subsidized coverage than anticipated in the original 2011-13 biennial operating budget, resulting in a savings of approximately $308 million. Utilization of medical services is also not growing as quickly as originally forecasted, for an additional savings of $405 million.

As directed in the original 2011-13 biennial operating budget, the Health Care Authority (HCA) emphasized price in the competitive selection of managed care contractors. Additionally, as also directed in the original biennial operating budget, disabled Medicaid clients who are not also eligible for Medicare will be included in managed care beginning July 2012. Together, these two actions are now expected to avoid $147 million of Medicaid expenditures in 2011-13, $73 million more than originally budgeted.

The appropriations provide an additional $67 million to account for delayed implementation, federal disapproval, and judicial rejection of previous budget reductions. The largest components of this total are $21 million from federal disapproval of a requirement in the original budget to charge drug copayments, $9 million from judicial delay of the limitation on payment for emergency room (ER) treatment of non-emergency conditions, and $9 million from delayed implementation of innovative payment approaches.

Program and administrative reductions account for $43 million of the reduced appropriations. The Indigent Assistance Disproportionate Share Hospital Grant Program is discontinued, for savings of $26 million. The program has provided federally-matched state funds to assist approximately 50 urban and rural hospitals with the cost of uncompensated care. For clients covered on a fee-for-service basis, HCA is directed to implement a drug formulary that limits coverage to the least costly, equally effective drugs, except when higher cost versions are shown to be medically necessary. This is expected to save approximately $4 million.

HCA has also constrained administrative expenditures by leaving funded positions unfilled and limiting expenditures for goods, services, and contracts. Administrative funding is reduced by $14 million to reflect continued operation at half the level of under-expenditure actually achieved during the first six months of the biennium.

Funding is provided to implement *new legislation.* Approximately $2 million will fund the analysis, design, and development work associated with the federal Patient Protection and Affordable Care Act (ACA). HCA is directed to perform design and development work necessary to implement the federal Basic Health Program Option (BHPO) under the ACA. HCA is also required to report to the Legislature in December 2012 on whether to proceed with implementation of the BHPO.

HCA will also implement the Medicaid Fraud False Claims Act, which establishes new tools for detecting and prosecuting Medicaid fraud and new penalties for engaging in it. Funds recovered from fraudulent activities will be deposited into a new state account that can only be used for payment for Medicaid services and for fraud prevention, detection, and enforcement activities.

Approximately $33 million is appropriated for implementation of *other policy changes*. Rather than implementing a policy of non-payment for non-emergent visits to the emergency room (ER), HCA is directed to work with hospitals to implement best practices for reducing ER utilization. These best practices are budgeted to save the same $34 million in fiscal year 2013 as the original non-payment policy. The budget provides $9 million in fiscal year 2012 to account for delayed implementation of this new policy.

Funding is also provided to proceed with Phase Two of the ProviderOne project at a total cost of approximately $24 million. This phase will include long-term care payments in a single payment system for Medicaid services. The federal government will provide 90 percent matching funds for this project.

Department of Health

The Department of Health (DOH) has a total budget of $1.1 billion ($157.5 million General Fund-State) to provide educational and health care services, administer a variety of health care licensure programs, regulate drinking water and commercial shellfish production, respond to infectious disease outbreaks, support local public health jurisdictions, and operate the state's public health laboratory. Reductions of $899,000 General Fund-State were included in Chapter 9, Laws of 2011, 1st sp.s., Partial Veto (SHB 2058), and reductions totaling $1.9 million General Fund-State were included in Chapter 7, Laws of 2012, 1st sp.s., Partial Veto (3ESHB 127). In addition:

- A total of $5.6 million in Health Professions Account-State expenditure authority was added for enacted legislation and other programs, including $4.4 million for increased mandatory training and additional background checks and certifications for long-term care workers as required by Initiative 1163.
- DOH will use amounts remaining ($1.7 million) in the Tobacco Prevention and Control Account to continue Quitline services to the uninsured and underinsured population in Washington for an additional year. Quitline funding for people lacking health insurance or other health care benefits ended in the 2009-11 biennium.

Department of Corrections

A total of $1.7 billion is provided to the Department of Corrections (DOC) to incarcerate an average of 17,935 inmates per month and to supervise an average of 15,912 offenders in the community per month during the 2011-13 biennium. This funding level represents a decrease of $33.4 million (2 percent) in corrections spending from the enacted 2011-13 budget, and savings of $36.4 million (2.2 percent) from the revised 2011-13 biennium maintenance level.

The budget assumes net savings of $15 million related to implementation of a *structured community supervision sanction process* for violations of conditions of community custody. Chapter 6, Laws of 2012, 1st sp.s. (2E2SSB 6204) provides that offenders who commit a first low-level violation of conditions of community custody are subject to non-confinement sanctions; offenders who commit subsequent low-level violations (up to five low-level violations) are subject to up to three days confinement; offenders who commit high-level violations are subject to sanctions of up to 30 days confinement and are entitled to hearings before sanctions are imposed; and generally offenders who commit new crimes will be held on DOC detainers for up to three days while the information is forwarded to local jurisdictions for consideration of new charges. The funding level assumes that $6.4 million from the estimated annual savings is reinvested into a supervision model that includes additional programming and treatment for offenders based on their assessed risk levels and treatment needs. Amendments adopted by the Legislature limiting the number of low-level sanctions to five and specifying that offenders with certain underlying offenses who commit new crimes be held in total confinement pending sanction hearings or

until new charges are filed by prosecuting attorneys will reduce the net savings assumed in the budget by an estimated $3.5 million over the biennium.

Savings totaling $17.2 million are achieved through *administrative efficiencies, vacancy savings, and underspending*. Chapter 9, Laws of 2011, 2nd sp.s., Partial Veto (SHB 2058) includes savings of $5.9 million for administrative reductions to management and communications, elimination of the Jail Industries Board, and maintaining a 2.8 percent vacancy rate in the community corrections and health services programs. Chapter 7, Laws of 2012, 2nd sp.s., Partial veto (3ESHB 2127) includes one-time savings of $11.2 million from estimated underspending during the current biennium.

Savings totaling $5.7 million is achieved through *reductions to health care costs*. Chapter 9, Laws of 2011, 2nd sp.s., Partial Veto (SHB 2058) includes savings of $2.3 million for expansion of utilization management, reduction in pharmaceutical costs, expansion in the use of Medicaid for eligible inmates, and increasing health care copayments for inmates by one dollar. Chapter 7, Laws of 2012, 2nd sp.s., Partial Veto (3ESHB 2127) includes savings of $3.4 million to reflect use of the ProviderOne system to pay outside hospital claims, and from paying Medicaid rates to providers for DOC offenders receiving inpatient, outpatient, or ancillary services.

Chapter 9, Laws of 2011, 2nd sp.s., Partial Veto (SHB 2058) includes savings of $11.7 million from the conversion of medium security units at the Old Main at the Washington State Penitentiary to minimum security units.

For fiscal years 2012 and 2013, the debt service for the certificates of participation used to finance the construction of the Correctional Industries Furniture Factory at the Stafford Creek Corrections Center is to be paid from the Correctional Industries Account, generating state general fund savings of $2.0 million.

One-time funding of $2.0 million is provided from the Enhanced 911 Account to install narrowband radios.

Criminal Justice Training Commission

The budget provides $28.7 million from the state general fund to the Criminal Justice Training Commission for training and certification of local law enforcement and corrections officers and pass-through funds to the Washington Association of Sheriffs and Police Chiefs. This funding level represents a 5.2 percent reduction to the 2011-13 enacted budget. Major items include:

- Savings of $673,000 from Chapter 9, Laws of 2011, 2nd sp.s., Partial Veto (SHB 2058) achieved through reductions of one Basic Law Enforcement Academy (BLEA) and three Corrections Academies, along with savings through staffing and operational efficiencies related to the BLEA.
- Savings of $750,000 included in Chapter 7, Laws of 2012, 2nd sp.s., Partial Veto (3ESHB 2127) achieved through unspecified efficiencies and reductions.

Labor and Industries

The Department of Labor and Industries has a total budget of $632.6 million ($35.3 million General Fund-State) to administer Washington's workers' compensation system, manage the occupational health and safety program, operate the Crime Victims' Compensation (CVC) program, and license and enforce safe building practices. Chapter 9, Laws of 2011, 1st sp.s., Partial Veto (SHB 2058) includes a reduction of $2.3 million General Fund-State to CVC, which will be offset by increased federal expenditures in the program.

Other Administrative Reductions

The appropriations were adjusted to reflect reduced costs for employee health insurance, reduced billings from central service agencies (including the Attorney General, Auditor, Secretary of State, Department of Enterprise Services) as well as improved management of information technology resources. The impact of these changes, budget wide, is described in the special appropriations section (for employee health benefits) and the governmental operations section (for central services and information technology).

Natural Resources

Water Management and Watershed Protection

Puget Sound Cleanup and Restoration

In February 2011, the United States Environmental Protection Agency (EPA), through its National Estuary Program (NEP), awarded state matching federal funds to four state agencies as part of a six-year, over $200 million effort (subject to congressional appropriation) to assist the state in implementing the Puget Sound Action Agenda. The majority of the grant funds will go to projects benefitting critical ecosystems.

Approximately $22.9 million in NEP grant funding is provided to the Department of Ecology (DOE) to enter into an agreement with EPA to protect and restore the watershed function within the Puget Sound and to reduce and prevent toxics and nutrients from entering Puget Sound fresh and marine waters. DOE will work with partners at all levels of government and with non-governmental organizations to develop and implement projects, such as $125,000 for watershed technical teams and $329,000 for a safer alternatives assessment.

The Puget Sound Partnership (PSP) is provided nearly $2.5 million in NEP grant funding to improve management and organizational efficiency relating to Puget Sound restoration and protection. This includes an accountability and performance management system to track the progress and effectiveness of key management actions and the development of a process that facilitates working interactions with and between local watershed groups.

Low-Impact Development Training

Funding of $1 million from the State Toxics Control Account is provided to DOE for use in cost-free training for local government and development officials on how to make low impact development (LID) successful in their communities. LID is a new comprehensive land planning and engineering design approach with a goal of maintaining and enhancing the pre-development water flow patterns of urban and developing watersheds.

Water Discharge Permits

Funding of $860,000 from the Water Quality Permit Account is provided to DOE to reduce a backlog in water discharge permits. Facilities discharging to the waters of the state are required to obtain a National Pollution Discharge Elimination System permit from DOE's Water Quality Program.

Marine Management Planning

Funding of $2.1 million from the Marine Resources Stewardship Trust Account is provided to the Department of Natural Resources (DNR) for the development of a comprehensive marine management plan for the state's marine waters pursuant to Chapter 252, Laws of 2012, Partial Veto (2SSB 6263). The state Marine Interagency Team, established by the Legislature in 2010, is authorized to develop the planning, and work will focus on ecosystem assessments, mapping activities, and the development of a marine management plan for the outer coast.

Land and Species Management

Department of Fish & Wildlife

Total funding of $975,000 from the State Wildlife Account is provided to the Department of Fish & Wildlife (WDFW) for the following activities related to wildlife management:

- Developing and implementing a plan to track movements or relocate declining populations of mountain goat and bighorn sheep in the state to more favorable habitats and to contract with Washington State University for research on a vaccine against a disease afflicting bighorn sheep ($350,000);

- Tracking populations of the gray wolf, which is a state-protected species and is federally listed as endangered in the western two-thirds of the state, in order to mitigate livestock damage by notifying livestock owners of wolf presence and to determine when the species has met its recovery objectives ($325,000);
- Monitoring black bear populations and developing a reliable model for estimating their populations to more accurately set harvest rates and better manage human and black bear conflicts ($200,000);
- Disseminating information about grizzly bears in the North Cascades ($50,000); and,
- Mitigating and processing claims of injury or loss of livestock caused by wolves, black bears, and cougars ($50,000).

Department of Natural Resources

Funding of $10 million from the Forest Development Account (FDA) is provided to DNR for disbursement to 20 timber counties in the state. The sum represents an excess fund balance from timber sales on forestlands in which DNR manages on each county's behalf and is distributed based on a 10-year average.

The sum of nearly $4.4 million from the FDA ($2.8 million) and the uplands portion of the Resources Management Cost Account ($1.6 million) are provided to DNR for land management activities delayed by recent years of declining timber prices and revenues. Activities include silviculture plantings and pre-commercial thinning that ensures the vitality of the forest and reduces fire danger, and enhancing surveying capacity that improves data used for timber sales.

Funding of just under $1.4 million from the Forest and Fish Support Account is provided to DNR for activities pursuant to the state's implementation of the Forests and Fish Report. The report is one basis for the Forest Practices Habitat Conservation Plan and the Clean Water Act assurances, which protect fish life and water quality in forested areas. Activities supported with an increase in funding include adaptive management and participation grants to tribes, state and local agencies, and not-for-profit public interest organizations.

Geoduck Enforcement

Funding of $522,000 from the Aquatic Lands Enhancement Account (ALEA) is provided to WDFW for staff and resources to enforce existing laws related to geoduck harvesting. DNR auctions harvest rights for specific quantities of wild geoduck in specific Puget Sound bedland tracts. Demand for and prices of geoduck, a clam that regenerates by natural means, have increased over recent years. Surveys of closed geoduck tracts following agency-approved harvests have shown a continuing degradation in recovery rates, and ongoing funding will allow for WDFW to investigate and pursue instances of poaching.

State Recreation Lands and the Discover Pass

Chapter 320, Laws of 2011 (2SSB 5622), created the annual Discover Pass and Day-use Permit, which requires a pass or permit to be displayed on any vehicle located on designated state recreation lands managed by the State Parks and Recreation Commission (State Parks), WDFW or DNR. Public participation in the program during the first six months led to a revenue shortfall of $11.2 million from original projections that, without legislative action and assuming the same participation rate, would reach over $37 million total for the biennium.

One-time funding of $4 million from the ALEA is provided to State Parks to assist in the transition to a fee-based system from the Discover Pass and Day-use Permits.

Funding of $296,000 from the Parks Renewal and Stewardship Account (PSRA) is provided to State Parks pursuant to Chapter 261, Laws of 2012 (E2SHB 2373) for use in the operations and maintenance of state parks. The legislation extends the $5 opt-out donation program on annual vehicle registrations to types not previously included, expands land designated as recreation, and allows the Discover Pass to be used on two vehicles.

The sum of $792,000 from several dedicated state accounts are provided to the three agencies that maintain and operate state recreation land to reflect that the state, rather than local governments, retains much of the infraction penalty revenues for violations of the Discover Pass requirement for vehicles pursuant to Chapter 262, Laws of 2012 (SSB 6387).

Environmental Permitting Reform

Chapter 1, Laws of 2012, 1st sp.s., Partial Veto (2ESSB 6406), establishes fees for hydraulic project approval (HPA) applications, required for many projects that alter the natural flow of water, and increases fees for Forest Practices Act (FPA) applications, required for conducting a forest practice, to help cover a portion of the costs to run each of the programs that are otherwise subsidized by the state general fund. HPA fees are estimated to save $88,000 and FPA fees are estimated to save $79,000 from the state general fund over the remainder of the 2011-13 biennium. Funding of $188,000 from the state general fund is provided to DOE to update the categorical exemptions to the State Environmental Policy Act, increasing maximum threshold levels for specified project types, and to update the environmental checklist as specified in the legislation. Lastly, the legislation sets a 2014 start date for integrating HPAs for forestry activities into the FPA, providing $342,000 and $841,000 in funding from dedicated state accounts to WDFW and DNR, respectively, to implement the provisions of the legislation.

Administrative and Management Reductions, and Vacancy Savings

The sum of over $3.7 million from the state general fund was reduced from DOE ($2.6 million) and WDFW ($1.1 million) to reflect management efficiencies and the capturing of one-time and ongoing vacancy savings pursuant to Chapter 9, Laws of 2011, 2nd sp.s., Partial Veto (SHB 2058).

Additional administrative reductions and vacancy savings included in the supplemental budget passed by the Legislature in the 2012 session total over $13.6 million from state funding, of which nearly $1.9 million is derived from the state general fund. These reductions include impacts to the following agencies:

- State Parks: $9.4 million from the PSRA to reflect an agency restructuring in response to lower than anticipated revenue from the Discover Pass. To achieve the level of savings, State Parks will shift to seasonal park rangers and flatten the organizational framework, amongst other cost-reducing strategies;
- The Department of Ecology: $2.7 million from various accounts ($644,000 from the state general fund);
- The Department of Agriculture: $499,000 from various accounts ($210,000 from the state general fund); and,
- Other state general fund administrative reductions or vacancy savings captured: $107,000 from the Recreation and Conservation Office, $227,000 from the Environmental and Land Use Hearings Office, $235,000 from WDFW, and $449,000 from DNR.

Fund Shifts to Reduce State General Fund Expenditures

State general fund savings are achieved that avoid reductions to services provided by utilizing existing fund balances in dedicated accounts. The sum of nearly $2.8 million from the state general fund was reduced and offset with a one-time or ongoing shift to other state funding sources pursuant to Chapter 9, Laws of 2011, 2nd sp.s., Partial Veto (SHB 2058). Furthermore, $28.3 million from the state general fund is reduced in the 2012 supplemental operating budget passed by the Legislature. Taken together, approximately $31.1 million from the state general fund is replaced with dedicated state funding sources, including:

- $20.1 million from the State Toxics Control Account replaces an equivalent reduction from the state general fund for the Air Quality, Water Quality, Shorelands and Environmental Assistance, Environmental Assessment, Hazardous Waste, Waste to Resources and Nuclear Waste Programs at DOE;
- Over $4.8 million from the ALEA replaces an equivalent reduction from the state general fund for hatcheries ($3 million) and other activities at WDFW; and,
- $3.3 million from the Recreation Resources Account replaces an equivalent reduction from the state general fund for marine enforcement purposes at WDFW.

Transportation

The majority of the funding for transportation services is included in the transportation budget, not the omnibus appropriations act. For additional information on funding for these agencies and other transportation funding, see the Transportation section of the Legislative Budget Notes. The omnibus appropriations act only includes a portion of the total funding for the Washington State Patrol (WSP) and the Department of Licensing (DOL).

Washington State Patrol

The budget reduced the general fund appropriation for WSP staffing by $3.48 million. Staffing reductions will be made to positions during the last 14 months of the biennium.

The Department of Licensing

Pursuant to Chapter 99, Laws of 2012 (ESHB 2301), DOL is provided with expenditure authority of $150,000 from the Business and Professions Account to extend and modify regulations regarding mixed martial arts, martial arts, boxing, and wrestling.

DOL is authorized to increase licensing and renewal fees for camping resort companies and salespersons. The fee increase is necessary to maintain a self-supporting camping resort program.

Other Changes

In addition to the changes discussed above, agency appropriations are reduced to reflect reduced costs for employee health insurance, reduced billings from central service agencies (including the Attorney General, Auditor, Secretary of State, and Department of Enterprise Services) as well as improved management of information technology resources. The budget-wide impact of these changes is described in the special appropriations sections (for employee health benefits) and the governmental operations section (for central services and information technology).

Public Schools

Policy Level Enhancements

Implement Teacher and Principal Performance-Based Evaluation Program

Funding in the amount of $5.8 million is provided for implementation of Chapter 35, Laws of 2012 (ESSB 5895), a statewide teacher and principal evaluation system. The legislation extends the findings of eight pilot programs and establishes a four-tier rating system for evaluating teacher and principal performance. The four tiers are: Level 1, satisfactory; Level 2, basic; Level 3, proficient; and Level 4, distinguished. The bill requires student growth data to be a substantial factor in evaluations, allows student input for teacher evaluations and school-building employee input for principal evaluations, and requires that evaluation results be one factor used to make staffing decisions. The bill defines a "not satisfactory" performance rating for a teacher or principal and requires, as a result, participation in the probation process that exists in current law.

Improve Student Achievement

Funding is provided to improve achievement and close the opportunity gap in low-performing and urban schools with two new pilot programs. Under chapter 53, Laws of 2012 (ESHB 2799), the Collaborative Schools for Innovation and Success Pilot Project directs colleges and school districts to develop and implement research-based models of instruction that improve student learning and research-based models of educator preparation and development to build an educator workforce with the skills necessary to serve students in low-performing schools. Funding in the amount of $1.5 million General Fund-State is provided to implement the Collaborative Schools Innovation legislation. Funding in the amount of $2.0 million General Fund-State is provided to implement the Urban School Turnaround Program. As directed in Section 501(2)(c)(vii) of Chapter 7, Laws of 2012, 2nd sp.s., Partial Veto (3ESHB 2127), the Superintendent of Public Instruction will provide funds to two of the state's lowest-performing urban schools to be used for intensive supplemental instruction, professional development, and updated or improved curricula.

Funding in the amount of $0.2 million is provided to improve educational outcomes for low-income and foster youth through increased accessibility of Advanced Placement and International Baccalaureate programs and improved educational stability as foster youth transition from high school to college.

Education Jobs Funding

Federal funding in the amount of $3.3 million is provided from the Education Jobs Federal Grant. The grant is made available by the United States Department of Education for local school districts to retain existing employees, to recall or rehire former employees, and to hire new employees for the 2011-12 school year.

Implement New STEM/Career Training Programs

Funding totaling $0.8 million is provided for three new programs to support the state's aerospace industry and for statewide supervision activities for career and technical education student leadership organizations. The three new aerospace-training programs provide funding for: advanced science, technology, engineering, and math (STEM) coursework; specialized equipment, materials, and training in skills centers; and start-up grants for entry-level aerospace assembler training.

Open K-12 Education Resources

Chapter 178, Laws of 2012 (E2SHB 2337) requires the Superintendent of Public Instruction to develop and adopt openly licensed courseware aligned with the common core state standards. Funding in the amount of $0.25 million General Fund-State is provided for the administration and coordination of adopting and promoting school district use of openly licensed materials.

Develop and Implement Interpreter Services Standards

Administrative funding is provided for the Professional Educator Standards Board (PESB) to establish performance standards for educational interpreters. Further, the PESB will identify interpreter assessments that meet specific criteria and define what constitutes a minimum assessment result to assist school districts in identifying high quality interpreters.

Other

School Bus Depreciation Funding Shift

Chapter 9, Laws of 2011, 2nd sp.s., Partial Veto (SHB 2058) achieved one-time savings of $48.9 million General Fund-State in the 2013 fiscal year by shifting the date of school bus depreciation payments to school districts. The state provides funding to school districts to replace school buses under a schedule set by the Office of the Superintendent of Public Instruction. Annual payments are made to districts the year a bus is purchased and continue until the bus reaches the end of its scheduled lifecycle. Prior practice has been to allocate these payments in October. Beginning with the 2012-13 school year, the bus depreciation payments are made in August instead of October.

Various Reductions

In addition to the changes discussed above, agency appropriations are reduced to reflect reduced costs for employee health insurance, reduced billings from central service agencies (including the Attorney General, Auditor, Secretary of State, and Department of Enterprise Services), as well as improved management of information technology resources. The impact of these changes budget wide is described in the special appropriations section (for employee health benefits) and the governmental operations section (for central services and information technology).

Higher Education

Summary

Appropriation levels for the state's four-year institutions of higher education and the community and technical college system are left largely unchanged. Annual resident undergraduate tuition increases for the current biennium assumed in the operating budget were also unchanged at 16 percent per year for the University of Washington, Washington State University, and Western Washington University; 14 percent per year for The Evergreen State College and Central Washington University; 11 percent per year for Eastern Washington University; and 12 percent per year for the Community and Technical College System.

Major Increases

Engineering Degree Production

$3.8 million is set aside for the Schools of Engineering at both the University of Washington and Washington State University to expand engineering education opportunities. Each University will convert existing student full-time equivalents (FTEs) to engineering FTEs.

Student Achievement Council

A total of $1.0 million is provided pursuant to Chapter 229, Laws of 2012, Partial Veto, which creates the Student Achievement Council to replace the Higher Education Coordinating Board. The Council will set goals for increasing the educational attainment in Washington and monitor progress toward meeting those goals.

Leadership 1000

$1.0 million is provided for the Leadership 1000 Scholarship Program. This program matches private donors with selected economically disadvantaged students who would otherwise be unable to attend college after depleting all other sources of financial aid.

Aerospace Innovation Center

A total of $1.5 million from the Economic Development Strategic Reserve Account is provided for the new Center of Aerospace Technology Innovation. This joint venture of the University of Washington and Washington State University will produce research on new technologies and innovations in aviation, aerospace, and defense.

Other Education

Department of Early Learning

Federal funding of $17.9 million is provided in the 2011-13 biennium for a Race to the Top Early Learning Challenge Grant that was awarded to Washington State. The grant is for four years and will total $60 million. The grant will be used primarily to implement and expand the Quality Rating and Improvement System (QRIS) and to support the Washington Kindergarten Inventory of Developing Skills assessment, professional development, and various system supports.

Administration of the Seasonal Child Care Program is transferred to the Department of Social and Health Services, resulting in $2.07 million in administrative savings to the state general fund. Seasonal child care services are not impacted by this reduction.

Savings of $1.1 million General Fund-State is achieved through administrative reductions and shifting programs to federal funds.

Other Changes

In addition to the changes discussed above, agency appropriations are reduced to reflect reduced costs for employee health insurance, reduced billings from central service agencies (including the Attorney General, Auditor, Secretary of State, and Department of Enterprise Services) as well as improved management of information technology resources. The budget-wide impact of these changes is described in the special appropriations sections (for employee health benefits) and the governmental operations section (for central services and information technology).

Special Appropriations

Special Appropriations (Non-Compensation Related Items)

Forest Development Account

The Department of Natural Resources is authorized to distribute excess funds totaling $10 million from the Forest Development Account to 20 timber counties in the state. The sum represents an excess fund balance from timber sales on forest lands in which the DNR manages on each county's behalf and is distributed based on a 10-year average.

Life Sciences Discovery Fund

A total of $4 million state general funds are appropriated into the Life Sciences Discovery Fund (LSDF) in fiscal year 2013. The LSDF is used for life sciences research.

Office of the Attorney General Legal Services

A total of $3 million ($972,000 General Fund-State) is provided for the Office of Financial Management to distribute to agencies for billings associated with legal services of the Office of the Attorney General.

Special Appropriations (Compensation Related Items)

State Employee Health Benefits -$32.9 Million General Fund-State Savings, $24.6 Million Other Fund Savings.

Employee health benefit funding rates appropriated from agency budgets for contribution to the Public Employees' Benefits Board (PEBB) are reduced from $850 to $800 per eligible employee per month for fiscal year 2013. This is projected to leave the PEBB reserves (both the self-insured claims reserve and the incurred-but-not-paid reserve) more than fully funded at the end of the 2011-13 biennium.

Washington State Omnibus Operating Budget

2012 Supplemental Budget

TOTAL STATE

(Dollars in Thousands)

	Near General Fund-State			Total All Funds		
	2011-13	2012 Supp *	Rev 11-13	2011-13	2012 Supp *	Rev 11-13
Legislative	142,344	-3,050	139,294	149,429	-2,878	146,551
Judicial	221,808	394	222,202	274,987	6,394	281,381
Governmental Operations	474,248	-20,372	453,876	3,707,655	-10,291	3,697,364
Other Human Services	6,349,037	-436,105	5,912,932	15,172,782	-667,205	14,505,577
DSHS	5,731,500	-249,957	5,481,543	11,171,470	-100,260	11,071,210
Natural Resources	309,303	-42,526	266,777	1,490,117	15,188	1,505,305
Transportation	78,272	-8,112	70,160	176,473	-6,374	170,099
Public Schools	13,783,321	-136,123	13,647,198	15,915,437	-295,045	15,620,392
Higher Education	2,602,642	-15,002	2,587,640	11,126,495	-31,157	11,095,338
Other Education	86,323	-2,760	83,563	503,435	22,616	526,051
Special Appropriations	2,198,004	-35,128	2,162,876	2,359,797	-22,246	2,337,551
Total Budget Bill	**31,976,802**	**-948,741**	**31,028,061**	**62,048,077**	**-1,091,258**	**60,956,819**
Other Legislation	-3,850	0	-3,850	-3,850	4	-3,846
Statewide Total	**31,972,952**	**-948,741**	**31,024,211**	**62,044,227**	**-1,091,254**	**60,952,973**

Note: Includes only appropriations from the Omnibus Operating Budget enacted through the 2012 legislative session and appropriations contained in other legislation.

Washington State Omnibus Operating Budget

2012 Supplemental Budget

LEGISLATIVE AND JUDICIAL

(Dollars in Thousands)

	Near General Fund-State			Total All Funds		
	2011-13	2012 Supp *	Rev 11-13	2011-13	2012 Supp *	Rev 11-13
House of Representatives	60,367	-2,428	57,939	61,683	-2,253	59,430
Senate	45,640	-2,394	43,246	47,040	-2,373	44,667
Jt Leg Audit & Review Committee	5,421	-301	5,120	5,591	-301	5,290
LEAP Committee	4,220	-475	3,745	4,220	-475	3,745
Office of the State Actuary	48	-48	0	3,392	-69	3,323
Office of Legislative Support Svcs	0	3,016	3,016	0	3,016	3,016
Joint Legislative Systems Comm	15,927	-248	15,679	15,927	-248	15,679
Statute Law Committee	8,940	-172	8,768	9,795	-175	9,620
Redistricting Commission	1,781	0	1,781	1,781	0	1,781
Total Legislative	**142,344**	**-3,050**	**139,294**	**149,429**	**-2,878**	**146,551**
Supreme Court	13,443	-125	13,318	13,443	-125	13,318
State Law Library	2,938	-1,434	1,504	2,938	66	3,004
Court of Appeals	30,507	-64	30,443	30,507	-64	30,443
Commission on Judicial Conduct	2,048	-20	2,028	2,048	-20	2,028
Administrative Office of the Courts	100,793	-1,639	99,154	150,389	3	150,392
Office of Public Defense	49,993	4,170	54,163	52,483	6,048	58,531
Office of Civil Legal Aid	22,086	-494	21,592	23,179	486	23,665
Total Judicial	**221,808**	**394**	**222,202**	**274,987**	**6,394**	**281,381**
Total Legislative/Judicial	**364,152**	**-2,656**	**361,496**	**424,416**	**3,516**	**427,932**

Washington State Omnibus Operating Budget

2012 Supplemental Budget

GOVERNMENTAL OPERATIONS

(Dollars in Thousands)

	Near General Fund-State			Total All Funds		
	2011-13	2012 Supp *	Rev 11-13	2011-13	2012 Supp *	Rev 11-13
Office of the Governor	10,605	-256	10,349	12,105	-256	11,849
Office of the Lieutenant Governor	1,385	-84	1,301	1,480	-84	1,396
Public Disclosure Commission	4,237	-280	3,957	4,237	-280	3,957
Office of the Secretary of State	30,845	-6,186	24,659	88,864	-5,264	83,600
Governor's Office of Indian Affairs	526	-9	517	526	-9	517
Asian-Pacific-American Affrs	451	-5	446	451	-5	446
Office of the State Treasurer	0	0	0	15,146	-2	15,144
Office of the State Auditor	0	0	0	74,333	-1,446	72,887
Comm Salaries for Elected Officials	353	-26	327	353	-26	327
Office of the Attorney General	8,025	4,423	12,448	229,237	-524	228,713
Caseload Forecast Council	2,613	-156	2,457	2,613	-156	2,457
Dept of Financial Institutions	0	0	0	46,445	-255	46,190
Department of Commerce	129,750	-5,112	124,638	513,688	53,669	567,357
Economic & Revenue Forecast Council	1,402	35	1,437	1,452	35	1,487
Office of Financial Management	37,135	-205	36,930	116,142	554	116,696
Office of Administrative Hearings	0	0	0	34,090	1,673	35,763
State Lottery Commission	0	0	0	802,742	-1,030	801,712
Washington State Gambling Comm	0	0	0	32,184	-209	31,975
WA State Comm on Hispanic Affairs	496	-8	488	496	-8	488
African-American Affairs Comm	477	-8	469	477	-8	469
Department of Retirement Systems	0	0	0	52,666	-588	52,078
State Investment Board	0	0	0	29,256	-181	29,075
Innovate Washington	6,010	-376	5,634	8,162	1,286	9,448
Department of Revenue	208,612	-8,714	199,898	240,425	-8,894	231,531
Board of Tax Appeals	2,460	-121	2,339	2,460	-121	2,339
Minority & Women's Business Enterp	0	0	0	3,266	388	3,654
Office of Insurance Commissioner	0	650	650	51,961	1,126	53,087
Consolidated Technology Services	7	-7	0	184,048	24,006	208,054
State Board of Accountancy	0	0	0	2,810	-168	2,642
Forensic Investigations Council	0	0	0	286	204	490
Department of Enterprise Services	8,099	-1,389	6,710	477,217	2,459	479,676
Washington Horse Racing Commission	0	0	0	8,201	-1,457	6,744
WA State Liquor Control Board	0	0	0	296,326	-104,213	192,113
Utilities and Transportation Comm	0	0	0	48,716	-149	48,567
Board for Volunteer Firefighters	0	0	0	1,064	-25	1,039
Military Department	16,011	-2,023	13,988	308,727	30,221	338,948
Public Employment Relations Comm	4,749	-515	4,234	8,309	-509	7,800
LEOFF 2 Retirement Board	0	0	0	2,055	-11	2,044
Archaeology & Historic Preservation	0	0	0	4,639	-34	4,605
Total Governmental Operations	**474,248**	**-20,372**	**453,876**	**3,707,655**	**-10,291**	**3,697,364**

Washington State Omnibus Operating Budget

2012 Supplemental Budget

HUMAN SERVICES

(Dollars in Thousands)

	Near General Fund-State			Total All Funds		
	2011-13	2012 Supp *	Rev 11-13	2011-13	2012 Supp *	Rev 11-13
WA State Health Care Authority	4,459,259	-393,813	4,065,446	10,847,407	-640,167	10,207,240
Human Rights Commission	4,482	-535	3,947	6,385	-545	5,840
Bd of Industrial Insurance Appeals	0	0	0	39,380	-171	39,209
Criminal Justice Training Comm	30,305	-1,569	28,736	44,014	-1,569	42,445
Department of Labor and Industries	38,084	-2,772	35,312	638,382	-5,774	632,608
Department of Health	160,547	-3,029	157,518	1,081,936	22,982	1,104,918
Department of Veterans' Affairs	16,261	-922	15,339	115,305	1,485	116,790
Department of Corrections	1,635,488	-33,144	1,602,344	1,659,307	-33,372	1,625,935
Dept of Services for the Blind	4,542	-252	4,290	25,567	-101	25,466
Employment Security Department	69	-69	0	715,099	-9,973	705,126
Total Other Human Services	**6,349,037**	**-436,105**	**5,912,932**	**15,172,782**	**-667,205**	**14,505,577**

Washington State Omnibus Operating Budget

2012 Supplemental Budget

DEPARTMENT OF SOCIAL & HEALTH SERVICES

(Dollars in Thousands)

	Near General Fund-State			Total All Funds		
	2011-13	2012 Supp *	Rev 11-13	2011-13	2012 Supp *	Rev 11-13
Children and Family Services	605,185	-32,428	572,757	1,091,468	-26,061	1,065,407
Juvenile Rehabilitation	173,828	-2,847	170,981	179,430	260	179,690
Mental Health	890,068	-9,242	880,826	1,598,488	-11,457	1,587,031
Developmental Disabilities	1,012,678	-20,062	992,616	1,926,723	5,654	1,932,377
Long-Term Care	1,594,945	5,886	1,600,831	3,399,830	10,899	3,410,729
Economic Services Administration	1,006,614	-152,578	854,036	2,153,005	-93,961	2,059,044
Alcohol & Substance Abuse	151,709	-6,749	144,960	314,507	50,536	365,043
Vocational Rehabilitation	21,713	-458	21,255	127,101	1,980	129,081
Administration/Support Svcs	49,658	885	50,543	95,503	1,518	97,021
Special Commitment Center	95,388	-11,093	84,295	95,388	-11,093	84,295
Payments to Other Agencies	129,714	-21,271	108,443	190,027	-28,535	161,492
Total DSHS	**5,731,500**	**-249,957**	**5,481,543**	**11,171,470**	**-100,260**	**11,071,210**
Total Human Services	**12,080,537**	**-686,062**	**11,394,475**	**26,344,252**	**-767,465**	**25,576,787**

Washington State Omnibus Operating Budget

2012 Supplemental Budget

NATURAL RESOURCES

(Dollars in Thousands)

	Near General Fund-State			Total All Funds		
	2011-13	2012 Supp *	Rev 11-13	2011-13	2012 Supp *	Rev 11-13
Columbia River Gorge Commission	364	441	805	766	845	1,611
Department of Ecology	96,791	-26,167	70,624	430,297	10,746	441,043
WA Pollution Liab Insurance Program	0	0	0	876	737	1,613
State Parks and Recreation Comm	17,334	0	17,334	147,632	-5,280	142,352
Rec and Conservation Funding Board	1,925	-204	1,721	9,778	-463	9,315
Environ & Land Use Hearings Office	4,841	-668	4,173	4,841	-668	4,173
State Conservation Commission	13,583	-374	13,209	14,884	-374	14,510
Dept of Fish and Wildlife	69,387	-11,671	57,716	358,417	3,677	362,094
Puget Sound Partnership	5,065	-539	4,526	15,829	2,301	18,130
Department of Natural Resources	68,913	-2,215	66,698	360,495	4,927	365,422
Department of Agriculture	31,100	-1,129	29,971	146,302	-1,260	145,042
Total Natural Resources	**309,303**	**-42,526**	**266,777**	**1,490,117**	**15,188**	**1,505,305**

Washington State Omnibus Operating Budget

2012 Supplemental Budget

TRANSPORTATION

(Dollars in Thousands)

	Near General Fund-State			Total All Funds		
	2011-13	2012 Supp *	Rev 11-13	2011-13	2012 Supp *	Rev 11-13
Washington State Patrol	75,499	-7,781	67,718	135,640	-6,079	129,561
Department of Licensing	2,773	-331	2,442	40,833	-295	40,538
Total Transportation	**78,272**	**-8,112**	**70,160**	**176,473**	**-6,374**	**170,099**

Washington State Omnibus Operating Budget

2012 Supplemental Budget

PUBLIC SCHOOLS

(Dollars in Thousands)

	Near General Fund-State			Total All Funds		
	2011-13	2012 Supp *	Rev 11-13	2011-13	2012 Supp *	Rev 11-13
OSPI & Statewide Programs	48,657	3,798	52,455	138,300	-264	138,036
General Apportionment	10,459,774	-47,687	10,412,087	10,459,774	-25,360	10,434,414
Pupil Transportation	649,813	-53,928	595,885	649,813	-53,928	595,885
School Food Services	14,222	0	14,222	597,222	-1,588	595,634
Special Education	1,350,186	-21,229	1,328,957	2,041,982	-226,103	1,815,879
Educational Service Districts	15,815	-9	15,806	15,815	-9	15,806
Levy Equalization	611,782	-12,848	598,934	611,782	-8,448	603,334
Elementary/Secondary School Improv	0	0	0	7,352	-1,200	6,152
Institutional Education	32,610	-49	32,561	32,610	-49	32,561
Ed of Highly Capable Students	17,535	-2	17,533	17,535	-2	17,533
Education Reform	158,167	4,962	163,129	266,282	120,037	386,319
Transitional Bilingual Instruction	172,539	-12,298	160,241	243,540	-12,298	231,242
Learning Assistance Program (LAP)	252,221	3,167	255,388	833,428	-85,833	747,595
Compensation Adjustments	0	0	0	2	0	2
Total Public Schools	**13,783,321**	**-136,123**	**13,647,198**	**15,915,437**	**-295,045**	**15,620,392**

Washington State Omnibus Operating Budget

2012 Supplemental Budget

EDUCATION

(Dollars in Thousands)

	Near General Fund-State			Total All Funds		
	2011-13	2012 Supp *	Rev 11-13	2011-13	2012 Supp *	Rev 11-13
Student Achievement Council	0	251,968	251,968	0	345,430	345,430
Higher Education Coordinating Board	218,980	0	218,980	312,279	-1,541	310,738
University of Washington	426,573	-5,156	421,417	5,829,242	-11,995	5,817,247
Washington State University	303,366	-2,155	301,211	1,238,606	-8,615	1,229,991
Eastern Washington University	68,957	-872	68,085	249,680	-1,281	248,399
Central Washington University	64,141	917	65,058	299,585	655	300,240
The Evergreen State College	36,344	-96	36,248	108,563	-57	108,506
Western Washington University	80,629	-914	79,715	336,810	-1,057	335,753
Office of Student Financial Assist	247,932	-247,932	0	341,628	-341,628	0
Community/Technical College System	1,154,723	-9,765	1,144,958	2,406,728	-7,694	2,399,034
Council for Higher Education	997	-997	0	3,374	-3,374	0
Total Higher Education	**2,602,642**	**-15,002**	**2,587,640**	**11,126,495**	**-31,157**	**11,095,338**
State School for the Blind	11,526	-79	11,447	13,487	-87	13,400
Childhood Deafness & Hearing Loss	16,900	-126	16,774	17,426	-126	17,300
Workforce Trng & Educ Coord Board	2,770	-115	2,655	66,031	-140	65,891
Department of Early Learning	55,127	-2,440	52,687	389,035	22,950	411,985
Washington State Arts Commission	0	0	0	5,230	77	5,307
Washington State Historical Society	0	0	0	6,134	-48	6,086
East Wash State Historical Society	0	0	0	6,092	-10	6,082
Total Other Education	**86,323**	**-2,760**	**83,563**	**503,435**	**22,616**	**526,051**
Total Education	**16,472,286**	**-153,885**	**16,318,401**	**27,545,367**	**-303,586**	**27,241,781**

Washington State Omnibus Operating Budget

2012 Supplemental Budget

SPECIAL APPROPRIATIONS

(Dollars in Thousands)

	Near General Fund-State			Total All Funds		
	2011-13	2012 Supp *	Rev 11-13	2011-13	2012 Supp *	Rev 11-13
Bond Retirement and Interest	1,966,521	-44,843	1,921,678	2,120,814	-43,989	2,076,825
Special Approps to the Governor	98,007	13,437	111,444	105,507	25,465	130,972
Sundry Claims	0	278	278	0	278	278
Contributions to Retirement Systems	133,476	-4,000	129,476	133,476	-4,000	129,476
Total Budget Bill	**2,198,004**	**-35,128**	**2,162,876**	**2,359,797**	**-22,246**	**2,337,551**
Other Legislation	-3,850	0	-3,850	-3,850	4	-3,846
Total Special Appropriations	**2,194,154**	**-35,128**	**2,159,026**	**2,355,947**	**-22,242**	**2,333,705**

2011-13 Washington State Transportation Budget

TOTAL OPERATING AND CAPITAL BUDGET

Total Appropriated Funds

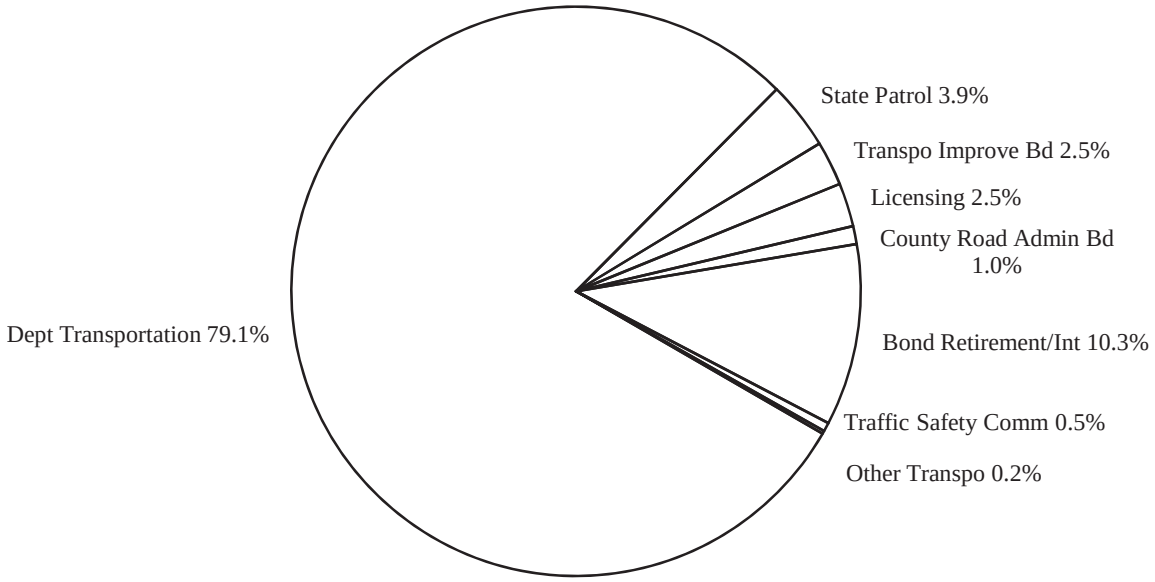
(Dollars in Thousands)

	Original 2011-13 Appropriations	2012 Supplemental Budget	Revised 2011-13 Appropriations
Department of Transportation	**7,028,561**	**774,269**	**7,802,830**
Pgm B - Toll Op & Maint-Op	57,072	-976	56,096
Pgm C - Information Technology	70,580	101	70,681
Pgm D - Facilities-Operating	25,420	46	25,466
Pgm D - Facilities-Capital	5,433	1,687	7,120
Pgm F - Aviation	8,146	6	8,152
Pgm H - Pgm Delivery Mgmt & Suppt	46,443	103	46,546
Pgm I - Hwy Const/Improvements	4,034,328	798,187	4,832,515
Pgm K - Public/Private Part-Op	711	226	937
Pgm M - Highway Maintenance	378,435	5,774	384,209
Pgm P - Hwy Const/Preservation	753,714	-61,837	691,877
Pgm Q - Traffic Operations	50,774	344	51,118
Pgm Q - Traffic Operations - Cap	12,039	4,023	16,062
Pgm S - Transportation Management	28,311	81	28,392
Pgm T - Transpo Plan, Data & Resch	48,226	284	48,510
Pgm U - Charges from Other Agys	88,929	-11,997	76,932
Pgm V - Public Transportation	111,466	1,636	113,102
Pgm W - WA State Ferries-Cap	283,341	130,853	414,194
Pgm X - WA State Ferries-Op	463,606	11,529	475,135
Pgm Y - Rail - Op	29,912	4,130	34,042
Pgm Y - Rail - Cap	426,444	-123,359	303,085
Pgm Z - Local Programs-Operating	11,062	23	11,085
Pgm Z - Local Programs-Capital	94,169	13,405	107,574
Washington State Patrol	364,759	16,988	381,747
Department of Licensing	239,909	4,446	244,355
Joint Transportation Committee	2,034	-6	2,028
LEAP Committee	494	0	494
Office of Financial Management	6,811	-3,073	3,738
Department of Enterprise Services	0	3,822	3,822
Utilities and Transportation Comm	504	0	504
WA Traffic Safety Commission	48,893	-13	48,880
Public Employment Relations Comm	0	75	75
Archaeology & Historic Preservation	417	-1	416
County Road Administration Board	72,090	28,585	100,675
Transportation Improvement Board	208,481	41,459	249,940
Transportation Commission	2,213	927	3,140
Freight Mobility Strategic Invest	686	95	781
State Parks and Recreation Comm	986	0	986
Department of Agriculture	1,185	0	1,185
Total Appropriation	**7,978,023**	**867,573**	**8,845,596**
Bond Retirement and Interest	961,969	55,832	1,017,801
Total	**8,939,992**	**923,405**	**9,863,397**

2011-13 Transportation Budget - Including 2012 Supplemental
Chapter 86, Laws of 2012, Partial Veto (ESHB 2190)
Total Appropriated Funds

(Dollars in Thousands)

MAJOR COMPONENTS BY AGENCY
Total Operating and Capital Budget



Major Transportation Agencies	2011-13 Original	2012 Supp	2011-13 Revised
Department of Transportation	7,028,561	774,269	7,802,830
Washington State Patrol	364,759	16,988	381,747
Transportation Improvement Board	208,481	41,459	249,940
Department of Licensing	239,909	4,446	244,355
County Road Administration Board	72,090	28,585	100,675
Bond Retirement and Interest	961,969	55,832	1,017,801
Washington Traffic Safety Commission	48,893	-13	48,880
Other Transportation	15,330	1,839	17,169
Total	**8,939,992**	**923,405**	**9,863,397**

2012 Supplemental Transportation Budget

Budget Summary

The 2012 supplemental transportation budget increases expenditure authority by $930 million for the 2011-13 biennium for a total appropriation of $9.9 billion of state, federal, and other sources of funds.

The changes in expenditure authority occur amidst the context of relatively stable resource conditions. Forecasted revenues to the major transportation accounts are expected to decline by about $40 million for the 2011-13 biennium. Additionally, $330 million in reduced spending in the accounts in the 2009-11 biennium has boosted beginning fund balances.

The $930 million net increase in expenditure authority is primarily due to full appropriation of bond proceeds for the SR 520 Bridge Replacement project. Except for this increase and increased authority for the expenditure of additional fee-related revenues (described below), the underlying supplemental transportation budget decreases by about $110 million, principally due to lower than predicted project bids and decreased debt service.

Capital Program Changes

The budget includes the following significant project changes:

- Full appropriation of the remaining bond authority for the SR 520 Bridge Replacement project for the floating bridge and eastside projects. As with the Tacoma Narrows Bridge project, full appropriation enables the Washington State Department of Transportation (WSDOT) and the Treasurer's Office to better manage bond issuances with needed cash flow and will allow the WSDOT to access more favorable financing terms through the federal Transportation Infrastructure Finance and Innovation Act (TIFIA) program.
- $41 million in City of Seattle funds are applied to the Alaskan Way Viaduct Replacement project for utility relocation work in the current biennium.
- $23 million in federal funds and $30 million in funds from Oregon are applied to the Columbia River Crossing project. However, $15 million of the federal funds are placed into unallotted status until the Office of Financial Management (OFM) determines that Oregon's actual expenditures on shared expense items are within $5 million of Washington's actual contribution. Allocation of federal formula funds will advance right-of-way acquisition. In addition, an oversight subcommittee of the Joint Transportation Committee (JTC) is established to review progress made on the project.
- $15 million in federal Transportation Investment Generating Economic Recovery (TIGER) grant funds will allow new work in the Joint Base Lewis-McChord area, on the I-5/SR 510 to SR 512 - Mobility Improvement project. Population and congestion growth in the Joint Base region has been dramatic in recent years. The performance of I-5 through this area will be improved through the use of intelligent transportation system technologies, hard shoulder running techniques, and other improvements.
- Provides $1.6 million for preliminary engineering for a traffic management center in Seattle.
- $36 million is released for toll equipment for the I-405 widening project subject to completion of the Transportation Commission revenue study and consultation with the JTC.
- $15 million in savings realized on the I-405/Kirkland Vicinity Stage 2 – Widening project will be used to advance work on the I-405/SR 167 direct connector.
- $3.8 million is provided for completion of the water line hook-up at the Washington State Patrol’s (WSP) academy in Shelton.
- $750,000 is provided for safety, security, and public outreach activities regarding the use of liquefied natural gas powered vessels in the Washington state ferry fleet and $250,000 is provided to issue a request-for-proposals to convert the Issaquah class from diesel-powered propulsion system to one powered by liquefied natural gas.

- Approves three new freight rail projects for low-interest loans from the state freight rail investment bank program (two in Tacoma and one at the Port of Longview).
- Adds a new preservation project for the state-owned Palouse River & Coulee City (PCC) rail line that will fund preservation through revenue generated from PCC leases and the Grain Train Program.

Operating Program Changes

Underlying transportation operating programs are decreased overall by a net of $2 million in the budget, with most savings coming from savings in general government costs. Notably, about $10 million in savings results from reductions in certain agencies' self-insurance premiums, in workers' compensation, and in state employee health care premiums.

The enacted budget includes the following notable policy increases:

- $10 million in savings from ferry fuel hedging is applied toward any future increases in fuel costs. This policy reduces the likelihood of a fuel surcharge being added to ferry fares during the current biennium.
- $2.7 million to ensure the continuation of the Target Zero Trooper program.
- $2.5 million to upgrade Department of Licensing legacy computer systems. Current systems are programmed in COBOL, one of the oldest programming languages. The DOL will implement a phased replacement, where modernization occurs parallel to business process revisions. The cost of implementing future legislative initiatives will be reduced with the new system.
- $963,000 to implement the new limousine regulation program established by Chapter 374, Laws of 2011.
- $289,000 to implement Chapter 80, Laws of 2012 (ESSB 6150), which includes a facial recognition matching system to help the state combat identity fraud.
- $1.2 million to increase accountability measures for drivers who have been convicted of driving under the influence.
- $1 million is provided to implement the beginning stages of a road user assessment system. $750,000 is allocated to the Transportation Commission to determine the feasibility of transitioning from a fuel tax-based system of revenue collection to one based on road user assessments. $250,000 is allocated to the WSDOT to evaluate the operational feasibility of such a transition.

New Revenues and Spending

Future transportation revenues are expected to be flat or declining. At risk are current levels of ferry service, maintenance and preservation of the highway system, funds used to support the WSP's efforts to keep our roadways functioning safely, as well as grants to local public transportation agencies.

To start to address these upcoming shortfalls, two fee revenue bills were enacted and dedicated for transportation purposes: Chapter 80, Laws of 2012 (ESSB 6150), relating to drivers' license fees, and Chapter 74, Laws of 2012 (EHB 2660), relating to transportation revenues. At full biennial implementation, the drivers and vehicle fee increases are expected to provide $183.5 million to support continued operation of the state's transportation system.

For the current biennium, the new revenue is allocated as follows:

- $6.5 million to support the debt service on $130 million in bond authority to fund a second 144-car capacity vessel. With this funding, shipyards could commence work in December 2012 with an expected in-service start in January 2015.
- $9.5 million for restoration of the WSP's auto theft program, to fund an additional trooper cadet training class, and for general agency operations.
- $7 million is provided to the WSDOT to reduce the highway maintenance backlog and to meet urgent preservation needs on the state's roadways.
- $9 million to support transit service. The funds are available to service provided by all public transit agencies, including regional, metropolitan, county, and rural agencies.
- $7 million for the purchase of fuel for ferry operations.
- $3.5 million for the Transportation Improvement Board to meet urgent preservation and storm water needs at the local level.
- $3.5 million for the County Road Administration Board for urgent preservation needs on county roads.
- $2.25 million for additional Safe Routes to Schools projects.
- $0.75 million for partnership projects managed by the Freight Mobility and Strategic Investment Board.

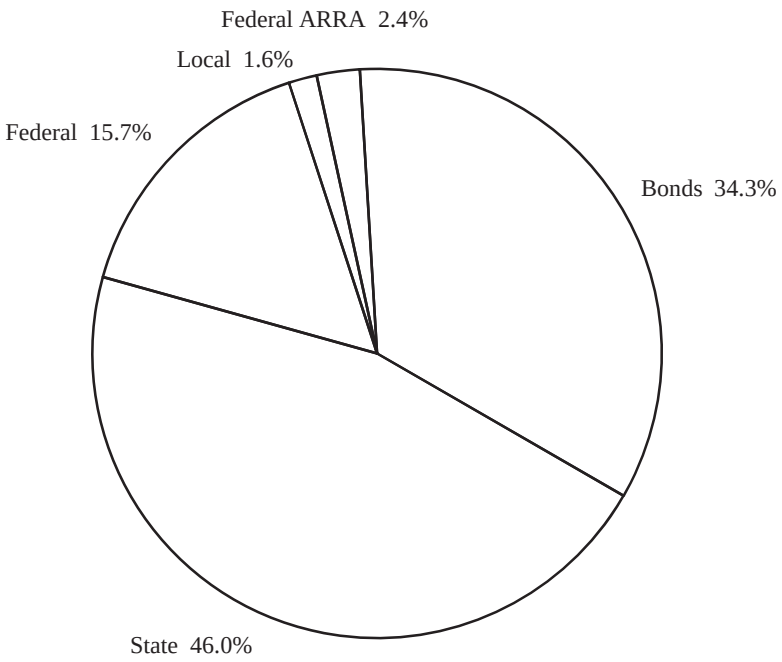
In addition, $8 million in new funding is provided to begin the advanced design, preliminary engineering, or right of way acquisition for the following state highway projects:

- The I-5 Federal Way triangle vicinity improvements;
- The Joint Base Lewis-McChord corridor;
- Preliminary work on the 124th St and 148th St Interchanges on SR 520;
- SR 509 Des Moines to Sea-Tac new corridor;
- SR 9/Marsh Road to 2nd St widening (also known as the Snohomish River Bridge widening);
- The North Spokane Corridor;
- The SR 167 Tacoma to Puyallup new corridor;
- The I-82 Union Gap project;
- The Sharpes' Corner intersection project;
- The Red Mountain interchange project;
- The SR 3/304 interchange project;
- The SR 155 Omak Bridge Replacement; and
- The SR 28 East Wenatchee corridor improvements.

2011-13 Transportation Budget - Including 2012 Supplemental
Chapter 86, Laws of 2012, Partial Veto (ESHB 2190)
Total Appropriated Funds

(Dollars in Thousands)

COMPONENTS BY FUND TYPE
Total Operating and Capital Budget

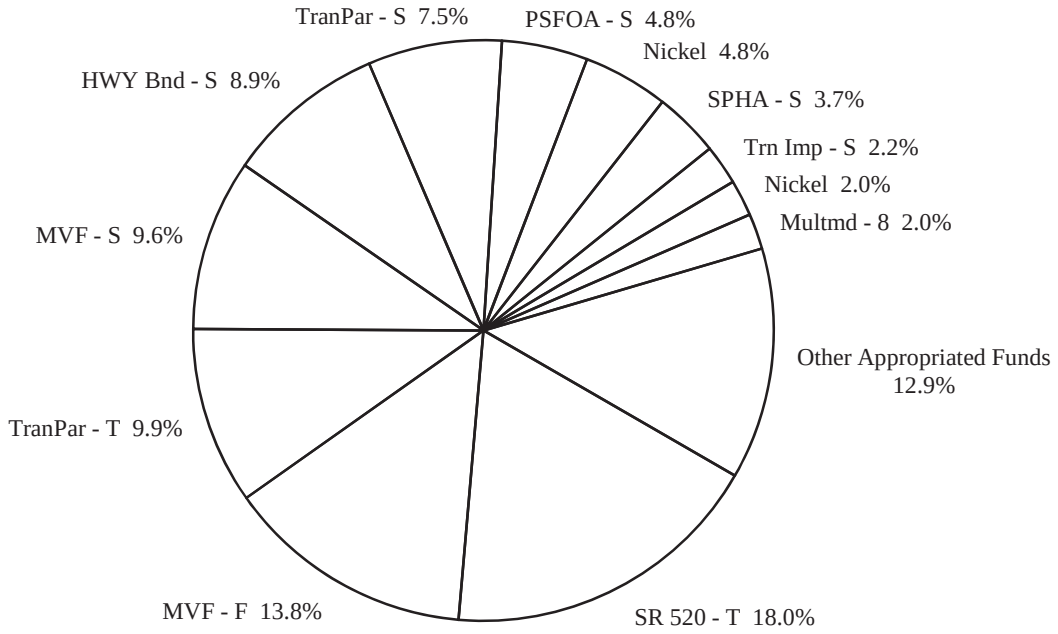


Fund Type	2011-13 Original	2012 Supp	2011-13 Revised
State	4,148,249	389,090	4,537,339
Federal	1,276,298	267,904	1,544,202
Local	82,169	75,212	157,381
Federal ARRA	353,081	-112,249	240,832
Bonds	3,080,195	303,448	3,383,643
Total	**8,939,992**	**923,405**	**9,863,397**

2011-13 Transportation Budget - Including 2012 Supplemental
Chapter 86, Laws of 2012, Partial Veto (ESHB 2190)
Total Appropriated Funds

(Dollars in Thousands)

MAJOR COMPONENTS BY FUND SOURCE AND TYPE
Total Operating and Capital Budget



Major Fund Source	2011-13 Original	2012 Supp	2011-13 Revised
SR 520 Corridor Account - Bonds (SR 520 - T)	987,717	791,283	1,779,000
Motor Vehicle Account - Federal (MVF - F)	1,113,832	251,846	1,365,678
Transportation Partnership Account - Bonds (TranPar - T)	1,427,696	-455,304	972,392
Motor Vehicle Account - State (MVF - S)	878,136	64,852	942,988
Highway Bond Retirement Account - State (HWY Bnd - S)	847,001	32,500	879,501
Transportation Partnership Account - State (TranPar - S)	618,950	116,732	735,682
Puget Sound Ferry Operations Acct - State (PSFOA - S)	468,226	4,604	472,830
Transportation 2003 Acct (Nickel) - Bonds (Nickel - T)	443,148	26,460	469,608
State Patrol Highway Account - State (SPHA - S)	350,387	10,399	360,786
Transportation Improvement Account - State (Trn Imp - S)	182,526	36,535	219,061
Transportation 2003 Acct (Nickel) - State (Nickel - S)	112,576	86,912	199,488
Multimodal Transportation Account (Multmd - 8)	311,845	-116,534	195,311
Other Appropriated Funds	1,197,952	73,120	1,271,072
Total	**8,939,992**	**923,405**	**9,863,397**

2011-13 Washington State Transportation Budget
Including 2012 Supplemental Budget
Fund Summary
TOTAL OPERATING AND CAPITAL BUDGET
(Dollars in Thousands)

	MVF State *	P.S. Ferry Op Acct State	Nickel Acct State *	WSP Hwy Acct State	Transpo Partner State *	Multimod Acct State *	Other Approp *	Total Approp
Department of Transportation	**907,933**	**468,135**	**667,536**	**0**	**1,703,833**	**189,059**	**3,866,334**	**7,802,830**
Pgm B - Toll Op & Maint-Op	538	0	0	0	0	0	55,558	56,096
Pgm C - Information Technology	67,398	0	1,460	0	1,460	363	0	70,681
Pgm D - Facilities-Operating	25,466	0	0	0	0	0	0	25,466
Pgm D - Facilities-Capital	5,545	0	0	0	1,575	0	0	7,120
Pgm F - Aviation	0	0	0	0	0	0	8,152	8,152
Pgm H - Pgm Delivery Mgmt & Suppt	45,796	0	0	0	0	250	500	46,546
Pgm I - Hwy Const/Improvements	112,192	0	416,125	0	1,636,316	0	2,667,882	4,832,515
Pgm K - Public/Private Part-Op	827	0	0	0	0	110	0	937
Pgm M - Highway Maintenance	373,709	0	0	0	0	0	10,500	384,209
Pgm P - Hwy Const/Preservation	81,741	0	23	0	44,463	0	565,650	691,877
Pgm Q - Traffic Operations	48,818	0	0	0	0	0	2,300	51,118
Pgm Q - Traffic Operations - Cap	8,779	0	0	0	0	0	7,283	16,062
Pgm S - Transportation Management	27,389	0	0	0	0	973	30	28,392
Pgm T - Transpo Plan, Data & Resch	22,304	0	0	0	0	662	25,544	48,510
Pgm U - Charges from Other Agys	74,734	0	0	0	0	1,798	400	76,932
Pgm V - Public Transportation	0	0	0	0	0	42,939	70,163	113,102
Pgm W - WA State Ferries-Cap	0	0	249,928	0	12,838	27,527	123,901	414,194
Pgm X - WA State Ferries-Op	0	468,135	0	0	0	0	7,000	475,135
Pgm Y - Rail - Op	0	0	0	0	0	33,642	400	34,042
Pgm Y - Rail - Cap	0	0	0	0	0	58,220	244,865	303,085
Pgm Z - Local Programs-Operating	8,518	0	0	0	0	0	2,567	11,085
Pgm Z - Local Programs-Capital	4,179	0	0	0	7,181	22,575	73,639	107,574
Washington State Patrol	0	0	0	360,786	0	132	20,829	381,747
Department of Licensing	76,015	0	0	0	0	0	168,340	244,355
Joint Transportation Committee	2,028	0	0	0	0	0	0	2,028
LEAP Committee	494	0	0	0	0	0	0	494
Office of Financial Management	2,128	1,260	0	0	0	350	0	3,738
Department of Enterprise Services	462	3,360	0	0	0	0	0	3,822
Utilities and Transportation Comm	0	0	0	0	0	0	504	504
WA Traffic Safety Commission	0	0	0	0	0	0	48,880	48,880
Public Employment Relations Comm	0	75	0	0	0	0	0	75
Archaeology & Historic Preservation	416	0	0	0	0	0	0	416
County Road Administration Board	2,962	0	0	0	0	0	97,713	100,675
Transportation Improvement Board	0	0	0	0	0	0	249,940	249,940
Transportation Commission	3,028	0	0	0	0	112	0	3,140
Freight Mobility Strategic Invest	781	0	0	0	0	0	0	781
State Parks and Recreation Comm	986	0	0	0	0	0	0	986
Department of Agriculture	1,185	0	0	0	0	0	0	1,185
Total Appropriation	998,418	472,830	667,536	360,786	1,703,833	189,653	4,452,540	8,845,596
Bond Retirement and Interest	440	0	1,560	0	4,241	181	1,011,379	1,017,801
Total	998,858	472,830	669,096	360,786	1,708,074	189,834	5,463,919	9,863,397

* *Includes Bond amounts.*

2012 Supplemental Capital Budget Highlights

The 2012 Supplemental Capital Budgets are enacted as Chapter 1, Laws of 2012, 2nd sp.s. (ESB 5127), and Chapter 2, Laws of 2012, 2nd sp.s, Partial Veto (ESB 6074). The combined supplemental capital budgets, with alternative financing projects, total $1.1 billion.

ESB 5127, known as the 2012 Jobs Now Act, appropriates $500.9 million in new state general obligation bonds, $5 million in Chehalis River Basin bonds, and $4.95 million in Columbia River Basin Water Supply Development bonds. ESB 5127 also authorizes the State Finance Committee to issue general obligation bonds to support the new bond appropriations.

Appropriations of $377 million are provided in ESB 6074, including all appropriation increases and decreases. This bill is a traditional supplemental capital budget which contains appropriations from dedicated accounts and federal funds, and redirects existing general obligation bond capacity previously authorized in the 2011 legislative session to new uses. This bill also contains the authorization for several state agencies to enter into new alternative financing contracts totaling $187.7 million.

The State's Debt Limit

Washington's indebtedness is limited by Article VIII, section 1 of the state Constitution. The State Treasurer may not issue any debt that would cause the debt service (principal and interest payments) on any new bonds, plus existing bonds, to exceed 9 percent of the average of the three prior years' general state revenues.

The 2012 Legislature assumes the approval of ESJR 8221, which directs the Secretary of State to submit a constitutional amendment relating to the debt limit to the voters for approval and ratification, or rejection, in the state's next general election. ESJR 8221 reduces the constitutional debt limit percentage from 9 percent to 8 percent by July 1, 2034, modifies the debt limit calculation to extend the average annual general revenue from a three-year to a six-year average, and modifies the definition of "general state revenues" to include state property taxes.

Two additional bills enacted by the 2012 Legislature increase the level of general state revenues used to calculate the state's debt limit, including: (1) Chapter 5, Laws of 2012, 2nd sp.s. (3E2SHB 2565), which requires retailers providing roll-your-own cigarette machines to collect the state cigarette tax; and (2) Chapter 6, Laws of 2012, 2nd sp.s. (ESHB 2823), which redirects the Solid Waste Tax from the Public Works Assistance Account into the State General Fund for the 2011-13 and 2013-15 biennia. In addition, half of the Solid Waste Tax is redirected into the State General Fund for fiscal years 2016, 2017, and 2018, with the remaining amount deposited into the Public Works Assistance Account.

Higher Education

The 2012 supplemental capital budgets include $320 million in total appropriations and alternative financing authority for higher education facilities, including $112 million in state general obligation bonds. Of the total spending authority, $207 million is provided for the community and technical college system and $113 million for four-year institutions. Funding is provided for a variety of major projects, including:

- $62.9 million for the phase 3 facility at the Bothell campus of the University of Washington (UW). Of this amount, $30 million will be funded from bonds issued by the UW for which debt service will be paid from building fees and trust land revenue;
- $37 million to complete the Riverpoint Biomedical/Health Services Building at the Spokane campus of Washington State University (WSU). Of this amount, $30 million will be funded from bonds issued by WSU for which debt service will be paid from building fees and trust land revenue;
- $39.1 million for the Health Careers Center at Tacoma Community College;
- $38.6 million for the Health and Science Building at Lower Columbia Community College;

- $30.6 million for the Academic and Student Services Building at Skagit Valley Community College;
- $23.3 million for renewal of the Technology Building at North Seattle Community College; and
- $50 million in alternative financing authority for the State Board for Community and Technical Colleges to implement an Enterprise Resource Planning System.

Equipment funding for training in high technology fields is also provided at $15 million for the community and technical colleges, $1.8 million for WSU, and $2.2 million for aerospace and manufacturing training.

Economic Development and Local Government Infrastructure

Nearly $259 million is provided for economic development grants and for low interest loans and grants for repairing and developing public infrastructure, including:

- $152.8 million for low interest loans through the Public Works Board (PWB) to finance the construction, repair, and rehabilitation of local infrastructure systems such as water, storm and sanitary sewers, roads, streets and bridges, and solid waste facilities;
- $33.2 million for grants for specific port and export related infrastructure projects;
- $32.6 million for economic development projects administered through the Community Economic Revitalization Board (CERB), including $20.6 million for specific projects and $12 million for a round of competitive grants;
- $14.9 million for main street improvement grants administered by the PWB to assist communities to revitalize downtown business districts;
- $13.5 million for five Innovation Partnership Zone infrastructure and facilities projects; and
- $11.6 million for grants administered by the Department of Health to improve the safety of specific drinking water systems.

Environment and Natural Resources

$214.3 million is provided for environmental cleanup and natural resource projects, including $1.6 million in alternative financing authority for State Parks to construct cabins and yurts. Highlights within this functional area include:

- $57.5 million for the Department of Fish and Wildlife to improve hatcheries, fish passage barriers, and habitat;
- $47.8 million to the Department of Natural Resources for forest health and habitat protection and improvement;
- $38.5 million for stormwater grants to local governments through the Department of Ecology (Ecology);
- $10.8 million to Ecology to clean up specific toxics sites in the Puget Sound and eastern Washington;
- $8.5 million to improve two specific flood levees in western Washington;
- $17.2 million to help small timberland owners, farmers and ranchers restore and improve habitat;
- $13 million for the Puget SoundCorps; and
- $10.2 million for a variety of projects at state parks, including $400,000 for a new trail from East Wenatchee to Lincoln Rock State Park and $486,000 for repairs on the Wallace Falls Footbridge.

Energy Efficiency and Weatherization

$108 million is provided for energy efficiency and weatherization grants and loans, including:

- $40 million for grants for K-12 public schools;
- $20 million for grants for public higher education facilities;
- $5 million for local government financing of investment-grade energy audits;

- $18 million for grants to local governments; and
- $25 million for weatherization projects, including $10 million for low-income home weatherization through Energy Matchmakers and $15 million to continue the Community Energy Efficiency Pilot through WSU's Extension Energy Program.

Affordable Housing

$62.6 million is provided to the Department of Commerce (Commerce) for specific affordable housing projects for seniors, families with children, people with developmental disabilities or mental illness, farmworkers, and people who are homeless or at risk of being homeless. An additional $4.5 million is provided to Commerce for a competitive housing application round.

Skills Centers

Nine Skills Centers receive a total of $56.7 million for the design or construction of skills center facilities.

Human Services

Funding is provided for a new Veterans Center in Walla Walla, Washington. The $45.6 million nursing facility is funded from a combination of federal funds ($31.2 million) and state general obligation bonds ($14.4 million). Rainier School receives $3 million to continue renovating cottages.

2012 Supplemental Capital Budget
Combined New Appropriations Project List
Chapter 1, Laws of 2012, 2nd sp.s (ESB 5127)
Chapter 2, Laws of 2012, 2nd sp.s, Partial Veto (ESB 6074)
(Dollars in Thousands)

NEW PROJECTS	Debt Limit Bonds	Total Funds	
Governmental Operations			
Department of Commerce			
2012 Local and Community Projects	9,623	9,623	
Brownfield Redevelopment Grants	0	1,500	
Building Communities Fund Grants	1,076	1,076	
CERB Administered Econ. Dev, Innovation & Export Grants	16,598	32,598	
Connell Klindworth Water Line Distribution	540	540	
Drinking Water State Revolving Fund Loan Program	0	60,000	
Energy Efficiency Grants for Higher Education	20,000	20,000	
Energy Efficiency Grants for Local Governments	18,000	18,000	
Financing Energy/Water Efficiency	0	5,000	
Housing Competitive Pool	4,530	4,530	
Housing for Families with Children	8,250	8,250	
Housing for Farmworkers	6,215	6,215	
Housing for Low-Income Households	2,982	2,982	
Housing for People At Risk of Homelessness	2,500	2,500	
Housing for People with Chronic Mental Illness	1,125	1,125	
Housing for People with Developmental Disabilities	2,900	2,900	
Housing for Seniors and People with Physical Disabilities	9,666	9,666	
Housing for the Homeless	28,944	28,944	
Innovation Partnership Zones - Facilities and Infrastructure	13,520	13,520	
Local and Community Projects 2012	2,835	2,835	
Main Street Improvement Grants	14,050	14,850	
Port and Export Related Infrastructure	33,150	33,150	
Public Works Assistance Account Program 2013 Loan List	0	152,781	
Public Works Pre-Construction Loan Program	0	3,000	
Weatherization	25,000	25,000	
Total	221,504	460,585	
Office of Financial Management			
Aerospace and Manufacturing Training Equipment Pool	2,265	2,265	
Bid Savings Contingency Pool	-6,500	-6,500	
Chehalis River Basin Flood Relief Projects	5,000	5,000	
Loan Program Consolidation Board	0	150	v
Total	765	915	

v = Veto

2012 Supplemental Capital Budget
Combined New Appropriations Project List
Chapter 1, Laws of 2012, 2nd sp.s (ESB 5127)
Chapter 2, Laws of 2012, 2nd sp.s, Partial Veto (ESB 6074)
(Dollars in Thousands)

NEW PROJECTS	Debt Limit Bonds	Total Funds
Department of Enterprise Services		
Engineering and Architectural Services: Staffing	2,469	2,469
Legislative Building Critical Exterior Repairs	1,400	1,400
Nat Resource Bldg Roof Replacement/Ext Foam Insulation Repairs	-3,500	0
Total	369	3,869
Washington State Patrol		
Fire Training Academy Master Plan/Environmental Impact Study	0	400
Fire Training Academy Self Contained Breathing Apparatus Building	0	244
Total	0	644
Military Department		
Thurston County Readiness Center	0	75
Total Governmental Operations	**222,638**	**466,088**

Human Services

Department of Social and Health Services		
Rainier School: Cottages Remodel and Renovation	3,000	3,000
Department of Health		
Drinking Water Assistance Program	0	832
Safe Reliable Drinking Water Grants	11,638	11,638
Total	11,638	12,470
Department of Veterans' Affairs		
Minor Works Facilities Preservation	2,722	0
Walla Walla Nursing Facility	14,400	45,600
Total	17,122	45,600
Department of Corrections		
New Prison Reception Center	-6,200	-6,200
Washington State Penitentiary: Housing Units, Kitchen & Site Work	-1,700	-1,700
Total	-7,900	-7,900
Total Human Services	**23,860**	**53,170**

v = Veto

2012 Supplemental Capital Budget
Combined New Appropriations Project List
Chapter 1, Laws of 2012, 2nd sp.s (ESB 5127)
Chapter 2, Laws of 2012, 2nd sp.s, Partial Veto (ESB 6074)
(Dollars in Thousands)

NEW PROJECTS	Debt Limit Bonds	Total Funds	
Natural Resources			
Department of Ecology			
Clean Up Toxics Sites - Puget Sound	0	9,270	
Columbia River Water Management Projects	4,500	4,500	
Eastern Washington Clean Sites Initiative	0	1,545	
Flood Levee Improvements	1,500	8,500	
FY 2012 Statewide Stormwater Grant Program	0	24,073	
Ground Water Management Yakima Basin	450	450	
Skagit Mitigation	2,225	2,225	
Solid Waste Reduction - Compost	0	1,694	
Stormwater Retrofit and LID Competitive Grants	0	14,463	
Water Pollution Control Revolving Fund Program	0	7,939	
Total	8,675	74,659	
State Parks and Recreation Commission			
Comfort Stations	1,754	1,754	
Culverts	1,000	1,000	
Deferred Maintenance	1,070	1,070	
Energy Conservation	215	215	
Lake Sammamish Concession and Event Facility	1,000	1,000	v
Picnic Shelters	500	500	
Rocky Reach Trail	400	400	
Wallace Falls Footbridge	486	486	
Total	6,425	6,425	
Recreation and Conservation Funding Board			
Family Forest Fish Passage Program	0	10,000	
State Conservation Commission			
Conservation Reserve Enhancement Program	1,277	1,277	
Farms and Water Quality	5,000	5,000	
Livestock Nutrient Program	0	1,000	
Total	6,277	7,277	

v = Veto

2012 Supplemental Capital Budget
Combined New Appropriations Project List
Chapter 1, Laws of 2012, 2nd sp.s (ESB 5127)
Chapter 2, Laws of 2012, 2nd sp.s, Partial Veto (ESB 6074)
(Dollars in Thousands)

NEW PROJECTS	Debt Limit Bonds	Total Funds
Department of Fish and Wildlife		
Acquire Dryden Gravel Pit from Washington DOT	251	251
Dry Forest Restoration	796	796
Fishway Improvements/Diversions	8,000	8,000
Hatchery Improvements	34,775	34,775
Minor Works - Access Sites	7,406	7,406
Minor Works - Dam and Dike	200	200
Minor Works - Fish Passage Barriers (Culverts)	1,495	1,495
Minor Works - Road Maintenance and Abandonment Plan	516	516
Voights Creek Hatchery Phase 2	13,000	13,000
Wildlife Area Improvements	60	60
Total	66,499	66,499
Department of Natural Resources		
Creosote Piling Removal	1,650	1,650
Derelict Vessel Removal and Disposal	3,000	3,000
Forest Hazard Reduction and Safety	8,470	8,470
Large Debris Removal	200	200
Point Ruston Sediment Capping/Shoreline Restoration Stabilization	0	7,200
Puget SoundCorps	10,000	13,000
Restoration Projects to Improve Natural Resources	2,560	2,560
Road Maintenance and Abandonment Plan (RMAP)	6,834	6,834
Secret Harbor Estuary Restoration - Cypress Island	535	535
Shoreline Restoration Projects	3,966	3,966
Urban Forest Restoration (Puget Sound Basin)	400	400
Total	37,615	47,815
Total Natural Resources	**125,491**	**212,675**

Higher Education

University of Washington		
Anderson Hall Renovation	-1,553	-1,553
Burke Museum Renovation	3,500	3,500
UW Bothell Phase 3	19,887	32,850
UW Tacoma Campus Development and Soil Remediation	4,300	5,000
Total	26,134	39,797

v = Veto

2012 Supplemental Capital Budget
Combined New Appropriations Project List
Chapter 1, Laws of 2012, 2nd sp.s (ESB 5127)
Chapter 2, Laws of 2012, 2nd sp.s, Partial Veto (ESB 6074)
(Dollars in Thousands)

NEW PROJECTS	Debt Limit Bonds	Total Funds
Washington State University		
High-Technology Education Equipment	1,821	1,821
WSU Spokane - Riverpoint Biomedical and Health Sciences	6,000	7,300
Total	7,821	9,121
Eastern Washington University		
Minor Works - Preservation	0	2,540
Central Washington University		
Combined Utilities	0	273
Minor Works Preservation	0	430
Total	0	703
Western Washington University		
Minor Works - Preservation	0	1,530
Community & Technical College System		
Clover Park Technical College: Allied Health Care Facility	-121	-121
Equipment Pool	12,300	15,000
Everett Community College: Index Hall Replacement	-631	-631
North Seattle Community College: Technology Building Renewal	23,335	23,335
Olympic College: College Instruction Center	3,624	3,624
Tacoma Community College: Health Careers Center	39,107	39,107
Total	77,614	80,314
Total Higher Education	**111,569**	**134,005**

Other Education

v = Veto

2012 Supplemental Capital Budget
Combined New Appropriations Project List
Chapter 1, Laws of 2012, 2nd sp.s (ESB 5127)
Chapter 2, Laws of 2012, 2nd sp.s, Partial Veto (ESB 6074)
(Dollars in Thousands)

NEW PROJECTS	Debt Limit Bonds	Total Funds
Public Schools		
2011-13 School Construction Assistance Program	-98,350	-104,752
Clark County Skills Center Addition	1,450	1,450
Distressed Schools	27,400	27,400
Energy Efficiency Grants for K-12 Schools	40,000	40,000
Grant County Branch Campus of Wenatchee Valley Skills Center	19,408	19,408
Pierce County Skills Center	4,800	4,800
Puget Sound Skills Center	1,500	1,500
SEA-Tech Branch Campus of Tri-Tech Skills Center	10,350	10,350
Skills Centers Minor Works-Facility Preservation	-58	-58
Spokane Area Professional-Technical Skills Center	1,800	1,800
Transition to New ALE-Adjusted Construction Asst. Formula	0	350
WA-NIC Skills Center - Snoqualmie Valley SD/Bellevue CC	1,715	1,715
Wenatchee Valley Skills Center	9,500	9,500
Yakima Valley Technical Skills Center Phase II	-3,018	-3,018
Yakima Valley Technical Skills Center Sunnyside Satellite	6,225	6,225
Total	22,722	16,670
State School for the Blind		
General Campus Preservation	550	0
Center for Childhood Deafness & Hearing Loss		
Minor Public Works	536	0
Washington State Historical Society		
Washington Heritage Grants	5,914	5,914
Total Other Education	**29,722**	**22,584**
Projects Total	**513,280**	**888,522**
GOVERNOR VETO		
Office of Financial Management		
Loan Program Consolidation Board	0	-150

v = Veto

2012 Supplemental Capital Budget
Combined New Appropriations Project List
Chapter 1, Laws of 2012, 2nd sp.s (ESB 5127)
Chapter 2, Laws of 2012, 2nd sp.s, Partial Veto (ESB 6074)
(Dollars in Thousands)

NEW PROJECTS	Debt Limit Bonds	Total Funds
State Parks and Recreation Commission		
Lake Sammamish Concession and Event Facility	-1,000	-1,000
Governor Veto Total	**-1,000**	**-1,150**
TOTALS		
Projects Total	513,280	888,522
Governor Veto Total	-1,000	-1,150
Statewide Total	**512,280**	**887,372**
BOND CAPACITY ADJUSTMENTS		
(Includes both reappropriation adjustments and new appropriations from previously authorized bonds)		
Department of Commerce		
Temporary Public Works Grant Program	-970	
Youth Recreational Facilities Grants	-673	
Total	-1,643	
Public Schools		
Vocational Skills Centers	-961	
Office of Financial Management		
Chehalis River Basin Flood Relief Projects	-5,000	
Department of Ecology		
Columbia River Water Management Projects	-4,500	
Bond Capacity Adjustments Total	**-12,104**	
Statewide Total for Bond Capacity Purposes	**500,176**	

v = Veto

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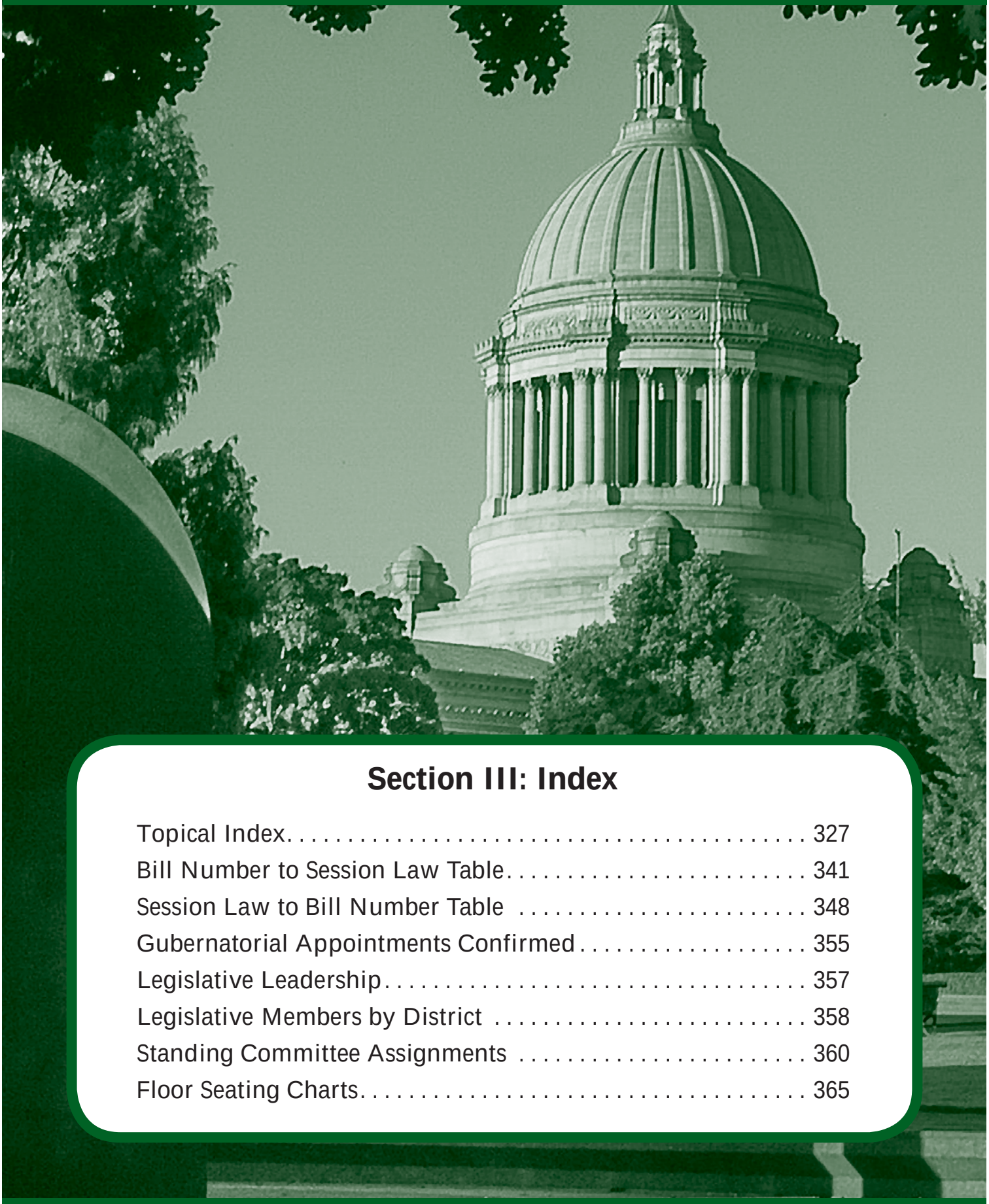

Section III: Index

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COMMUNITY AND ECONOMIC DEVELOPMENT

CONSUMER PROTECTION

CORRECTIONS AND PUBLIC SAFETY

EDUCATION AND EARLY LEARNING

ELECTIONS

ENERGY

ENVIRONMENT

FINANCIAL SERVICES

FISCAL - APPROPRIATIONS

FISCAL - CAPITAL

FISCAL - REVENUE

FISCAL - TRANSPORTATION

HEALTH

HIGHER EDUCATION

HOUSING

HUMAN SERVICES

INSURANCE

LABOR

LAND USE

LAW AND JUSTICE - CIVIL LAW

LAW AND JUSTICE - COURTS

LAW AND JUSTICE - CRIMINAL LAW

LAW AND JUSTICE - JUVENILE JUSTICE

LOCAL GOVERNMENT

NATURAL RESOURCES

PARKS AND RECREATION

STATE GOVERNMENT AND TRIBAL RELATIONS

TECHNOLOGY AND TELECOMMUNICATIONS

TRANSPORTATION

VETERANS

WATER

WORKFORCE DEVELOPMENT

Bill Number to Session Law Table

INITIATIVES

INIT	1163	Restoring long-term care services	C	1	L 12		
INIT	1183	Wholesale distribution and retail sales of liquor	C	2	L 12		

HOUSE BILLS

SHB	1057	Farm labor contractor account	C	158	L 12		
SHB	1073	Disposition of remains	C	5	L 12		
SHB	1194	Bail for felony offenses	C	6	L 12		
EHB	1234	Security alarms, crime watch	C	88	L 12		
HB	1381	Water nonuse/sufficient cause	C	7	L 12		
EHB	1398	Low-income housing/fee exemption	C	200	L 12		
HB	1486	ARNP prescriptions	C	8	L 12		
SHB	1552	Garnishment	C	159	L 12		
SHB	1559	Design professionals	C	160	L 12		
ESHB	1627	Boundary review boards	C	212	L 12		
2SHB	1652	Electronic impersonation	C	9	L 12		
SHB	1700	Transportation projects	C	67	L 12		
SHB	1775	Juvenile restorative justice	C	201	L 12		
ESHB	1820	Blue alert system	C	37	L 12		
E3SHB	1860	Partisan elections	C	89	L 12		
ESHB	1983	Prostitution and trafficking	C	134	L 12		
ESHB	2048	Housing assistance surcharges	C	90	L 12		
SHB	2056	Assisted living facilities	C	10	L 12		
SHB	2058	Operating supplemental budget 2011-13	C	9	L 11	E2	PV
3ESHB	2127	Operating supplemental budget 2011-13	C	7	L 12	E2	PV
SHB	2131	Involuntary treatment act	C	6	L 11	E2	
HB	2138	Korean War veterans armistice day	C	11	L 12		
SHB	2139	Regional support networks	C	91	L 12		
SHB	2148	Sexually violent predators	C	7	L 11	E2	
SHB	2149	Personal property tax administration	C	59	L 12		
EHB	2152	Plats	C	92	L 12		
2SHB	2156	Workforce training/aerospace	C	50	L 12		
EHB	2159	STEM career course grants	C	1	L 11	E2	
HB	2160	Teacher certification/STEM	C	2	L 11	E2	
SHB	2169	Unclaimed property act	C	8	L 11	E2	
SHB	2177	Child sexual exploitation	C	135	L 12		
SHB	2181	Washington state guard	C	12	L 12		
EHB	2186	Licensed midwives	C	13	L 12		
SHB	2188	Air rescue and evacuation	C	93	L 12		

ESHB	2190	Transportation supplemental budget 2011-13	C	86	L 12	PV
SHB	2191	Police dogs	C	94	L 12	
SHB	2194	Manufactured and mobile home landlords	C	213	L 12	
HB	2195	Depositions and discovery act	C	95	L 12	
ESHB	2197	Uniform commercial code	C	214	L 12	
HB	2210	School board candidates	C	202	L 12	
SHB	2212	RCW 90.90.030 expiration	C	161	L 12	
HB	2213	Firefighting/unprotected land	C	14	L 12	
2SHB	2216	Vehicular homicide and assault	C	162	L 12	
ESHB	2223	Underground utility damage act	C	96	L 12	
HB	2224	Estate tax apportionment	C	97	L 12	
ESHB	2229	Hospital employees	C	98	L 12	
ESHB	2233	Indian country and tribes	C	48	L 12	
E2SHB	2238	Environmental mitigation	C	62	L 12	
SHB	2239	Social purpose corporations	C	215	L 12	
HB	2244	Airstrips	C	15	L 12	
HB	2247	School employees/medications	C	16	L 12	
SHB	2252	Transportation fare payment	C	68	L 12	
SHB	2254	Foster care outcomes	C	163	L 12	
SHB	2255	Nondepository institutions	C	17	L 12	
SHB	2259	Higher education reporting	C	227	L 12	
SHB	2261	Eye glasses/donations	C	203	L 12	
EHB	2262	WorkFirst and child care	C	217	L 12	
SHB	2263	Child welfare system savings	C	204	L 12	
E2SHB	2264	Child welfare/contracting	C	205	L 12	
HB	2274	Tow truck operators' costs	C	18	L 12	
HB	2293	Consumer cooperatives	C	216	L 12	
SHB	2299	Special license plates	C	65	L 12	
ESHB	2301	Boxing, martial arts, wrestling	C	99	L 12	
ESHB	2302	Being under the influence	C	42	L 12	
HB	2304	Low-level radioactive waste	C	19	L 12	
HB	2305	Public improvement contracts	C	218	L 12	
HB	2306	Pathology services claims	C	100	L 12	
HB	2308	Professional peer review bodies	C	165	L 12	
SHB	2312	Military service award emblems	C	69	L 12	
SHB	2313	Higher education/board meetings	C	228	L 12	
ESHB	2314	Long-term care workers	C	164	L 12	
ESHB	2318	Patient decisions/shared	C	101	L 12	
E2SHB	2319	Affordable care act	C	87	L 12	PV
SHB	2326	Solid fuel burning devices	C	219	L 12	
EHB	2328	Job order contracting	C	102	L 12	
HB	2329	Encumbered state forest lands	C	166	L 12	
E2SHB	2337	Open K-12 education resources	C	178	L 12	
ESHB	2341	Hospitals/community benefits	C	103	L 12	
HB	2346	Correctional officer uniform	C	220	L 12	

ESHB	2347	Spring blade knives	C179	L 12	
SHB	2349	Beavers	C167	L 12	
SHB	2352	Higher education institutions/fees	C104	L 12	
SHB	2354	Stolen property trafficking	C105	L 12	
HB	2356	Agricultural fairs	C221	L 12	
SHB	2357	Sales and use tax/mental health	C180	L 12	
SHB	2360	Prearrangement trust funds	C206	L 12	
ESHB	2361	Usage-based auto insurance	C222	L 12	
HB	2362	Wine producer liens	C106	L 12	
ESHB	2363	Domestic violence victims	C223	L 12	
ESHB	2366	Suicide assessment, treatment	C181	L 12	
SHB	2367	Dairy products commission	C107	L 12	
E2SHB	2373	State recreational resources	C261	L 12	
ESHB	2384	Personal vehicle sharing	C108	L 12	
SHB	2389	Economic and revenue forecasts	C182	L 12	
HB	2393	New hire/support registry	C109	L 12	
HB	2420	Insurance commissioner/study, report	C207	L 12	
SHB	2422	Aviation biofuels production	C 63	L 12	
HB	2440	Wildfire protection by DNR	C 38	L 12	
2SHB	2443	Persons who drive impaired	C183	L 12	
2SHB	2452	State agency procurement	C224	L 12	
HB	2456	Agriculture and livestock information	C168	L 12	
HB	2459	Commercial vehicle license plates	C 70	L 12	
EHB	2469	Boatyard stormwater treatment	C169	L 12	
ESHB	2473	Medication assistant endorsement	C208	L 12	
HB	2482	Innovation partnership zones	C225	L 12	
E2SHB	2483	Higher education coordination	C229	L 12	PV
HB	2485	School district warrants	C209	L 12	
SHB	2491	Unemployment experience rating	C 2	L 12 E1	
SHB	2492	Board of education rules	C210	L 12	
HB	2499	Political advertising disclosure	C226	L 12	
ESHB	2502	Forest land classification	C170	L 12	
EHB	2509	Blueprint for safety program		FULL VETO	
HB	2523	Insurers and insurance products	C211	L 12	
HB	2535	Juvenile gang court	C146	L 12	
E2SHB	2536	Children/services delivery	C232	L 12	
SHB	2541	Sealing juvenile records		FULL VETO	
ESHB	2545	Local government fuel usage	C171	L 12	
3E2SHB	2565	Roll your own cigarettes	C 4	L 12 E1	
ESHB	2567	Conservation districts	C 60	L 12	
ESHB	2570	Metal property theft	C233	L 12	PV
ESHB	2571	Medical services programs	C234	L 12	
SHB	2574	Persons with disabilities tabs	C 71	L 12	
ESHB	2582	Health care services billing	C184	L 12	
3SHB	2585	Higher education institutions	C230	L 12	PV

ESHB	2586	Kindergarten inventory	C	51	L 12		
SHB	2590	Pollution liability agency	C	3	L 12	E1	
ESHB	2592	Extended foster care	C	52	L 12		
ESHB	2614	Homeowners in crisis	C	185	L 12		
SHB	2617	School district insolvency	C	186	L 12		
EHB	2620	State funds investment	C	187	L 12		
SHB	2640	Housing trust fund	C	235	L 12		
HB	2651	Industrial storm water	C	110	L 12		
HB	2653	Infrastructure statutes	C	111	L 12		
SHB	2657	Adoption support expenditures	C	147	L 12		PV
EHB	2660	Transportation revenue	C	74	L 12		
ESHB	2664	Qualified energy resources	C	112	L 12		
EHB	2671	Local shoreline master programs	C	172	L 12		
SHB	2673	Transportation workforce	C	66	L 12		
ESHB	2692	Commercial sale of sex	C	136	L 12		PV
HB	2705	Legislative support services	C	113	L 12		
ESHB	2747	Fire Service Training Account	C	173	L 12		
SHB	2757	Accounts	C	114	L 12		
HB	2758	Spirits taxes collection	C	39	L 12		
EHB	2771	State retirement systems	C	236	L 12		
ESHB	2799	Collaborative schools	C	53	L 12		
HB	2803	Incarcerated offenders	C	237	L 12		
EHB	2814	SR-520 corridor	C	84	L 12		
HB	2822	Local sales and use tax account	C	9	L 12	E1	
ESHB	2823	State revenues/general fund	C	5	L 12	E2	
HB	2824	Education funding	C	10	L 12	E1	
SHB	2828	Child care and child support	C	4	L 12	E1	
HB	2834	Reporting requirements	C	5	L 12	E1	PV

SENATE BILLS

ESB	5127	State general obligation bonds	C	1	L 12	E2	
ESB	5159	State patrol retirement	C	72	L 12		
E2SSB	5188	Traffic control signals	C	85	L 12		
SSB	5217	Community college board members	C	148	L 12		
SSB	5246	Driving record abstracts	C	73	L 12		
SB	5259	Small wineries/tax and reports	C	20	L 12		
E2SSB	5292	Irrigation and port districts	C	21	L 12		
2SSB	5343	Anaerobic digester emissions	C	238	L 12		
2SSB	5355	Special agency meetings	C	188	L 12		
SB	5365	Retirement pension coverage	C	239	L 12		
SSB	5381	Emergency medical service levies	C	115	L 12		
SSB	5412	Whistleblowers/conveyance	C	54	L 12		
E2SSB	5539	Motion pictures	C	189	L 12		

ESSB	5575	Biomass energy facilities	C	22	L 12		
E2SSB	5620	Dental anesthesia assistants	C	23	L 12		
SSB	5627	Service member civil relief	C	24	L 12		
SSB	5631	Department of agriculture	C	25	L 12		
ESB	5661	Derelict fishing gear	C	190	L 12		
ESSB	5715	Core competencies	C	149	L 12		
SSB	5766	Fire protection districts	C	174	L 12		
ESSB	5895	Certificated employee evaluations	C	35	L 12		
SB	5913	Public funds/credit unions	C	26	L 12		
ESSB	5940	School employee benefits	C	3	L 12	E2	
SB	5950	Nonstate pension plans	C	240	L 12		
SSB	5966	Health Care Authority ombudsman	C	150	L 12		
ESSB	5969	Military spouses/licensing	C	5	L 11	E2	
ESB	5974	National STEM program exams	C	3	L 11	E2	
ESSB	5978	Medicaid fraud	C	241	L 12		PV
SB	5981	Seed dealer license fees	C	61	L 12		
SSB	5982	Aerospace technology center	C	242	L 12		
SSB	5984	Local government finances	C	4	L 12		
SSB	5988	Foreclosure mediators	C	4	L 11	E2	
ESSB	5991	Child abuse reporting	C	55	L 12		
SSB	5995	Urban growth area boundaries	C	191	L 12		
SSB	5997	Olympic natural resources center	C	243	L 12		
SSB	6002	School construction assistance formula	C	244	L 12		
SSB	6005	Auto repair/written estimate	C	27	L 12		
SB	6030	License suspension errors	C	28	L 12		
SSB	6038	School construction assistance	C	245	L 12		
SSB	6041	Lighthouse school programs	C	151	L 12		
SSB	6044	PUDs bordered by Columbia	C	246	L 12		
SB	6046	Gambling commission	C	116	L 12		
SB	6059	Veterans' raffle	C	43	L 12		
SSB	6073	SR 16 project/sales and use tax	C	77	L 12		
ESB	6074	Capital supplemental budget 2011-13	C	2	L 12	E2	PV
SSB	6081	Ferry replacement surcharge	C	78	L 12		
SB	6082	Agricultural resource lands	C	247	L 12		
SB	6095	Gender-based terms	C	117	L 12		
SB	6098	Private investigators	C	118	L 12		
SSB	6100	Sexual assault grants	C	29	L 12		
ESSB	6103	Reflexology and massage therapy	C	137	L 12		
SSB	6105	Prescription monitoring program	C	192	L 12		
SB	6108	Theft of rental property	C	30	L 12		
SSB	6112	Alternative traction devices	C	75	L 12		
SSB	6116	On-site sewage management plans	C	175	L 12		
SSB	6121	Financial aid counseling	C	31	L 12		
SB	6131	Bulk mercury	C	119	L 12		
SB	6133	Electrician certifications	C	32	L 12		

SB	6134	DFW enforcement officers	C248	L 12		
SSB	6135	Fish and wildlife enforcement	C176	L 12		
SSB	6138	Vehicle maximum lengths	C 79	L 12		
2SSB	6140	Local economic development financing	C193	L 12		
ESB	6141	Lifelong learning program	C 33	L 12		
ESSB	6150	Facial recognition matching	C 80	L 12		
ESB	6155	Third-party account administrators	C 56	L 12		
SB	6157	Juvenile detention intake	C120	L 12		
SB	6159	Dispute resolution/B&O tax	C249	L 12		PV
SSB	6167	Criminal ID system info	C 44	L 12		
SB	6171	Vessel weight limitations	C 81	L 12		
SB	6172	Franchise investments	C121	L 12		
SB	6175	Indian tribes and state government	C122	L 12		
SSB	6187	Tortious conduct by government	C250	L 12		
2E2SSB	6204	Community supervision	C 6	L 12	E1	
SSB	6208	Warehouse act license fees	C123	L 12		
ESB	6215	Low-income individuals	C152	L 12		
SB	6218	Escrow licensing	C124	L 12		
SB	6223	Early supplemental security income	C 57	L 12		
SSB	6226	Subsidized child care	C251	L 12		
ESSB	6237	Medical assistants	C153	L 12		
ESSB	6239	Marriage and domestic partnerships	C 3	L 12		
SSB	6240	Juvenile disposition orders	C177	L 12		
SSB	6242	Specialty producer licenses	C154	L 12		
ESSB	6251	Commercial sex abuse/minor	C138	L 12		
ESSB	6252	Commercial sex abuse/minor	C139	L 12		
SSB	6253	Commercial sex abuse/minor	C140	L 12		
ESB	6254	Prostitution crimes	C141	L 12		
ESB	6255	Prostitution crimes	C142	L 12		
SB	6256	Gangs/commercial sex abuse	C143	L 12		
ESB	6257	Sexually explicit act	C144	L 12		
SSB	6258	Unaccompanied persons	C145	L 12		
2SSB	6263	Marine management planning	C252	L 12		PV
SSB	6277	Multiple-unit dwellings	C194	L 12		
E2SSB	6284	Civil traffic infractions	C 82	L 12		
SB	6289	Self-employment training	C 40	L 12		
SB	6290	Military spouses and partners	C 45	L 12		
SSB	6295	Exchange facilitators	C 34	L 12		
ESB	6296	Background checks	C125	L 12		
SSB	6315	Fair tenant screening act	C 41	L 12		
SSB	6325	Common interest community managers	C126	L 12		
SSB	6328	Mental health professionals	C 58	L 12		
SSB	6354	Filing business forms	C127	L 12		
ESSB	6355	Associate development organizations	C195	L 12		
SSB	6359	Regulatory assistance office	C196	L 12		

SSB	6371	Customized employment training	C	46	L 12		
2ESB	6378	State retirement plans	C	7	L 12	E1	
ESSB	6383	Interscholastic activities	C	155	L 12		
SSB	6384	Persons with developmental disabilities	C	49	L 12		
SB	6385	Habitat and recreation lands	C	128	L 12		
SSB	6386	Public assistance fraud	C	253	L 12		
SSB	6387	Parks, recreation, and natural resources	C	262	L 12		
SSB	6403	Vulnerable adult protection	C	156	L 12		
2ESSB	6406	State's natural resources	C	1	L 12	E1	PV
SB	6412	Health benefit plan coverage	C	64	L 12		
SSB	6414	Review process/utilities	C	254	L 12		
SSB	6421	Wage affidavits/public works	C	129	L 12		
SSB	6423	Farm vehicle	C	130	L 12		
SSB	6444	Eligible toll facilities	C	83	L 12		
ESSB	6445	I-5 Columbia river crossing	C	36	L 12		
SB	6465	Raffles	C	131	L 12		
SSB	6468	Research universities/funds	C	231	L 12		
ESSB	6470	Fire protection services	C	47	L 12		
SSB	6472	Carbon monoxide alarms	C	132	L 12		
ESSB	6486	Postdoctoral and clinical employees	C	255	L 12		PV
SSB	6492	Competency to stand trial	C	256	L 12		
SSB	6493	Sexual predator commitment	C	257	L 12		
SSB	6494	School truancy procedures	C	157	L 12		
SSB	6508	DSHS overpayment recovery	C	258	L 12		PV
SB	6545	Developmental disabilities endowment	C	197	L 12		
ESSB	6555	Child protection	C	259	L 12		
SB	6566	Real property judgment lien	C	133	L 12		
SSB	6574	Admissions taxes	C	260	L 12		
SSB	6581	Accounts and funds	C	198	L 12		
SSB	6600	Property tax exemptions	C	76	L 12		
ESB	6608	Judicial stabilization trust account	C	199	L 12		
ESB	6635	Tax preferences and license fees	C	6	L 12	E2	
SSB	6636	Balanced state budget	C	8	L 12	E1	

Session Law to Bill Number Table

2011 2nd Special Session

C	1	L 11 E2		STEM career course grants	EHB	2159
C	2	L 11 E2		Teacher certification/STEM	HB	2160
C	3	L 11 E2		National STEM program exams	ESB	5974
C	4	L 11 E2		Foreclosure mediators	SSB	5988
C	5	L 11 E2		Military spouses/licensing	ESSB	5969
C	6	L 11 E2		Involuntary treatment act	SHB	2131
C	7	L 11 E2		Sexually violent predators	SHB	2148
C	8	L 11 E2		Unclaimed property act	SHB	2169
C	9	L 11 E2	PV	Operating supplemental budget 2011-13	SHB	2058

2012 Regular, 1st & 2nd Special Sessions

C	1	L 12		Restoring long-term care services	INIT	1163
C	1	L 12 E1	PV	State's natural resources	2ESSB	6406
C	1	L 12 E2		State general obligation bonds	ESB	5127
C	2	L 12		Wholesale distribution and retail sales of liquor	INIT	1183
C	2	L 12 E1		Unemployment experience rating	SHB	2491
C	2	L 12 E2	PV	Capital supplemental budget 2011-13	ESB	6074
C	3	L 12		Marriage and domestic partnerships	ESSB	6239
C	3	L 12 E1		Pollution liability agency	SHB	2590
C	3	L 12 E2		School employee benefits	ESSB	5940
C	4	L 12		Local government finances	SSB	5984
C	4	L 12 E1		Roll your own cigarettes	3E2SHB	2565
C	4	L 12 E1		Child care and child support	SHB	2828
C	5	L 12		Disposition of remains	SHB	1073
C	5	L 12 E1	PV	Reporting requirements	HB	2834
C	5	L 12 E2		State revenues/general fund	ESHB	2823
C	6	L 12		Bail for felony offenses	SHB	1194
C	6	L 12 E1		Community supervision	2E2SSB	6204
C	6	L 12 E2		Tax preferences and license fees	ESB	6635
C	7	L 12		Water nonuse/sufficient cause	HB	1381
C	7	L 12 E1		State retirement plans	2ESB	6378
C	7	L 12 E2	PV	Operating supplemental budget 2011-13	3ESHB	2127
C	8	L 12		ARNP prescriptions	HB	1486
C	8	L 12 E1		Balanced state budget	SSB	6636
C	9	L 12		Electronic impersonation	2SHB	1652
C	9	L 12 E1		Local sales and use tax account	HB	2822
C	10	L 12		Assisted living facilities	SHB	2056
C	10	L 12 E1		Education funding	HB	2824
C	11	L 12		Korean War veterans armistice day	HB	2138
C	12	L 12		Washington state guard	SHB	2181
C	13	L 12		Licensed midwives	EHB	2186
C	14	L 12		Firefighting/unprotected land	HB	2213
C	15	L 12		Airstrips	HB	2244
C	16	L 12		School employees/medications	HB	2247

C 17 L 12	Nondepository institutions	SHB	2255
C 18 L 12	Tow truck operators' costs	HB	2274
C 19 L 12	Low-level radioactive waste	HB	2304
C 20 L 12	Small wineries/tax and reports	SB	5259
C 21 L 12	Irrigation and port districts	E2SSB	5292
C 22 L 12	Biomass energy facilities	ESSB	5575
C 23 L 12	Dental anesthesia assistants	E2SSB	5620
C 24 L 12	Service member civil relief	SSB	5627
C 25 L 12	Department of agriculture	SSB	5631
C 26 L 12	Public funds/credit unions	SB	5913
C 27 L 12	Auto repair/written estimate	SSB	6005
C 28 L 12	License suspension errors	SB	6030
C 29 L 12	Sexual assault grants	SSB	6100
C 30 L 12	Theft of rental property	SB	6108
C 31 L 12	Financial aid counseling	SSB	6121
C 32 L 12	Electrician certifications	SB	6133
C 33 L 12	Lifelong learning program	ESB	6141
C 34 L 12	Exchange facilitators	SSB	6295
C 35 L 12	Certificated employee evaluations	ESSB	5895
C 36 L 12	I-5 Columbia river crossing	ESSB	6445
C 37 L 12	Blue alert system	ESHB	1820
C 38 L 12	Wildfire protection by DNR	HB	2440
C 39 L 12	Spirits taxes collection	HB	2758
C 40 L 12	Self-employment training	SB	6289
C 41 L 12	Fair tenant screening act	SSB	6315
C 42 L 12	Being under the influence	ESHB	2302
C 43 L 12	Veterans' raffle	SB	6059
C 44 L 12	Criminal ID system info	SSB	6167
C 45 L 12	Military spouses and partners	SB	6290
C 46 L 12	Customized employment training	SSB	6371
C 47 L 12	Fire protection services	ESSB	6470
C 48 L 12	Indian country and tribes	ESHB	2233
C 49 L 12	Persons with developmental disabilities	SSB	6384
C 50 L 12	Workforce training/aerospace	2SHB	2156
C 51 L 12	Kindergarten inventory	ESHB	2586
C 52 L 12	Extended foster care	ESHB	2592
C 53 L 12	Collaborative schools	ESHB	2799
C 54 L 12	Whistleblowers/conveyance	SSB	5412
C 55 L 12	Child abuse reporting	ESSB	5991
C 56 L 12	Third-party account administrators	ESB	6155
C 57 L 12	Early supplemental security income	SB	6223
C 58 L 12	Mental health professionals	SSB	6328
C 59 L 12	Personal property tax administration	SHB	2149
C 60 L 12	Conservation districts	ESHB	2567
C 61 L 12	Seed dealer license fees	SB	5981
C 62 L 12	Environmental mitigation	E2SHB	2238
C 63 L 12	Aviation biofuels production	SHB	2422
C 64 L 12	Health benefit plan coverage	SB	6412
C 65 L 12	Special license plates	SHB	2299

C 66	L 12		Transportation workforce	SHB	2673
C 67	L 12		Transportation projects	SHB	1700
C 68	L 12		Transportation fare payment	SHB	2252
C 69	L 12		Military service award emblems	SHB	2312
C 70	L 12		Commercial vehicle license plates	HB	2459
C 71	L 12		Persons with disabilities tabs	SHB	2574
C 72	L 12		State patrol retirement	ESB	5159
C 73	L 12		Driving record abstracts	SSB	5246
C 74	L 12		Transportation revenue	EHB	2660
C 75	L 12		Alternative traction devices	SSB	6112
C 76	L 12		Property tax exemptions	SSB	6600
C 77	L 12		SR 16 project/sales and use tax	SSB	6073
C 78	L 12		Ferry replacement surcharge	SSB	6081
C 79	L 12		Vehicle maximum lengths	SSB	6138
C 80	L 12		Facial recognition matching	ESSB	6150
C 81	L 12		Vessel weight limitations	SB	6171
C 82	L 12		Civil traffic infractions	E2SSB	6284
C 83	L 12		Eligible toll facilities	SSB	6444
C 84	L 12		SR-520 corridor	EHB	2814
C 85	L 12		Traffic control signals	E2SSB	5188
C 86	L 12	PV	Transportation supplemental budget 2011-13	ESHB	2190
C 87	L 12	PV	Affordable care act	E2SHB	2319
C 88	L 12		Security alarms, crime watch	EHB	1234
C 89	L 12		Partisan elections	E3SHB	1860
C 90	L 12		Housing assistance surcharges	ESHB	2048
C 91	L 12		Regional support networks	SHB	2139
C 92	L 12		Plats	EHB	2152
C 93	L 12		Air rescue and evacuation	SHB	2188
C 94	L 12		Police dogs	SHB	2191
C 95	L 12		Depositions and discovery act	HB	2195
C 96	L 12		Underground utility damage act	ESHB	2223
C 97	L 12		Estate tax apportionment	HB	2224
C 98	L 12		Hospital employees	ESHB	2229
C 99	L 12		Boxing, martial arts, wrestling	ESHB	2301
C100	L 12		Pathology services claims	HB	2306
C101	L 12		Patient decisions/shared	ESHB	2318
C102	L 12		Job order contracting	EHB	2328
C103	L 12		Hospitals/community benefits	ESHB	2341
C104	L 12		Higher education institutions/fees	SHB	2352
C105	L 12		Stolen property trafficking	SHB	2354
C106	L 12		Wine producer liens	HB	2362
C107	L 12		Dairy products commission	SHB	2367
C108	L 12		Personal vehicle sharing	ESHB	2384
C109	L 12		New hire/support registry	HB	2393
C110	L 12		Industrial storm water	HB	2651
C111	L 12		Infrastructure statutes	HB	2653
C112	L 12		Qualified energy resources	ESHB	2664
C113	L 12		Legislative support services	HB	2705
C114	L 12		Accounts	SHB	2757

C115	L 12		Emergency medical service levies	SSB	5381
C116	L 12		Gambling commission	SB	6046
C117	L 12		Gender-based terms	SB	6095
C118	L 12		Private investigators	SB	6098
C119	L 12		Bulk mercury	SB	6131
C120	L 12		Juvenile detention intake	SB	6157
C121	L 12		Franchise investments	SB	6172
C122	L 12		Indian tribes and state government	SB	6175
C123	L 12		Warehouse act license fees	SSB	6208
C124	L 12		Escrow licensing	SB	6218
C125	L 12		Background checks	ESB	6296
C126	L 12		Common interest community managers	SSB	6325
C127	L 12		Filing business forms	SSB	6354
C128	L 12		Habitat and recreation lands	SB	6385
C129	L 12		Wage affidavits/public works	SSB	6421
C130	L 12		Farm vehicle	SSB	6423
C131	L 12		Raffles	SB	6465
C132	L 12		Carbon monoxide alarms	SSB	6472
C133	L 12		Real property judgment lien	SB	6566
C134	L 12		Prostitution and trafficking	ESHB	1983
C135	L 12		Child sexual exploitation	SHB	2177
C136	L 12	PV	Commercial sale of sex	ESHB	2692
C137	L 12		Reflexology and massage therapy	ESSB	6103
C138	L 12		Commercial sex abuse/minor	ESSB	6251
C139	L 12		Commercial sex abuse/minor	ESSB	6252
C140	L 12		Commercial sex abuse/minor	SSB	6253
C141	L 12		Prostitution crimes	ESB	6254
C142	L 12		Prostitution crimes	ESB	6255
C143	L 12		Gangs/commercial sex abuse	SB	6256
C144	L 12		Sexually explicit act	ESB	6257
C145	L 12		Unaccompanied persons	SSB	6258
C146	L 12		Juvenile gang court	HB	2535
C147	L 12	PV	Adoption support expenditures	SHB	2657
C148	L 12		Community college board members	SSB	5217
C149	L 12		Core competencies	ESSB	5715
C150	L 12		Health Care Authority ombudsman	SSB	5966
C151	L 12		Lighthouse school programs	SSB	6041
C152	L 12		Low-income individuals	ESB	6215
C153	L 12		Medical assistants	ESSB	6237
C154	L 12		Specialty producer licenses	SSB	6242
C155	L 12		Interscholastic activities	ESSB	6383
C156	L 12		Vulnerable adult protection	SSB	6403
C157	L 12		School truancy procedures	SSB	6494
C158	L 12		Farm labor contractor account	SHB	1057
C159	L 12		Garnishment	SHB	1552
C160	L 12		Design professionals	SHB	1559
C161	L 12		RCW 90.90.030 expiration	SHB	2212
C162	L 12		Vehicular homicide and assault	2SHB	2216
C163	L 12		Foster care outcomes	SHB	2254

C164	L 12	Long-term care workers	ESHB	2314
C165	L 12	Professional peer review bodies	HB	2308
C166	L 12	Encumbered state forest lands	HB	2329
C167	L 12	Beavers	SHB	2349
C168	L 12	Agriculture and livestock information	HB	2456
C169	L 12	Boatyard stormwater treatment	EHB	2469
C170	L 12	Forest land classification	ESHB	2502
C171	L 12	Local government fuel usage	ESHB	2545
C172	L 12	Local shoreline master programs	EHB	2671
C173	L 12	Fire Service Training Account	ESHB	2747
C174	L 12	Fire protection districts	SSB	5766
C175	L 12	On-site sewage management plans	SSB	6116
C176	L 12	Fish and wildlife enforcement	SSB	6135
C177	L 12	Juvenile disposition orders	SSB	6240
C178	L 12	Open K-12 education resources	E2SHB	2337
C179	L 12	Spring blade knives	ESHB	2347
C180	L 12	Sales and use tax/mental health	SHB	2357
C181	L 12	Suicide assessment, treatment	ESHB	2366
C182	L 12	Economic and revenue forecasts	SHB	2389
C183	L 12	Persons who drive impaired	2SHB	2443
C184	L 12	Health care services billing	ESHB	2582
C185	L 12	Homeowners in crisis	ESHB	2614
C186	L 12	School district insolvency	SHB	2617
C187	L 12	State funds investment	EHB	2620
C188	L 12	Special agency meetings	2SSB	5355
C189	L 12	Motion pictures	E2SSB	5539
C190	L 12	Derelict fishing gear	ESB	5661
C191	L 12	Urban growth area boundaries	SSB	5995
C192	L 12	Prescription monitoring program	SSB	6105
C193	L 12	Local economic development financing	2SSB	6140
C194	L 12	Multiple-unit dwellings	SSB	6277
C195	L 12	Associate development organizations	ESSB	6355
C196	L 12	Regulatory assistance office	SSB	6359
C197	L 12	Developmental disabilities endowment	SB	6545
C198	L 12	Accounts and funds	SSB	6581
C199	L 12	Judicial stabilization trust account	ESB	6608
C200	L 12	Low-income housing/fee exemption	EHB	1398
C201	L 12	Juvenile restorative justice	SHB	1775
C202	L 12	School board candidates	HB	2210
C203	L 12	Eye glasses/donations	SHB	2261
C204	L 12	Child welfare system savings	SHB	2263
C205	L 12	Child welfare/contracting	E2SHB	2264
C206	L 12	Prearrangement trust funds	SHB	2360
C207	L 12	Insurance commissioner/study, report	HB	2420
C208	L 12	Medication assistant endorsement	ESHB	2473
C209	L 12	School district warrants	HB	2485
C210	L 12	Board of education rules	SHB	2492
C211	L 12	Insurers and insurance products	HB	2523
C212	L 12	Boundary review boards	ESHB	1627

C213	L 12		Manufactured and mobile home landlords	SHB	2194
C214	L 12		Uniform commercial code	ESHB	2197
C215	L 12		Social purpose corporations	SHB	2239
C216	L 12		Consumer cooperatives	HB	2293
C217	L 12		WorkFirst and child care	EHB	2262
C218	L 12		Public improvement contracts	HB	2305
C219	L 12		Solid fuel burning devices	SHB	2326
C220	L 12		Correctional officer uniform	HB	2346
C221	L 12		Agricultural fairs	HB	2356
C222	L 12		Usage-based auto insurance	ESHB	2361
C223	L 12		Domestic violence victims	ESHB	2363
C224	L 12		State agency procurement	2SHB	2452
C225	L 12		Innovation partnership zones	HB	2482
C226	L 12		Political advertising disclosure	HB	2499
C227	L 12		Higher education reporting	SHB	2259
C228	L 12		Higher education/board meetings	SHB	2313
C229	L 12	PV	Higher education coordination	E2SHB	2483
C230	L 12	PV	Higher education institutions	3SHB	2585
C231	L 12		Research universities/funds	SSB	6468
C232	L 12		Children/services delivery	E2SHB	2536
C233	L 12	PV	Metal property theft	ESHB	2570
C234	L 12		Medical services programs	ESHB	2571
C235	L 12		Housing trust fund	SHB	2640
C236	L 12		State retirement systems	EHB	2771
C237	L 12		Incarcerated offenders	HB	2803
C238	L 12		Anaerobic digester emissions	2SSB	5343
C239	L 12		Retirement pension coverage	SB	5365
C240	L 12		Nonstate pension plans	SB	5950
C241	L 12	PV	Medicaid fraud	ESSB	5978
C242	L 12		Aerospace technology center	SSB	5982
C243	L 12		Olympic natural resources center	SSB	5997
C244	L 12		School construction assistance formula	SSB	6002
C245	L 12		School construction assistance	SSB	6038
C246	L 12		PUDs bordered by Columbia	SSB	6044
C247	L 12		Agricultural resource lands	SB	6082
C248	L 12		DFW enforcement officers	SB	6134
C249	L 12	PV	Dispute resolution/B&O tax	SB	6159
C250	L 12		Tortious conduct by government	SSB	6187
C251	L 12		Subsidized child care	SSB	6226
C252	L 12	PV	Marine management planning	2SSB	6263
C253	L 12		Public assistance fraud	SSB	6386
C254	L 12		Review process/utilities	SSB	6414
C255	L 12	PV	Postdoctoral and clinical employees	ESSB	6486
C256	L 12		Competency to stand trial	SSB	6492
C257	L 12		Sexual predator commitment	SSB	6493
C258	L 12	PV	DSHS overpayment recovery	SSB	6508
C259	L 12		Child protection	ESSB	6555
C260	L 12		Admissions taxes	SSB	6574
C261	L 12		State recreational resources	E2SHB	2373

C262 L 12	Parks, recreation, and natural resources	SSB	6387
Full Veto	Blueprint for safety program	EHB	2509
Full Veto	Sealing juvenile records	SHB	2541

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Tami Green
Norm Johnson
Troy Kelley
Joel Kretz
Marcia Maxwell
Jim Moeller
Tina Orwall
Eric Pettigrew
Tim Probst
Ann Rivers
Cindy Ryu
Joe Schmick
Shelly Short
Larry Springer
Pat Sullivan
Kevin Van De Wege
Judy Warnick

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Sam Hunt, Chair
Sherry Appleton , V. Chair
David Taylor*
Jason Overstreet**
Gary Alexander
Cary Condotta
Jeannie Darneille
Hans Dunshee
Christopher Hurst
John McCoy
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Jim Jacks , V. Chair
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Andy Billig
Rueven Carlyle
Cathy Dahlquist
Deborah Eddy
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Dan Kristiansen
Marko Liias
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Jim Moeller
Jeff Morris
Luis Moscoso
Jason Overstreet
Chris Reykdal
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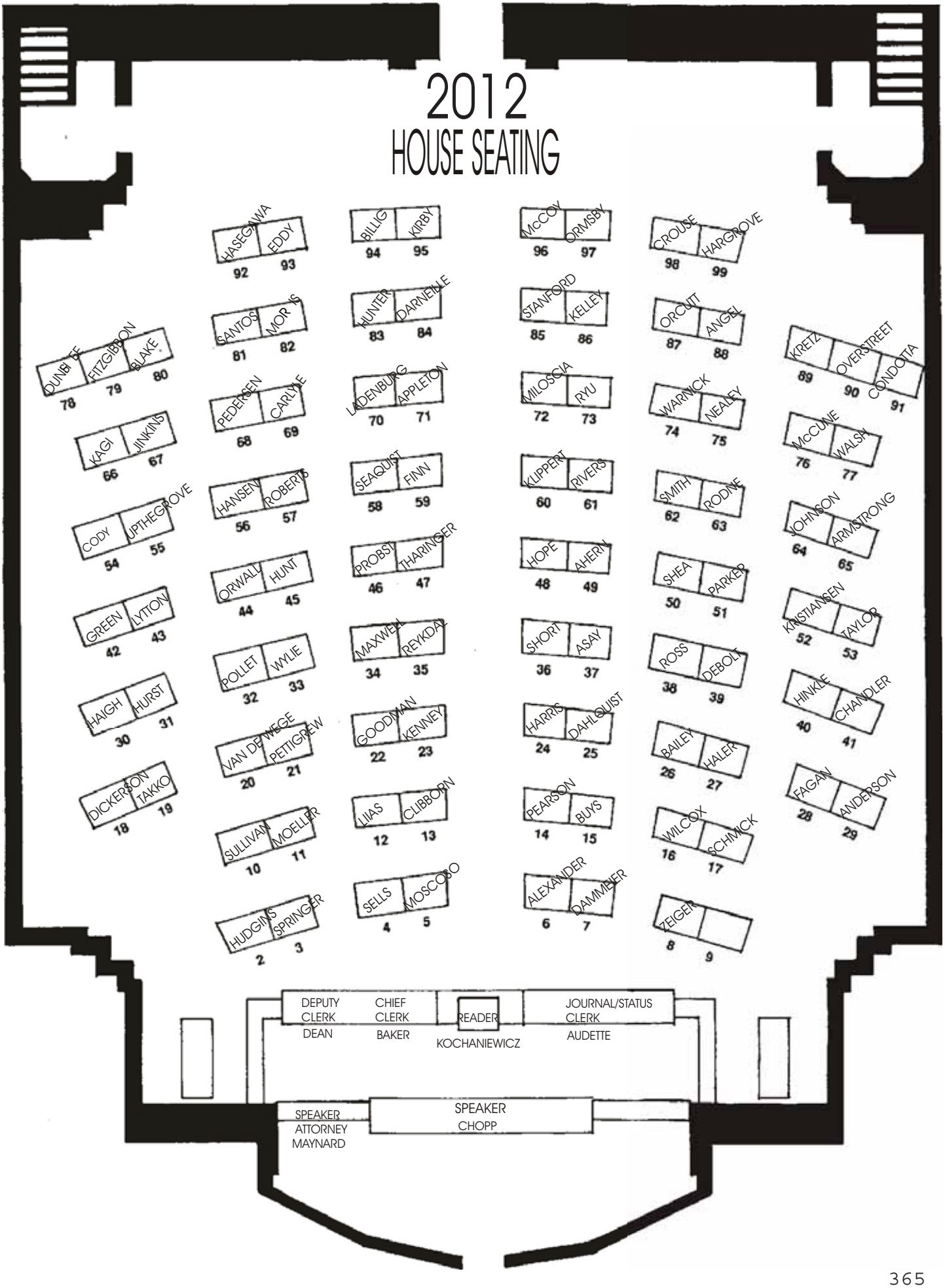
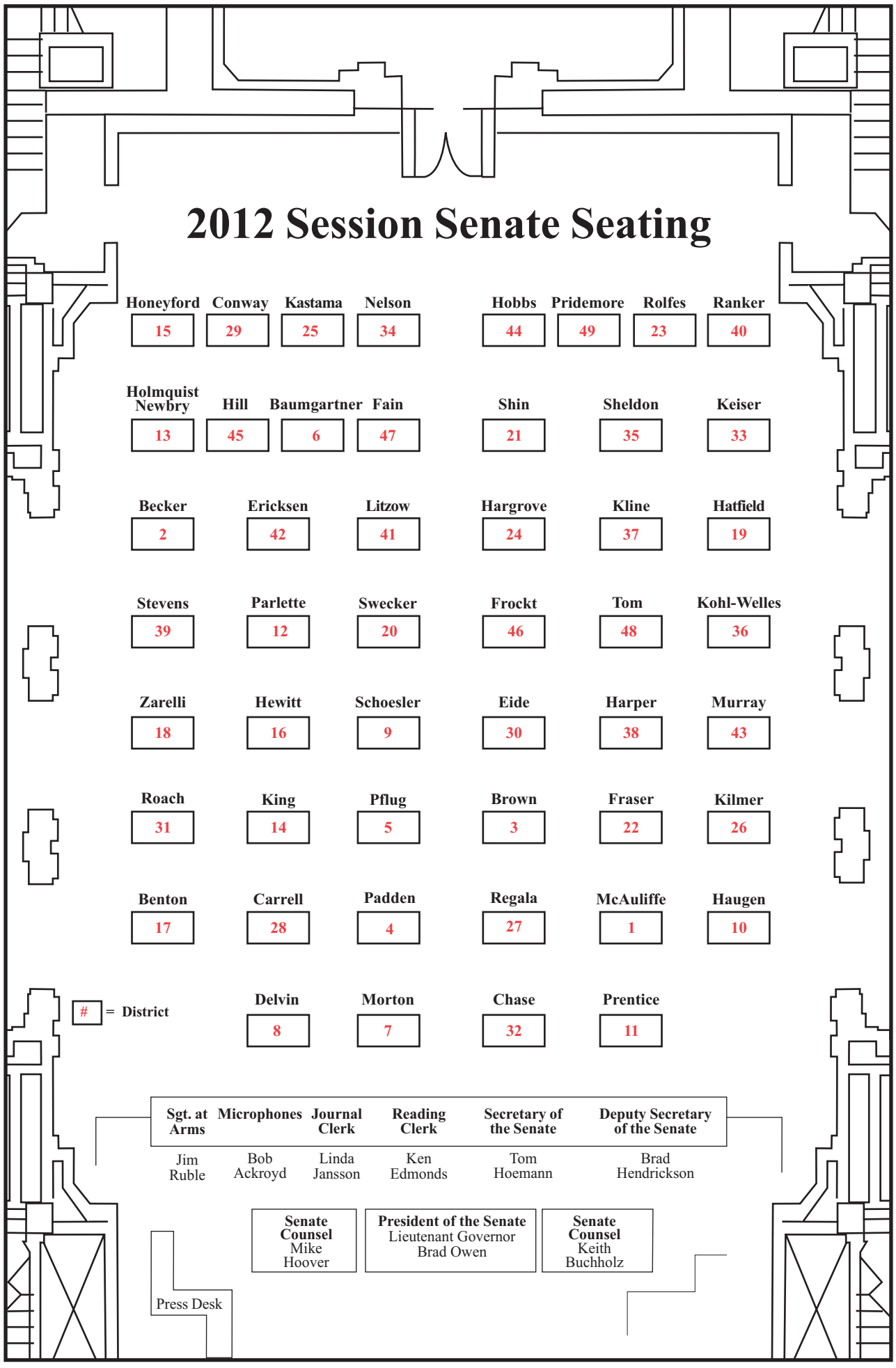
Phyllis Kenney
Timm Ormsby
Kevin Parker
Eric Pettigrew
Charles Ross
Joe Schmick
Larry Seaquist
Larry Springer
Pat Sullivan
J. T. Wilcox

* denotes Ranking Minority Member
** denotes Assistant Ranking Minority Member

2012
HOUSE SEATING




2012 Session Senate Seating
Honeyford 15
Conway 29
Kastama 25
Nelson 34
Hobbs 44
Pridemore 49
Rolfes 23
Ranker 40
Holmquist Newbry 13
Hill 45
Baumgartner 6
Fain 47
Shin 21
Sheldon 35
Keiser 33
Becker 2
Ericksen 42
Litzow 41
Hargrove 24
Kline 37
Hatfield 19
Stevens 39
Parlette 12
Swecker 20
Frockt 46
Tom 48
Kohl-Welles 36
Zarelli 18
Hewitt 16
Schoesler 9
Eide 30
Harper 38
Murray 43
Roach 31
King 14
Pflug 5
Brown 3
Fraser 22
Kilmer 26
Benton 17
Carrell 28
Padden 4
Regala 27
McAuliffe 1
Haugen 10
= District
Delvin 8
Morton 7
Chase 32
Prentice 11
Sgt. at Arms Jim Ruble
Microphones Bob Ackroyd
Journal Clerk Linda Jansson
Reading Clerk Ken Edmonds
Secretary of the Senate Tom Hoemann
Deputy Secretary of the Senate Brad Hendrickson
Senate Counsel Mike Hoover
President of the Senate Lieutenant Governor Brad Owen
Senate Counsel Keith Buchholz
Press Desk